

## **FBR to take policy decision on Members' powers**

The Federal Board of Revenue (FBR) will take a policy decision through Board-in-Council to ascertain powers of FBR Member Customs and FBR Member Legal to decide cases seeking extension in time limit for adjudication purposes under Customs Act 1969. Sources told *Business Recorder* here on Saturday that the next meeting of the Board-in-Council is expected to take some decision to finalize such cases and powers available to FBR Member Customs and FBR Member Legal in this regard. Apparently, there seemed to be difference of option between FBR Member Customs and FBR Member Legal.

According to sources, the issue of extension in time limit for adjudication of cases under section 179 of the Customs Act 1969 will be discussed in the light of observations made by the FBR Legal Wing and FBR Member Customs. The matter would be decided in light of the fact that issue of granting extension in time usually entails litigation. Details of the issue revealed that the matter is relating to the cases of time limit extension under section 179(4) of the Customs Act, 1969 received from Customs Wing.

The Board vide Notification No 6(96)S(BIC)/2014-15 dated 11.03.2016 had delegated the powers for extension in time limit for adjudication of cases under sub-section 2 & 4 of Section 179 of the Customs Act, 1969 to member (Legal), FBR. On the said date, a few cases were pending with Customs Wing, FBR for granting extension in time limit and the period of adjudication had expired in those case. After issuance of the said notification, the Second Secretary (Cus.Jud), Customs Wing, FBR and Collector, Collectorate of Customs (Adjudication), Islamabad forwarded the said cases to the legal Wing, FBR for granting extension in terms of Board's Notification. In response, the Legal Wing replied to the Customs Wing, with the following observations: That the time limit prescribed under section 179(3) of the Act has expired since long and superior judicial for a have repeatedly held that any extension granted after expiry of the original time limit prescribed under law is invalid. Therefore, extension granted in these cases will hardly serve any purpose.

Legal Wing further said that the power to grant extension in time limit under section 179(4) of the Customs Act was conferred upon Member (Legal) on 11.03.2016 vide Notification No 6(96)S(BIC)/2014. Therefore, granting extension by Member (Legal) in cases referred to the Board prior to 11.03.2016 may be questioned in the courts of law, Legal Wing said.

Sources said that now the Secretary (Customs Judgment) Customs Wing, FBR has again referred the cases to the Legal Wing vide U.O. NO.5(13) Cus.Jud/2015 dated 03.03.2017 and stated that the Board vide Notification No 6(96)S(BIC)/2014 dated 11.03.2016 delegated powers under sub-sections (2) and (4) of Section 19 of the Customs Act, 1969 to Member (Legal) including all pending and new cases.

Also that as there is no mention of a cut-off date in the said referred Board order, interpretation of the Legal Wing to the effect that cases pending for extension in time limit before the redistribution of powers be decided by Member (Customs) does not appear to be in line with the spirit of the law and for all practical purposes would mean duplication of powers under Section

179(4) of the Customs Act, 1969 by both the Legal Wing and Customs Wing of FBR.

Since the issue of disposal of legacy cases which were pending for grant of extension was not addressed in the notification No 6(096)S(BIC)/2014-15 dated 11.03.2016 and the matter of granting extension in time usually entails litigation, it is, therefore requested to place the matter before next Board in council meeting for obtaining a specific clarification as to whom shall dispose of the legacy cases which were pending when the powers under sub section 2 & 4 of section 179 of Customs Act, 1969 were transferred from Customs Wing to Legal Wing on 11.03.2016.

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