

ATIR chairman urged to promote transparency, rule of law

Lahore Tax Bar Association (LTBA) Public Interest Litigation Committee has urged that Appellate Tribunal Inland Revenue (ATIR) Rules may be amended to make it compulsory that orders issued by ATIR should be signed and dated by all the members of bench constituted by the chairman.

It is reliably learnt that Chairman LTBA-Public Interest Litigation Committee has written a letter to the chairman ATIR and urged to promote absolute transparency, fair play and rule of law in the forum of ATIR. It is need of the hour to immediately amend the Rule 29(1) of the ATIR Rules, 2010 in the manner that order of the Tribunal shall be in writing and all pages of the order shall be signed and dated by all members including author and co-authors, as the case may be, constituting the bench.

When contacted, tax lawyer Waheed Shahzad Butt told this correspondent that present request has been forwarded to promote transparency, fair play and rule of law in the ATIR which is also known as "Final Fact Finding Authority" in the hierarchy of fiscal statutes like Income Tax Ordinance, Sales Tax Act & Federal Excise Duty Act.

Waheed further added that it is invariably known that a judge finally speaks through his judgment. Judiciary is a vital component of the state. Where the legislature or the executive branch has erred in the exercise of its jurisdiction and is responsible for any of the deviations that an affected party (including state) for the purposes of seeking redressal of his grievance against such wrong and/or for enforcing his rights under the law, comes forth to the judicature by knocking at its door. This is the last resort for a beleaguered and aggrieved person (including state). It is thus that the judicature is conceived, perceived and is meant to act as the final arbiter.

The LTBA letter states, "The judicature has to act as a neutral umpire who keeps a check on the exercise of power by other organs of the state so as to ensure that the rights of citizens/persons are not affected and trampled contrarily to law. The ATIR is the last fact-finding forum in the hierarchy of taxation laws, therefore, it is bound to discharge its functions diligently. Any opinion, on law, by ATIR would lose credence for consideration by the high court in advisory jurisdiction, if findings of fact arrived at by it are not trustworthy. In case true facts are not ascertainable from available record, ATIR is vested with vast powers to call for any particulars relating to appeal. That's why in appeals having large scale revenue, accountant members have been inducted with the judicial members to constitute division benches in ATIR. The rationale behind more than one appellate forums under taxation laws is to cross check the exercise of powers by the authorities and ensure proper taxation under the statute. It is alarming to notice that in huge refund matters and big tax evasion cases, some fraudulent elements are looting national exchequer by managing orders as per their own interests. Prima facie, it is quite easy to deceive co-author of a bench because right now it is normal practice of the ATIR that only author of the order is signing all the pages of the order while only last page has been signed by the co-author of the order. The author of the order may change any page/sentence/phrase/paragraph in the body of the order after obtaining approval/signature from the co-author, therefore, ATIR, being final fact-finding authority, should be more careful, where case is based on the allegation of tax fraud or involvement of huge refunds etc, by directing the

CIR or CIR (Appeals) for production of relevant record or for making necessary enquiries and investigations and finally contributing input by all the members of the bench hearing the case and more importantly by signing all the pages of order by all the members of a bench.

To promote absolute transparency, fair play and rule of law in the forum of ATIR, it is need of the hour to immediately amend the Rule 29(1) of the ATIR Rules, 2010, LTBA letter added.

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