

Benami rules redrafted

The Federal Board of Revenue (FBR) has redrafted Benami Transactions (Prohibition) Rules, 2018 on the recommendation of Cabinet Committee for Disposal of Legislative Cases (CCLC) to ensure that powers of the federal government to be exercised by the Cabinet/Prime Minister cannot be delegated to any minister.

The FBR has submitted a progress report to the Senate Standing Committee on Finance on the Benami Transactions (Prohibition) Rules, as approved by the Cabinet.

The FBR said that the summary for the Cabinet regarding approval of the federal government for implementation of various provisions of Benami Transactions (Prohibition) Act was moved with the approval of finance minister. The summary contained proposals regarding approval of the Benami Transactions (Prohibition) Rules and delegation of powers by the Cabinet to the minister in-charge of the Finance Ministry and the secretary Revenue Division.

The summary was referred to the Cabinet Committee for Disposal of Legislative Cases and CCLC discussed the summary in its meeting held on 2nd November 2017. The CCLC pointed out that powers of the federal government which are to be exercised by the Cabinet including the prime minister cannot be delegated to any minister. Therefore all functions and powers to be performed by the federal government which are mentioned in the Act require approval of the federal Cabinet. The CCLC also pointed that the Act authorizes the Federal Government to exercise various powers and perform functions under the Act including appointment of various authorities but the draft rules confer these functions and powers upon the Revenue Division or minister-in-charge. Therefore, there is a conflict between the provisions of the Act and the draft rules. Hence the draft rules require amendment.

In the light of above objections raised by the CCLC, the Benami Transactions (Prohibition) Rules, 2018 were redrafted. The draft rules are required to be approved by the federal government/federal Cabinet. For this purpose the Prime Minister in his capacity as finance minister has approved the submission of summary to the Cabinet. However, the draft rules are first to be submitted to CCLC as per notification No 4-7/2015-Cab dated, 12th January 2018. The Prime Minister being Minister In-charge of Ministry of Finance, Revenue and Economic Affairs has seen and authorized the submission of the summary for approval of the aforesaid draft rules, and the summary has been moved for seeking approval of the CCLC, the FBR added.

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