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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 30th June, 2011

No. F. 22 (10)/2011-Legis.—The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the 29th June, 2011, and is hereby published for general information:—

ACT No. XVI OF 2011

An Act to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 2011 and to amend certain laws.

WHEREAS it is expedient to make provisions to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 2011 and to amend certain laws for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**— (1) This Act may be called the Finance Act, 2011.

(2) It extends to the whole of Pakistan.

(287)

- (3) It shall, unless otherwise provided, come into force on the first day of July, 2011.

2. **Amendments of Act IV, 1969.**—In the Customs Act, 1969 (IV of 1969), the following amendments shall be made, namely:—

- (1) in section 15, in clause (c), the comma, words and figure “, or goods imported or exported in contravention of the provisions of section 32” shall be omitted;
- (2) in section 21, in clause (c), after the word and comma “exportation,” the words and comma “or for supplies against international tenders,” shall be inserted;
- (3) in section 22, in the proviso, the words “or Deputy Collector” shall be omitted;
- (4) in section 32, in sub-section (3A), for the word “three”, the word “five” shall be substituted;
- (5) in section 33, after sub-section (2), the following new sub-section shall be added, namely:—

“(3) In the case where refund has become due in consequence of any decision or judgment by any appropriate officer of Customs or the Board or the Appellate Tribunal or the Court, the said period of one year shall be reckoned from the date of such decision or judgment, as the case may be.” ;

- (6) in section 34, the words “or Deputy Collector” shall be omitted;
- (7) in section 96, in sub-section (1), the words “or Deputy Collector” shall be omitted;
- (8) after section 129, the following new section shall be inserted, namely:—

“**129A. Levy of transit fee.**—A transit fee may be levied on any goods or class of goods in transit across Pakistan to a foreign territory at such rates as the Board may, by notification in the official Gazette, prescribe.”; and

- (9) the amendments set out in the Schedule to this Act shall be made in the First Schedule to the Customs Act, 1969 (IV of 1969).

3. **Amendment of Act XXVII of 1974.**—In the Members of Parliament (Salaries and Allowances) Act, 1974 (XXVII of 1974), the following further amendments shall be made namely:—

In section 12, the existing provision shall be renumbered as sub-section (1) thereof and after sub-section (1), re-numbered as aforesaid, the following new sub-section shall be added, namely:—

“(2) An *ex*-member who remained a member of either House of Parliament for at least one term shall also be entitled to such facilities as are notified from time to time and also to medical facilities as are admissible to a sitting member under sub-section (1).”

4. **Amendment of Act V, 1989.**—In the Finance Act, 1989 (V of 1989), in section 7,—

- (1) in sub-section (1), after the word “thereof”, the words, figures, commas and brackets “or purchase of modaraba certificate or a registered instrument of redeemable capital as defined in the Companies Ordinance, 1984 (XLVII of 1984), or shares of a public company, listed on a registered stock exchange in Pakistan by a resident person defined in section 81 of the Income Tax Ordinance, 2001 (XLIX of 2001), such as is specified in sub-section (2), at the rates specified in that sub-section” shall be omitted; and
- (2) in sub-section (4), the second proviso shall be omitted.

5. **Amendments of the Sales Tax Act, 1990.**—In the Sales Tax Act, 1990, the following further amendments shall be made, namely:—

- (1) in section 3, for the word “seventeen”, the word “sixteen” shall be substituted; provided, in case of imports, such substitution shall be deemed to have been made on 20th June, 2011;
- (2) in section 8B, in sub-section (1), for the first proviso, the following shall be substituted, namely:—

“Provided that the restriction on the adjustment of input tax in excess of ninety per cent of the output tax shall not apply in case of fixed assets or capital goods.”;

(3) in section 21,—

- (a) after sub-section (2), the following new sub-section (3) shall be added, namely:—

“(3) During the period of suspension of registration, the invoices issued by such person shall not be entertained for the

purposes of sales tax refund or input tax credit, and once such person is blacklisted, the refund or input tax credit claimed against the invoices issued by him, whether prior or after such blacklisting, shall unless the registered buyer has fulfilled his responsibilities under section 73 be rejected through a self-speaking appealable order and after affording an opportunity of being heard to such person.”;

- (4) in section 26, in sub-section (3), after the brackets and figure “(2)”, the words, letters, figure and brackets “or under clause (a) or clause (b) of section 27” shall be inserted;
- (5) in section 30,—
 - (a) in sub-section (1),—
 - (i) in clause (i), the word “and” shall be omitted; and
 - (ii) after clause (i), the following new clause shall be inserted, namely:—

“(ia) an Inspector Inland Revenue; and”;
 - (b) in sub-section (3), after the word “Officer”, occurring for the second time, the comma and words “, Inspector Inland Revenue” shall be inserted; and
 - (c) in sub-section (4), after the word “Officer”, occurring for the second time, the comma and words “, Inspector Inland Revenue,” shall be inserted;
- (6) in section 30A, in the heading and in this section wherever occurring, for the letters “CBR”, the words “Inland Revenue” shall be substituted;
- (7) in section 38B, in sub-section (1), for the words “a Deputy”, the words “an Assistant” shall be substituted;
- (8) in section 47A, for sub-section (4A), the following shall be substituted, namely:—

“(4A) Notwithstanding anything contained in sub-section (4), the Chairman FBR and a Member nominated by him may, on the application of an aggrieved person, for reasons to be recorded in

writing, and on being satisfied that there is an error in order or decision, pass such order as may be deemed just and equitable.”;

- (9) in section 66, in the third proviso, for the full stop, at the end, a colon shall be substituted and thereafter the following new proviso shall be added, namely:—

“Provided also that no refund shall be admissible under this section if incidence of tax has been passed directly or indirectly to the consumer.”;

- (10) in section 74, after the proviso, the following explanation shall be added, namely:—

“*Explanation.*—For the purpose of this section, the expression “any act or thing is to be done” includes any act or thing to be done by the registered person or by the authorities specified in section 30 of this Act.”; and

- (11) in the Sixth Schedule,—

(a) in Table-I, in column (1), serial numbers 29A, 29B, 30, 34, 35, 41, 42, 43, 44, 62, 64, 65, 66, 67, 68, 69 and 70 and the corresponding entries relating thereto in columns (2) and (3) shall be omitted; and

(b) In Table-II, in column (1), serial number 5 and the corresponding entries relating thereto in columns (2) and (3) shall be omitted.

6. **Amendment of Ordinance XLIX, 2001.**—In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made, namely:—

- (1) in section 2,—

(a) in clause (5), after the word “includes”, the words and comma “provisional assessment,” shall be inserted; and

(b) after clause (11B), the following new clause shall be added, namely:—

“(11C) “Collective Investment Scheme” shall have the same meanings as are assigned under the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003;”;

- (2) in section 18, in sub-section (1), in clause (d), for the semicolon and word “; and”, a full stop shall be substituted and thereafter the following Explanation shall be added, namely:—

“*Explanation.*—For the purposes of this clause, it is declared that the word ‘benefit’ includes any benefit derived by way of waiver of profit on debt or the debt itself under the State Bank of Pakistan, Banking Policy Department’s Circular No.29 of 2002 or in any other scheme issued by the State Bank of Pakistan;”;

- (3) in section 28, in sub-section (1), in clause (g), for the word “Corporation”, the letters and word “SME Bank” shall be substituted;
- (4) for section 62, the following shall be substituted, namely:—

“62. Tax credit for investment in shares and insurance.—

(1) A resident person other than a company shall be entitled to a tax credit for a tax year either—

- (i) in respect of the cost of acquiring in the year new shares offered to the public by a public company listed on a stock exchange in Pakistan, provided the resident person is the original allottee of the shares or the shares are acquired from the Privatization Commission of Pakistan; or
- (ii) in respect of any life insurance premium paid on a policy to a life insurance company registered by the Securities and Exchange Commission of Pakistan under the Insurance Ordinance, 2000 (XXXIX of 2000), provided the resident person is deriving income chargeable to tax under the head “salary” or “income from business”.

(2) The amount of a person’s tax credit allowed under sub-section (1) for a tax year shall be computed according to the following formula, namely:—

$$(A/B) \times C$$

where—

- A** is the amount of tax assessed to the person for the tax year before allowance of any tax credit under this Part;
- B** is the person’s taxable income for the tax year; and
- C** is the lesser of —

- (a) the total cost of acquiring the shares, or the total contribution or premium paid by the person referred to in sub-section (1) in the year;
 - (b) fifteen per cent of the person's taxable income for the year; or
 - (c) five hundred thousand rupees.
- (3) Where –
- (a) a person has been allowed a tax credit under sub-section (1) in a tax year in respect of the purchase of a share; and
 - (b) the person has made a disposal of the share within thirty six months of the date of acquisition, the amount of tax payable by the person for the tax year in which the shares were disposed of shall be increased by the amount of the credit allowed.”;
- (5) in section 63, in sub-section (2), in definition ‘C’,—
- (a) in clause (ii), for the semicolon and word “; or”, a full stop shall be substituted; and
 - (b) clause (iii) shall be omitted;
- (6) in section 65C, in sub-section (1), for the word “five”, the word, “fifteen” shall be substituted;
- (7) after section 65C, the following new sections shall be inserted, namely:—

“65D. Tax credit for newly established industrial undertakings.—(1) Where a taxpayer being a company formed for establishing and operating a new industrial undertaking for manufacturing in Pakistan sets up a new industrial undertaking, it shall be given a tax credit equal to hundred per cent of the tax payable on the taxable income arising from such industrial undertaking for a period of five years beginning from the date of setting up or commencement of commercial production, whichever is later.

(2) Tax credit under this section shall be admissible where—

- (a) the company is incorporated and industrial undertaking is setup between the first day of July, 2011 and 30th day of June, 2016;
 - (b) industrial undertaking is managed by a company formed for operating the said industrial undertaking and registered under the Companies Ordinance, 1984 (XLVII of 1984) and having its registered office in Pakistan;
 - (c) the industrial undertaking is not established by the splitting up or reconstruction or reconstitution of an undertaking already in existence or by transfer of machinery or plant from an industrial undertaking established in Pakistan at any time before 1st July 2011; and
 - (d) the industrial undertaking is set up with hundred per cent equity owned by the company.
- (3) The amount of credit admissible under this section shall be deducted from the tax payable by the taxpayer in respect of the tax year in which the plant or machinery referred in sub-section (1) is purchased and installed.
- (4) Where any credit is allowed under this section and subsequently it is discovered, on the basis of documents or otherwise, by the Commissioner inland Revenue that any of the condition specified in this section was not fulfilled, the credit originally allowed shall be deemed to have been wrongly allowed and the Commissioner inland Revenue may, notwithstanding anything contained in this Ordinance, re-compute the tax payable by the taxpayer for the relevant year and the provisions of this Ordinance shall, so far as may be, apply accordingly.

65E. Tax credit for industrial undertakings established before the first day of July, 2011.—(1) Where a taxpayer being a company invests any amount, with hundred per cent equity investment, in the purchase and installation of plant and machinery for the purposes of balancing, modernization, replacement, or for expansion of the plant and machinery already installed in an industrial undertaking setup in Pakistan before the first day of July 2011, a tax credit shall be allowed against the tax payable in the manner provided hereinafter, in the same proportion, which exists between the total investment and such equity investment made by the industrial undertaking.

- (2) The provisions of sub-section (1) shall apply if the plant and machinery is purchased and installed at any time between the first day of July, 2011, and the 30th day of June, 2016.
- (3) The amount of credit admissible under this section shall be deducted from the tax payable by the taxpayer in respect of the tax year in which the plant or machinery referred in sub-section (1) is purchased and installed and for the subsequent four years.
- (4) Where no tax is payable by the taxpayer in respect of the tax year in which such plant or machinery is installed, or where the tax payable is less than the amount of tax credit, the amount of such credit or so much of it as is in excess thereof, shall be carried forward and deducted from the tax payable by the taxpayer in respect of the following tax year:

Provided that no such amount shall be carried forward for more than four tax years:

Provided further that deduction made under sub-section (1) and under this sub-section shall not exceed in aggregate the limit of the tax credit specified in sub-section (1).

- (5) Where any credit is allowed under this section and subsequently it is discovered, on the basis of documents or otherwise, by the Commissioner Inland Revenue that any of the condition specified in this section was not fulfilled, the credit originally allowed shall be deemed to have been wrongly allowed and the Commissioner Inland Revenue may, notwithstanding anything contained in this Ordinance, re-compute the tax payable by the taxpayer for the relevant year and the provisions of this Ordinance shall apply accordingly.”;
- (8) in section 111, in sub-section (1),—
 - (a) in clause (b), the word “or”, at the end, shall be omitted;
 - (b) in clause (c), for the comma at the end, a semicolon and word “;or” shall be substituted;
 - (c) after clause (c), amended as aforesaid, the following new clause shall be added, namely:—
 - “(d) any person has concealed income or furnished inaccurate particulars of income including—

- (i) the suppression of any production, sales or any amount chargeable to tax; or
 - (ii) the suppression of any item of receipt liable to tax in whole or in part;” and
 - (d) after the word “made” occurring for the second time, the words and commas “suppression of any production, sales, any amount chargeable to tax and of any item of receipt liable to tax” and after the word “expenditure”, occurring for the third time, the words and commas “suppressed amount of production, sales or any amount chargeable to tax or of any item of receipt liable to tax” shall be inserted.
- (9) in section 113,—
- (a) in sub-section (2), in the proviso, for the word “three”, the word “five” shall be substituted; and
 - (b) in sub-section (3), in clause (a), after the word “the”, occurring for the first time, the words “gross sales or” shall be inserted;
- (10) in section 113B, in clause (b), for the words, letters figure and comma “Chapter III of the Sales Tax Special Procedure Rules, 2006”, the words, letters figure and comma “Chapter II of the Sales Tax Special Procedures Rules, 2007” shall be substituted;
- (11) in section 114,—
- (a) in sub-section (1),—
 - (i) in clause (ab), after semicolon at the end, the word “or” shall be added; and
 - (ii) in clause (ac), the word “and”, at the end, shall be omitted;
 - (iii) in clause (b),—
 - (a) in sub-clause (vi), the word “and”, at the end, shall be omitted;
 - (b) in sub-clause (vii) for the full stop at the end, a semicolon and the word “; or” shall be substituted; and

