**Huge Tax Pendency, Economic Impacts and the Way Forward**

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The Supreme Court has taken notice of a report that revealed details of the pending tax litigation at different forums, including High Courts and Supreme Court, which involved more than three trillion rupees. As per data presented by the Federal Board of Revenue during a meeting on the pendency of tax cases, there are a total of 90,426 tax cases pending at different forums, including High Courts and Supreme Court, involving 3,03,340 million revenue. Out of this, Rs 2,556 billion tax matters are pending at two first-adjudication forums (Appellate Tribunals both inland and Customs, and Commissioner Appeals and Collector Appeals) with the pendency of 58,937 of total tax matters before Appellate tribunals involving 950 billion rupees tax revenue, and 19,523 out of total cases are bending before Commissioner and Collector Appeals involving 1.606 billion rupees tax matters. The report further revealed that 2,959 tax cases are pending in Supreme Court; 1,298, tax cases before Islamabad High Court; 2,238 tax cases before Sindh High Court; 5,133 tax cases before Lahore High Court; 317 tax cases before Peshawar High Court and 21 tax cases before Balochistan High Court.

The present notice by Honourable Chief Justice on the pendency of tax cases before different forums is a first of its nature and would have a long-lasting effect on the resolution of tax cases pending throughout the country. It is one of the largest in the region, which gives a bad effect on the implementation of tax initiatives, recoveries. Sometimes, these tax propositions would come before the Courts after many years of first legal assessment or tax propositions eventually lasting their effect.

There are many factors behind such huge tax pendency and the superior courts cannot be blamed alone. Almost more than 70 per cent tax demands are pending at first or second tax adjudicating tax forums (Appellate Tribunals and Commissioner and Collector Appeals) and thus, this area needs to be strengthened and given priority for all purposes through legislation in Income tax, Customs, Sales tax and Federal Excise laws and to provide the proper infrastructure, ensuring technology and maintaining their conceptual and practical neutrality by appointing independent legal professionals through substantial amendments in the law, so the real work on questions of law should go to Superior Courts. This should be an eye-opener for the policymakers to rectify both administrative and legal sides on priority. Otherwise, this state of affairs would continue as before and cause many difficulties in increasing the tax-to-GDP ratio and getting out of the IMF monetary assistance.

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FBR should conduct a study, undertake a forensic audit about this state of huge tax pendency and take legal measures on priority. It would be more important that instead of only highlighting the issue, this should be addressed with doable recommendations with a way forward related to courts and tax adjudicating forums and address the genuine concerns and issues of taxpayers, especially related to the appointment and timeline proceedings of First Assessing officers of tax cases, the Adjudicating Commissioner Appeals (Inland Revenue) and Collector Customs Appeals of both Appellate tribunals, so the minimum amount of real tax work should go to the High Courts and Supreme Court for their final determination. The issue of capacity-building within FBR should be addressed on priority both at the time of passing of first assessment orders and representation of their cases before adjudicating forums, including Superior Courts.

The role of Alternate Dispute Resolution (ADR) would also be very important for early resolution of long-awaited tax matters and to design a robust system to streamline the tasks of Alternative Dispute Resolution Committees and its effective monitoring as suggested and mentioned in all tax laws (Customs, Federal Excise, Sales tax, and Income tax laws), and in that way, unnecessary litigation could also be avoided and courts burden could be minimized. There is also a need to design a strategy to prioritize the litigation relating to tax positions and their revenue and legislative impacts. For addressing and implementing these rules, quarterly meetings of all relevant forums and courts should be held; focusing on special measures to highlight tax cases where the Stay Orders has been granted in revenue matters by Superior Courts under Article 199 of the Constitution, where a statutory period of six months has elapsed.

It would also be important to introduce such tax innovative legislation in Income tax, Customs, Sales tax and Federal Excise laws which provide a simple procedure for tax collection, the process of first assessment & adjudication and finally the timeline for tax adjudication and decisions up to the Supreme Court. Also important would be to ensure neutrality and competency through appointments of independent legal professionals’ backgrounds at the first Appeal stage and the Appellate Tribunal. This would give confidence to taxpayers and provide qualitative judgments, which minimises unnecessary courts litigation. It would also be important to implement the mandatory timeline to decide tax cases by every adjudicating forum under the relevant tax law and to request the Supreme Court and High Courts to suitably amend their Rules and Orders. All the above is required through complete legal strategy, coordination with passion for timeline implementation.

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