

Government of Pakistan
Revenue Division
Federal Board of Revenue

C.No. 1(110)R&S/2020

Islamabad, the 3rd December, 2020.

EY Ford Rhodes
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SUBJECT: DEVOLUTION MECHANISM OF WORKERS WELFARE FUND.

I am directed to refer to your letter No.LT/5076/20 dated 19th November, 2020 on the above subject.

2. In view of decision by the Council of Common Interests that "WWF shall remain with the Federal Government till such time a mutually agreed mechanism is developed", it is clarified that Federal WWF Ordinance 1971 will apply all over Pakistan and FBR is the collecting authority in this regard.


(Tariq Iqbal)
Secretary (Rules & SROs)

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F.No.1(11)Sec-ST/IR-Ops/2020/163796-R

Islamabad, the 17th September, 2020

Subject: **Devolution Mechanism of Workers Welfare Fund**

Reference to the meeting held on 3rd Sep, 2020 in the committee room of Ministry of Overseas Pakistanis & Human Resource Development, Islamabad.

2. During the course of said meeting, which was attended by the undersigned, opinion of FBR was sought on developing devolution mechanism of WWF in the light of the 18th Amendment, 2010. Accordingly, head-wise response of the FBR is given as under:-

a)~ Constitutional of WWF under WWF Ordinance, 1971

Federal Board of Revenue (FBR) is lawfully charging WWF under the relevant provisions of the WWF Ordinance, 1971. The Board is of the considered opinion that enactments introduced by the provinces under Sindh WWF Act, 2014 and Punjab WWF Act, 2019 are barred to abolish unilaterally the Federal legislation i.e. WWF Ordinance, 1971. Reliance in this connection is also placed upon the judgement of the Hon'ble Supreme Court (NIRC 2018), whereby Industrial Relations Act (IRA), 2012, enacted by the Federation subsequent to 18th Amendment, 2010, was declared constitutional. That protection clauses 6 & 7 to Article 270AA read with Article 143 of the Constitution of Pakistan, 1973, shall be given due consideration to address any inconsistency between federal and provincial laws.

b) Confidentiality of Income Tax Returns

FBR is legally barred u/s 216 of the Income Tax Ordinance, 2001 to share the classified income tax returns with the provinces. For the sake of ready reference, sub-section 2 to section 216 of the ITO, 2001 is given as under:-

"No court or other authority shall be, save as provided in this Ordinance, entitled to require any public servant to produce before it any return, accounts, or documents contained in, or forming a part of the records relating to any proceedings under this Ordinance, or any records of the Income Tax Department generally, or any part thereof, or to give evidence before it in respect thereof."

c) Absence of Collection and Distribution Mechanism with the Provinces

As per provisions of the Provincial Acts, WWF is to be calculated at the rate of 2% of total income. Whereas total income, as defined under section 2(l) of the Sindh Act, 2014 and 2(k) of the Punjab Act, 2019 is the one which is declared in income tax return filed under Income Tax Ordinance, 2001. For the sake of ease, the said clause is reproduced as under:-

"Where return of income is required to be filed under Income Tax Ordinance, 2001, or under this Act, the profit as per accounts or the declared income as per the return of income."

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In the absence of access to the tax returns, the whole mechanism of WWF collection by the provinces is an exercise in futility. Like-wise, there is no systematic mechanism available with the provinces regarding distribution of the funds collected to ensure equitable welfare of the workers across the country.

d) Geographical Location of Industrial Establishments

A large number of industrial establishments are clustered in Sindh, Punjab and ICT. The said geographical presence leaves less-industrialized provinces namely KPK and Balochistan at disadvantage in terms of WWF collection and its ultimate distribution. In case of devolution, peanut collection by these provinces will adversely affect the ongoing and future welfare projects in their respective jurisdictions. In view thereof, It would be constitutionally inexcusable for the federation, under Article 38 to the Constitution, to leave workers of the said provinces at disparity with rest of the countrymen. The said Article reads as under:-

38. Promotion of social and economic well-being of the people. - The State shall -

(a) secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenant

3. Foregoing in view, it is prayed that afore-said submissions may kindly be given due consideration before taking any decision on the subject matter in the light of Council of Common Interest (CCI) decision dated 23rd Dec, 2019.


(Zubair Khan)
Secretary ST (IR Operations)
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Received
18/9/2020

Cc:

- (i) SA to Member Operations (IR), FBR, Islamabad
- (ii) Chief ST-Operations, FBR, Islamabad