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Government of the People's Republic of Bangladesh
National Board of Revenue
Segunbagicha, Dhaka 1000

File No: 7(2) Customs: Policy & Budget/2005/5012 (9)

Date: 28/11/2019.

Subject: Minutes of the meeting held in NBR to resolve the duty and tax related issues of Japanese investors in Bangladesh.

Reference : NBR's Letter No. 7(2) Customs: Policy & Budget/2005/4094, Dated 21/11/2019

Meeting place : Conference room (room no. 534) of National Board of Revenue (NBR).

Meeting date : 26 November 2019

As per decision of the meeting between Honorable Minister, Ministry of Finance, Bangladesh and Ambassador of Japan held on 16 November, 2019, NBR organized a meeting to resolve the duty and tax related problems faced by Japanese Companies in Bangladesh. The representatives from Japanese embassy in Bangladesh & Japanese investors, Economic Relations Division (ERD), Bangladesh Investment Development Authority (BIDA), Bangladesh Export Processing Zone Authority (BEPZA), Bangladesh Bank and related NBR officials were present in the meetings. The list of participants is enclosed as annexure 'A'.

2. The meeting was chaired by Md. Mosharraf Hossain Bhuiyan, ndc, Chairman, National Board of Revenue. He thankfully greeted participants for attending the meeting that was expected to be crucial for enhancing the Japan-Bangladesh bilateral relationship. He mentioned that Japan is the single largest development partner of Bangladesh and a very prospective foreign investor. The chair requested Japan side to place the agenda one by one.

SL	Subject	Discussion	Decisions taken	Authority
1	To ensure the customs duty exemption of vehicles for the project by complying the E/N	Takken Corporation (a Japanese contractor) imported 9 cars as temporary import for their ongoing infrastructure development projects financed by JICA. According to Exchange of Notes between Bangladesh and Japan, temporary imports required for the implementation of the projects financed by JICA are free from all duties and related fiscal charges. But Tax exemption is applied only for 2 cars. Takken Corporation paid custom duties for 7 cars.	A special exemption order for Takken Corporation will be issued from NBR as per Exchange of Notes for temporarily imported vehicles. NBR will also take initiative to refund the duty taxes already paid for 7 cars.	1. Member (Customs: Export & Bond) 2. First Secretary (Customs: Exemption and Project Management)
2	Abolish getting Bond License for EPZ Companies to clear the double standard	Companies in EPZ must get the bond license although EPZ itself declared as bonded areas. Moreover, bond license must be renewed every two years and it takes much time to make renewal than standard operation period. Japanese side requested to abolish the rule of bond license for companies in EPZ. Bond license is issued as per section 13 of Customs Act, 1969. According	NBR will take necessary steps to increase the renewal time of bond license from 2 years to 3 years for all industries in EPZ. A circular will be issued to all related offices by providing instruction to issue new bond licenses and renew the old bond	1. Member (Customs: Export & Bond) 2. First Secretary (Customs: Export & Bond)

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		to Bonded Warehouse Licensing Rule, 2008 (SRO 181, Date 26.06.2008), Bond License is required for units operating within Export Processing Zones (EPZs) to enjoy duty free benefits of import consignments. Bond license is essential pre-dominantly to differentiate the IM4 (dutyable imports) and IM7 (duty free imports) consignments under the ASYCUDA System. It is also important for monitoring and reconciliation of the import export information by the Customs Administration. Thus, a system 'Bond license free' import-export for the units of EPZs might create different new issues and problems for the investors in EPZs as EPZ units does not have any import entitlement limitations like other DTA exporters and customs authority do not have the automated access in the IP/EP issuance System of BEPZA. So as far as the existing policy is concern provision of Bond license is the only legal solution from customs authority to ensure transparency and accountability of the import-export activities of EPZ units.	licenses of industries in EPZ on demand as quickly as possible.	
3	Refund of customs duties	<p>YKK Bangladesh PTE Limited is situated in Dhaka EPZ. Dhaka Custom House imposed duty on building materials which they should enjoy duty free facility at import stage as per SRO 237-Law/2009/2266/Customs, Dated 25/10/2009.</p> <p>YKK had to pay duty and taxes on imported building materials as building materials are not defined distinctly in the SRO. YKK claimed refund for 111 imported items. NBR formed a committee to resolve this issue. The committee suggested to approve refund for all the building materials by following the provision of section 33 of the Customs Act, 1969 except LV Panel Board, Lighting fixtures, Sanitary fixture & accessories, Flexible tube, Garden faucet E/W box and Pre-action control panel as these are not direct building construction materials.</p> <p>According to the provision of section 33 of the Customs Act, 1969,</p>	Building materials for construction purposes are exempted from all duty and taxes as per SRO 237-Law/2009/2266/Customs, Dated 25/10/2009. NBR will take necessary step to refund the paid duty and taxes (except duty and taxes paid against LV Panel Board, Lighting fixtures, Sanitary fixture & accessories, Flexible tube, Garden faucet E/W box and Pre-action control panel). Since there is no provision in the Customs Act, 1969 for refund after six months a special exemption will be proposed for solution of the issue.	Member (Customs: Policy and ICT)

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		<p>'No refund of any customs-duties or charges claimed to have been paid or over paid through inadvertence, error, misconstruction or in any other way shall be allowed, unless such claim is made within six months of the date of payment.'</p> <p>This is a mandatory provision of the Customs Act, 1969. As YKK didn't claimed the refund within 6 months from the date of payment, there is no provision to consider the claimed refund.</p>		
4	Customs duties and procedures in relation with textile sector (Free of Cost)	<p>Many Japanese companies are considering to establish their subsidiary offices and factories in Bangladesh. Japan side has been requesting to revise the Free of Cost import policy to accept the global business practice.</p> <p>As per SRO no. 153-Act/93/1520/Customs, date: 03.08.1993 all 100% export-oriented industry can import raw materials temporarily without back to back L/C for production continuation based on previous years export volume. They have to adjust this import volume with the next Export Order. In the Import Policy Order the rules for raw materials importation on FOC is also same. The background theory for the strict monitoring is keeping transparency and accountability for misuse of bonded facility.</p>	<p>NBR will examine the existing rules and regulations of FOC import in collaboration with Ministry of commerce, BIDA and Bangladesh Bank.</p> <p>NBR will write a letter to Ministry of Commerce to increase the volume of FOC products only for the foreign owned companies.</p>	<p>1. Member (Customs: Export & Bond)</p> <p>2. Member (Tax Policy)</p>
5	Container round use for EPZ Companies	<p>In the Customs (Export Processing Zone) Rule, 1984, container can be delivered with only from seaport to EPZ after customs clearance. On the way back from EPZ to seaport, finished products cannot be delivered in the same container used when imported. Chittagong customs check the empty inside containers. Japanese side requested to allow container for round use.</p> <p>There is no restriction in the Customs (Export Processing Zone) Rule, 1984 for exporting products through the same container used when imported.</p>	<p>A committee will be formed comprising the representatives from NBR, BEPZA, Chattogram Custom House, Chattogram Bond Commissionerate and Dhaka Bond Commissionerate. The committee will prepare a detail procedure for container round use in EPZ after examining existing rules and regulations and submit a report within 3 (three) weeks from the date of committee formation.</p>	<p>1. Member (Customs: Export & Bond)</p> <p>2. First Secretary (Customs: Export & Bond)</p>

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6	Difficulty for disposing of Machinery and Facilities in EPZ	<p>In EPZ, it is difficult to dispose of old machinery, cars and facilities for introducing new ones. Even if the process for disposal is done, it is required to pay tax according to invoice price for disposing. Many factories are forced to leave the old machinery inside their plots. Japanese side requested to simplify the process.</p> <p>There is an office order (No. 2(2) Customs: Export & Bond/98/265, dated 22/09/2004) regarding disposal of old machineries in EPZs. In this office order the procedure of disposal and assessment of old machineries are described distinctly.</p>	<p>A committee will be formed comprising representatives from NBR (Customs: Export & Bond, VAT policy, Income tax policy), BEPZA, BIDA and Ministry of Commerce to suggest procedure for disposal of old and used vehicles and machineries after re-examining the existing procedure.</p>	<p>1. Member (Customs: Export & Bond)</p> <p>2. First Secretary (Customs: Export & Bond)</p>
7	Customs Duties for Spare parts in EPZ	<p>EPZ Companies can import machinery for free of tax but tax for spare parts is imposed even in EPZ. Companies often maintenance and repair machinery and facilities but this tax imposition increases cost for EPZ companies in bonded areas. Japanese side requested to exempt tax on spare parts for companies in EPZ.</p> <p>There is an SRO (No. 57-Law/2017/Customs, dated 14/03/2017) regarding exemption of all duty and taxes on Capital machineries and spare parts listed in the table of that SRO.</p>	<p>EPZ companies will follow the provisions of related SRO ((No. 57-Law/2017/Customs, Dated 14/03/2017).</p>	
8	Refund withholding tax of Marubeni Corporation	<p>Because of the delay of the issuance of the tax exemption certificate by NBR, the AIT portion was continuously unreasonably withheld from the customer NWPGL. Tax exemption certificate from NBR was finally issued on July 26, 2017. Until then this withholding of tax was continued. Japanese side requested to refund the withholding tax as soon as possible.</p> <p>Upon perusal of the tax file of the Marubeni Corporation, it was found that the corporation did not claim tax refund in their returns submitted. Later on, they have submitted revised returns in the office of the DCT but DCT has received and not accepted it on the ground of legal complexities.</p>	<p>NBR will take initiative to refund the claimed withholding tax by December 26, 2019.</p> <p>The concerned office of the DCT should be instructed to move forward with refund application by accepting revised returns to this end.</p>	<p>1. Member (Tax policy)</p> <p>2. Commissioner of Taxes Zone - 11</p> <p>3. DCT, Tax Circle-222, Zone-11</p>

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		<p>SRO No. 248- AIN/Aikor/2017 exempts Marubeni Corporation, Japan from paying taxes on the income earned from the project Bheramara Combined Cycle Power Plant (360MW) Development Project.</p> <p>There is no ambiguity in the legal language of the SRO that all the incomes of the Marubeni Corporation of the said project shall enjoy tax exemption. Though, the SRO 248 has been issued on 23.07.2017, it has got effect from the very beginning of the project. Thus, there is no legal bar in making refund of the deducted tax at source.</p>		
9	Refund additional tax of AJINOMOTO	<p>For the AY 2013-2014, no effect has been given to the ADR agreement. When effect will be given tentative additional tax liability amount will be BDT 23,80,000.00. The DCT made the correction of assessment order. The company is entitled to get the refund amounting to BDT 37,03,394. For the AY 2016-2017, there is a refund amounting to BDT 41,89,264 has been claimed and kept for future adjustability. For the AY 2017-2018, DCT did not give Credit to TDS amounting to BDT 41,68,641.00. For the AY 2019-2019, Assessment is under process. Japanese side requested to refund the additional tax.</p> <p>For the AY 2016-2017, the company has to submit copy of Bill of entry to the office of the DCT. For the AY 2017-2018, upon submission of Bill of entry and other related documents, application u/s 173 shall be disposed of duly and timely. For the AY 2018-2019, on the date fixed, if necessary, documents are presented before DCT the case will be solved.</p>	<p>Refund application has to be made in the prescribed form.</p> <p>All legal works will be completed by 26 December 2019.</p>	<p>1. Member (Tax Policy)</p> <p>2. AJINOMOTO</p> <p>3. Commissioner of Taxes Zone - 1</p> <p>3. DCT, Tax Circle-07, Zone-1</p>
10	JAPATECH CLEANING SERVICES	<p>After assessment the income of JAPATECH is increased without any reason and evidence. The expenditure is not considered as cost and transferred money from Japan for additional investment is considered as sales and imposed tax on it. Appeal order arrived on May 15, 2019. They can appeal to the Tribunal within 60 days, but as a first action, appealed for</p>	<p>Commissioner will be requested to give waiver the tax that has to be deposited before filing appeal to the Tribunal.</p> <p>JAPATECH should file appeal to the Tribunal.</p>	<p>1. Member (Tax Policy)</p> <p>2. Commissioner Tax Zone-15</p>

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		<p>waiver to CT to reduce the deposit to proceed to tribunal.</p> <p>It is found from the assessment order that the disallowance has been made for lack of documents. GP has been reconstructed almost doubly. The appeal has reduced some portion GP construction.</p>		
11	VAT rate changes	<p>In the case of a tax-included contract, if the tax rate in Bangladesh is changed, the contract amount should be changed accordingly, therefore tax deduction at source shall be calculated according to amended agreement as well. But without making changes of contract amount the employer deducting tax. How this extra deduction shall be adjusted?</p> <p>As part of the fiscal policy reform initiative taken by the Government, the New VAT and Supplementary Duty Act, 2012 has been implemented since 1 July, 2019. This has resulted in changes of VAT rate in different service sectors and for different products.</p>	The Project Implementation Authority may amend the agreement to revise the value of the tax-vat amount in accordance with the new VAT Act.	<p>1. Member (VAT Policy)</p> <p>2. Concern Project Authority</p>
12	Double taxation issues	<p>When ODA project owner pays the construction fee to contractor for Kalna bridge project, VAT and AIT is calculated and deducted by multiplying taxed amount by each tax rate.</p> <p>VAT system avoids double taxation. So, if there is any question of double taxation i.e VAT-on VAT, then NBR may be noticed to resolve the issue as per section 32 of the VAT Act. The value of VAT able supply shall be the consideration for such supply, reduced by an amount equal to the tax fraction of that consideration.</p>	NBR will take necessary step to resolve the problem if any specific case of double taxation is found.	Member (VAT Policy)
13	VAT on Sub-contractor under new VAT Act 2012	VAT and SD Act, 2012 was enforced on 1 st July 2019. However, the Section 6 (4aa) of the old Vat Act 1991 was omitted in the new VAT Act 2012. As the section 6(4aa) of the old VAT Act 1991 prevented the double VAT taxation, we face the uncertainty of the VAT double taxation, which was not assumed at all at the time of the contract signing with the employer.	<p>NBR will take necessary initiative to incorporate the earlier provision of the section 6(4aa) of the Value Added Tax Act, 1991 subject to the following conditions:</p> <p>(i) The project implementation authority shall deduct VAT at applicable rates</p>	Member (VAT Policy)

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		From various corners, NBR has been informed that due to the introduction of reduced multiple rates the contractor is not entitled to enjoy input tax credit. <u>So</u> , they are facing cascading effect as both the contractor and sub-contractors are subject to deduct VAT at source.	from the bill of the principal contractor. (ii) The principal contractor shall not deduct VAT at source from the sub-contractor bill. (iii) The contractor or the sub-contractor shall not procure any goods or services without VAT invoice form VAT 6.3 from any of their suppliers.	
14	VAT at trading stage for LPG	A Japan- Bangladesh JV is involved in the LPG industry for selling and distribution on LPG. Currently VAT is applicable @ 5% for selling of LPG. As a trading company one has to pay VAT for purchase and has to take the burden of selling VAT. However, it is not possible to get rebate the input VAT while for the operator Vat is not applicable at the import stage. Therefore, there remains an extra burden of VAT on this JV. Japanese side requested to allow rebate on input Vat.	In every stage of trade, VAT rate is 5 percent for LPG. As VAT rate is reduced. There is no scope to get input tax credit.	
15	Tax Exemption for Sub-contractor	Japanese side requested to ensure the tax exemption for individual contractors, contractors, sub-contractor and grand sub-contractors under ODA and E/N projects to comply the E/N.	NBR will examine existing rule and regulations and Exchange of Notes. A committee will be formed comprising Member (Tax Policy), First Secretary (Customs: Exemption & Project Management)/ (VAT Policy)/(Tax Policy), the representative from ERD, Power Division and Road Transport and Highways Division. The Committee will submit a report within one month from the date of committee formation.	1. Member (Tax policy) 2. First Secretary (Customs: Exemption & Project Management)/ (VAT Policy)/ (Tax Policy)

3. As there were no issues left for discussion, the chair concluded the meeting with a vote of thanks to the participants.

(signed)
Md. Mosharraf Hossain Bhuiyan, ndc
Chairman
National Board of Revenue



For kind action (not in order of seniority):

1. Governor, Bangladesh Bank, Dhaka;
2. Secretary, Ministry of Commerce, Bangladesh Secretariat, Dhaka;
3. Secretary, Economic Relations Division, Ministry of Finance, Bangladesh Secretariat, Dhaka;
4. Secretary, Finance Division, Ministry of Finance, Bangladesh Secretariat, Dhaka;
5. Executive Chairman, Bangladesh Investment Development Authority, Dhaka
6. Ambassador, Embassy of Japan, Plot No. 5 & 7, Dutabash Road, Baridhara, Dhaka.
7. Counsellor, General/Economic/Development Assistance, Embassy of Japan, Plot No. 5 & 7, Dutabash Road, Baridhara, Dhaka.
8. Commissioner, Customs Bond Commissionerate, Dhaka/Chattogram;
9. Commissioner of Taxes, Zone-1, 11 & 15, Dhaka.
- ✓ 10. System Manager, NBR (For uploading the minutes in the website of NBR)
11. President, Japan Commerce & Industry Association, Dhaka;
12. President, Japan Bangladesh Chamber of Commerce & Industries, Dhaka;
- 13-17. First Secretary (Customs: Policy & Budget/ Customs: Export & Bond/Customs: Exemption & Project Management / VAT Policy/ Tax Policy), NBR, Dhaka.
- 18-22. Second Secretary (Customs: Policy/Customs: Export & Bond/Customs: Exemption & Project Management / VAT Policy/ Tax Policy), NBR, Dhaka;

For kind information (not in order of seniority):

1. PS to Chairman, National Board of Revenue, Dhaka.
2. PA to Member (Customs: Export & Bond), NBR, Dhaka.
3. PA to Member (Tax policy), NBR, Dhaka.
4. PA to Member (VAT Policy), NBR, Dhaka.
5. PA to Member (Customs: Policy & ICT), NBR, Dhaka.



28.11.2019

Mohammed Mahraj-ul-Alam Samrat
Second Secretary (Customs policy)
E-mail: sscuspolicy@gmail.com