

## **The Alternate Dispute Resolution Rules, 2002**

26<sup>th</sup> October, 2002

In exercise of the powers conferred by section 50 of the Sales Tax Act, 1990, read with sub-section (6) of section 47A thereof, the Central Board of Revenue is pleased to make the following rules, namely: -

**1. Short title, application and commencement :** -- (1) These rules may be called the Alternate Dispute Resolution Rules, 2002.

(2) They shall apply to all cases of disputes brought or specified for resolution under section 47A of the Act.

(3) They shall come into force at once.

**2. Definitions :** -- (1) In these rules, unless there is anything repugnant in the subject or context : --

(a) "Act" means the Sales Tax Act, 1990;

(b) "applicant" means a person or a class of persons who has brought a dispute for resolution under section 47A of the Act and these rules;

(c) "Committee" means a Dispute Resolution Committee constituted under sub-section (1) of section 47A of the Act for any particular dispute, or a class of disputes;

(d) "dispute" means, subject to the exclusions given in the proviso to sub-section (1) of section 47A of the Act, a case or class of cases where, for evidently valid reasons, a person or a class of person does not agree with or is otherwise aggrieved with any proceedings, action, order, decision or judgement as to the determination of tax including additional tax and imposition of penalty under the Act and prima facie deserves relief for the elimination of possible hardship.

(2) All other words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Act.

**3. Application for alternate dispute resolution :** -- Any registered person or a class of such persons interested for resolution of any dispute under section 47A may submit to the Chairman, Central Board of Revenue, a written application for alternate dispute resolution stating, inter alia, the following : --

(a) The Collectorate of Sales Tax and the office of the Sales Tax with whom a dispute has arisen;

(b) the particulars of the case;

(c) the grounds on the basis of which a resolution of a dispute is being sought by the applicant duly supported with relevant documents;

(d) the extent or the amount of sales tax, additional tax and penalties etc., which the applicant agrees to pay, if any;

(e) details of amounts already paid, if any;

(f) the particulars of any person who will represent the applicant; and

(g) an undertaking on a stamp paper of fifty rupees witnessed by two persons to the effect that the dispute has not been decided by any High Court or the Supreme Court of Pakistan and the applicant shall, if required, pay the remuneration of the members other than a public servant, of the Committee to the extent and in the manner specified by the Chairman of the Committee as laid down in rule 5.

**4. Appointment of Alternate Dispute Resolution Committee :** -- (1) The Board, on its own motion or after examination of the contents of an application by a registered person and facts stated therein and on satisfaction that a dispute deserves

consideration for resolution for the removal of hardship under section 47A of the Act, may constitute a Committee for examination of the facts and law involved in the dispute and for taking other actions as provided under sub-section (3) of section 47A of the Act.

(2) The Board may appoint one of the members, other than a public servant, of the Committee to be its Chairman.

(3) In order to constitute a Committee under sub-rule (1), the Board may specify the time within which the Committee shall be required to submit its report to the Board: Provided that the time so specified may, if requested by the Chairman of the Committee for reasons to be recorded in the request, be extended by the Board to such extent and subject to such conditions and limitation as it may deem proper.

**5. Remuneration of the members of the Committee : --** (1) Members of the Committee other than public servants shall be paid by the applicant remuneration of members covering the travelling allowance and daily allowance.

(2) The extent and amount of remuneration and the manner of payment thereof shall be decided by the Chairman of the Committee under intimation to the applicant.

**6. Working of the Committee : --** The Chairman of the Committee shall be responsible for deciding the procedure to be followed by the Committee which may inter alia, include the following, namely: -

- (a) to decide about the place of sitting of the Committee;
- (b) to specify date and time for conducting proceedings by the Committee;
- (c) to supervise the proceedings of the Committee;
- (d) to issue notices by courier, registered post or electronic mail to the applicant;
- (e) to requisition and produce relevant records or witnesses from the Collectorate or other concerned quarters;
- (f) to ensure attendance for hearings either in person or through an advocate, representative or a tax consultant;
- (g) to co-opt any other technical, professional, or legal expert or specialist or tax consultant;
- (h) to consolidate recommendations of the Committee and submission of the conclusive report to the Board; and
- (i) for any other matter covered under these rules.

**7. Recommendations of the Committee : --** (1) The Committee may determine the questions of fact and law and may thereafter seek further information or data or expert opinion or make or cause to be made such inquiries or audit as it may deem fit. The Committee shall formulate its recommendations with consensus in respect of any tax matter mentioned in sub-section (3) of section 47A of the Act.

(2) A copy of the report sent to the Board by the Chairman of the Committee shall also be sent to the applicant and the concerned Collectorate simultaneously.

**8. Review by the Committee : --** (1) The Board of its own motion, or on the request of the applicant, may refer back the recommendations of the Committee for rectification of any obvious error or for re-consideration of the facts not considered earlier.

(2) The Committee after rectification of the error or reconsideration of the facts as aforesaid shall furnish to the Board its fresh or amended recommendations within such period as may be specified by the Board.

**9. Decision of the Board :** -- (1) The Board, after examining the recommendations of the Committee, shall finally decide the dispute and make such orders as it may deem fit for the resolution of the dispute under intimation to the applicant, Chairman of the Committee and the concerned Collectorate.

(2) On receipt of the Board's order as aforesaid, the concerned Collectorate shall implement the order in such manner and within such period as may be specified by the Board in the order.

**10. Representation against the order :** -- A person aggrieved, on account of any obvious error or incorrect application of law or misunderstanding of any fact by an order of the Board issued under sub-rule (1) of rule 9, may within sixty days of the order, make a representation to the Secretary, Revenue Division who may pass such order thereon as he may deem fit.