

**SENATE OF PAKISTAN
HOUSE OF THE FEDERATION**

REPORT NO.27 OF 2018



House of the Federation

**REPORT OF THE STANDING COMMITTEE ON FINANCE,
REVENUE, ECONOMIC AFFAIRS AND NARCOTICS CONTROL**

ON

**THE SUBJECT MATTER OF CALLING ATTENTION NOTICE REGARDING THE
ISSUANCE OF SRO NO.47(I)/2018, DATED 23RD JANUARY, 2018, WHEREBY
ONE PARTICULAR COMPANY HAS BEEN EXEMPTED FROM PAYMENT OF
SALES TAX AND FEDERAL EXCISE DUTY**

PRESENTED BY

SENATOR SALEEM MANDVIWALLA

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON FINANCE, REVENUE, ECONOMIC AFFAIRS AND NARCOTICS CONTROL ON THE SUBJECT MATTER OF CALLING ATTENTION NOTICE REGARDING THE ISSUANCE OF SRO NO.47(I)/2018, DATED 23RD JANUARY, 2018, WHEREBY ONE PARTICULAR COMPANY HAS BEEN EXEMPTED FROM PAYMENT OF SALES TAX AND FEDERAL EXCISE DUTY

I, Senator Saleem Mandviwalla, Chairman, Standing Committee on Finance, Revenue, Economic Affairs and Narcotics Control, have the honour to present, on behalf of the Committee, this report on the subject matter of Calling Attention Notice moved by Senators Muhammad Daud Khan Achakzai, Muhammad Mohsin Khan Leghari, Barrister Murtaza Wahab, Sitar Ayaz, Sassui Palijo, Nauman Wazir Khattak, Mukthiar Ahmed Dhamrah @ Aajiz, Kamil Ali Agha, Saleem Mandviwalla, Ahmed Hassan, Farhatullah Babar and Ilyas Ahmed Bilour regarding the issuance of SRO No.47(I)/2018, dated 23rd January, 2018, whereby one particular company has been exempted from payment of Sales Tax and Federal Excise Duty and referred by the House to the Committee on 26th January, 2018, for consideration and report.

2. The composition of the Standing Committee is given as under: -

(1)	Senator Saleem Mandviwalla	Chairman
(2)	Senator Ilyas Ahmed Bilour	Member
(3)	Senator Muhammad Mohsin Khan Leghari	Member
(4)	Senator Ms. Ayesha Raza Farooq	Member
(5)	Senator Muhammad Talha Mahmood	Member
(6)	Senator Ms. Nasreen Jalil	Member
(7)	Senator Kamil Ali Agha	Member
(8)	Senator Mushahid Ullah Khan	Member
(9)	Senator Saud Majeed	Member
(10)	Senator Murtaza Wahab	Member
(11)	Senator Osman Saifullah Khan	Member
(12)	Senator Mohsin Aziz	Member
(13)	Minister for Finance, Revenue, and Economic Affairs	Ex-Officio Member

3. The Committee considered the said matter in its meetings held on 1st and 27th February, 2018, at Parliament House, Islamabad. The last meeting was attended by the following:-

1. Senator Saleem Mandviwalla	Chairman/Mover
2. Senator Nasreen Jalil	Member
3. Senator Mohsin Aziz	Member
4. Senator Nauman Wazir Khattak	Mover
5. Senator Ahmed Hassan	Mover

4. In the meeting of the Committee held on 1st February, 2018, Senator Barrister Murtaza Wahab, mover said that under a notification issued by the FBR on 23-1-2018, stating that in pursuance of the decision of the ECC, a Chinese Company namely, M/s China State Construction Engineering Corporation Limited (M/S CSCECL) was granted complete exemption from payment of excise duty and sales tax and the requirement of section 13 and 16 of the relevant law was not followed and was also against the Constitution of Pakistan. He said as to how the ECC had approved such exemption when the authority to grant such exemption was the Cabinet and the ECC was not authorized to grant such exemption under the apex Court's decision. He further said such exemptions allowed to a particular company would be a disaster for the local industry. Senator Ilyas Ahmed Bilour, mover, said that the notification was related to the contract of Multan-Sukkur Motorway and asked about the need to give such benefits to a particular company when 37% work was already completed on the project and the name of persons involved in the matter.

5. The Member (IR-Policy), FBR briefed the Committee that the said exemption was granted after the fulfillment of all procedural requirements and in that case the decision of the ECC had already been ratified by the Cabinet and under the new law made through the Finance Act 2017, which stated that after the approval of the ECC, the Federal Minister-in-Charge of the FBR could issue the SRO for execution/implementation. He said now there was no requirement to seek approval of the Federal Cabinet as per law. He said since the decision of the ECC had already been ratified by the Federal Cabinet, therefore, that requirement had also been fulfilled and there was no irregularity in that case. He further said that the FBR had

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made its powers limited to the extent of conditions of exemptions as the FBR could not grant exemptions in each case, however, in specified conditions on the recommendations of the ECC exceptions were allowed. He said the said decision was taken on a summary sent by the Communication Division, moreover, in FBR's understanding, the condition of giving exemptions falls under the implementation of the bilateral agreement with the concerned company, however, the said exemption was objected by the FBR.

6. Regarding background of issuance of such SRO, Senator Saud Majeed apprised the Committee that the Chinese were ready to take part in Lahore-Multan Motorway construction but was not ready to take up the Multan-Sukkur Motorway due to less business opportunities, however, after deliberations the Chinese premier took an initiative and the Federal Government also contributed by giving the said exemption. Senator Nauman Wazir Khattak, mover, gave a list of observations on the issuance of said SRO to the Committee and said that the specifications mentioned in BoQs of PC-1 were changed in the final award and pointed out that exemption was granted after award of the contract and even after completion of 30% work on the project. He inquired whether the government could issue an SRO to a specific company for exemption from sales tax, income tax, excise tax, custom duty etc. for import of goods and materials from China. He also pointed out that Ex-Finance Minister had stated on the floor of the House that all imports of CPEC would not be discriminatory and no specific exemption would be given to Chinese companies and was of the view that the said SRO was the clear violation of the statement of the Ex-Finance Minister. However, the Committee decided to invite the representatives of the M/o Communication and the National Highway Authority (NHA) in the next meeting of the Committee.

7. The Committee was informed by the Chairman NHA in its meeting held on 27th February 2018, that the project of Multan – Sukkur Motorway (392 KM) was the part of CPEC and as per framework agreement between the two governments, the Chinese Government nominated three Chinese companies for participating in the bidding and a controlled bidding amongst the three companies was conducted accordingly. The project was approved by the ECNEC at the cost of Rs.359 billion against the lowest bid of Rs.406 billion which was received from the China State

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Construction Engineering Corporation and were also requested for submission of an alternate bid as per PPRA Rules, thereafter, an alternate bid of Rs.339 billion was submitted by them. While negotiating on technical clarifications, it was observed that some unnecessary prices were included in their bid for example exemption in custom duty for import of equipment/machinery for Rs.8.149 billion as well as import of construction materials including cost in case of increase in sales tax and income tax, and the said amounts were reduced after negotiations by NHA in the national interest.

8. After due deliberations, the Committee made the following observations:-

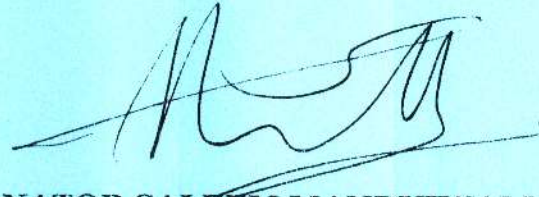
- BOQ awarded was neither the same as in original PC-1, nor as given to other prospective bidders.
- Initially and even after awarding contract no exemption of custom, excise, income tax, sales tax for import of construction material was given and surprisingly after the completion of 40% work, the Cabinet gave complete exemption from all duties for imported raw materials.
- No such exemptions were given to Pakistani firms supplying material on this project, which resulted in booting out Pakistani industries.
- MoU was signed with a company for 232 billion that was not executed and subsequently bids called were in excess of 400 billion.
- Chairman NHA admitted that exemptions were given after signing of contract and no such exemptions of more than 10 billion were initially contemplated.
- The Committee was astonished to note that Chinese Government gives us names of three Chinese companies who would bid for the said project and competition was held among those three companies only. The whole amount was a loan and would be paid back with interest and resultantly the exchange risk would be borne by the people of Pakistan.
- Alternate bid was entertained from one bidder only who was declared successful which was in violation of PPRA rules.

9. In light of the above observations, the Committee was of the considered opinion that the competition at the time of bidding between the three Chinese

companies was totally unfair and SRO No.47(I)/2018, dated 23rd January, 2018, was issued to provide relief only one particular company from the payment of Sales Tax and Federal Excise Duty, furthermore, due to the such exemption to a specific company the local industry of the country would be suffered badly. Therefore, the Committee recommended that the said SRO may be withdrawn/reviewed immediately and the matter may be referred to the concerned investigation agency i.e. NAB for proper scrutiny, investigation and taking necessary action in that regards under intimation to the Committee.



(MUHAMMAD TAHIR KHAN)
Secretary (Committee)



(SENATOR SALEEM MANDVIWALLA)
Chairman (Committee)

Islamabad, the
27th February, 2018.