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PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN

LAW AND JUSTICE DIVISION

NOTIFICATIONS

Islamabad, the 29th December, 2020

S.R.O. 1405 (I)/2020.—In exercise of the powers conferred by section 130 of the Income Tax Ordinance, 2001 (XLIX of 2001), the Prime Minister is pleased to make the following rules, namely:—

1. **Short title and commencement.**—(1) These rules shall be called the Appellate Tribunal Inland Revenue (Appointment of Chairperson and Members) Rules, 2020.

(2) These rules shall come into force at once.

2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

(a) “Ordinance” means the Income Tax Ordinance, 2001 (XLIX of 2001);

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- (b) “Division concerned” means the Division to which business of the Tribunal stands allocated;
- (c) “member” means a judicial or accountant member of the Tribunal appointed under the Ordinance and rules made thereunder and includes the Chairperson thereof; and
- (d) “Tribunal” means the Appellate Tribunal Inland Revenue established under the Ordinance.

3. **Manner of appointment.**—(1) No person shall be appointed as a judicial member of the Tribunal unless he —

- (a) is a citizen of Pakistan;
 - (b) is of good mental and bodily health and free from any physical defect likely to interfere with discharge of his duty and for that purpose he shall be required to obtain a physical fitness certificate from authorized medical board before assumption of charge as member;
 - (c) has by a competent court of law not been convicted for an offence of moral turpitude;
 - (d) has by a competent court of law not been declared as un-discharged insolvent;
 - (e) has by a competent court of law not been declared insane or of unsound mind;
 - (f) has not been dismissed from service of Pakistan;
 - (g) has not been guilty of and for that purpose a penalty has not been imposed upon him for indiscipline, misconduct or corruption while in service of Pakistan and in case such penalty is imposed during his appointment as member it shall be a valid ground for his removal from office of the member; and
 - (h) he—
 - (i) has been a Judge of a High Court;
 - (ii) is or has been a District Judge; or
 - (iii) is an advocate of a High Court with a standing of not less than ten years
- (2) The appointment of a judicial member shall be for a period of three years.

(3) No person shall be appointed as an accountant member of the Tribunal unless he—

- (a) is a citizen of Pakistan;
- (b) is of good mental and bodily health and free from any physical defect likely to interfere with discharge of his duty and for that purpose he shall be required to obtain a physical fitness certificate from authorized medical board before assumption of charge as member;
- (c) has by a competent court of law not been convicted for an offence of moral turpitude;
- (d) has by a competent court of law not been declared as un-discharged insolvent;
- (e) has by a competent court of law not been declared insane or of unsound mind;
- (f) has not been dismissed from service of Pakistan;
- (g) has not been guilty of and for that purpose a penalty has not been imposed upon him for indiscipline, misconduct or corruption while in service of Pakistan and in case such penalty is imposed during his appointment as member it shall be a valid ground for his removal from office of the member; and
- (h) is—
 - (i) an officer of the Inland Revenue Service equivalent to the rank of Regional Commissioner;
 - (ii) a Commissioner Inland Revenue or Commissioner Inland Revenue (Appeals) having not less than three years' experience as Commissioner or Collector;
 - (iii) has for a period of not less than ten years practiced professionally as a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961); or
 - (iv) has for a period of not less than ten years practiced professionally as a Cost and Management Accountant within the meaning of the Cost and Management Accountants Act, 1966 (XIV of 1966).

(4) The appointment of an accountant member shall be for a period of three years or till attaining the age of sixty-five years if the incumbent accountant member does not belong to the Service of Pakistan and if he belongs to the Service of Pakistan he shall hold office till the age of superannuation, applicable to his group, service or cadre to which he belongs, whichever is earlier.

(5) Every person, before his appointment as member, shall be required to furnish a written declaration to the effect that he has not previously been convicted by a court of law for an offence involving moral turpitude or dismissed, removed or compulsorily retired from service of Pakistan as a result of disciplinary action against him and is also not a beneficiary of the National Reconciliation Ordinance, 2007 (LX of 2007) or any plea bargain or voluntary return under the NAB Ordinance, 1999 (XVIII of 1999). Such declaration shall also specify that he has not been declared by a competent court of law as un-discharged insolvent or has not been declared insane or of unsound mind.

(6) A member shall be appointed by the Prime Minister, in consultation with the Chief Justice of Pakistan.

(7) The Prime Minister shall appoint a member of the Tribunal as Chairman thereof and except in special circumstances, the person so appointed should be a judicial member.

4. **Age.**—No person shall be appointed as member unless at the time of appointment, he is below seventy years of age.

5. **Deputation.**—The appointment of a member shall be for a term of three years on contract:

Provided that such appointment shall be on deputation if the member belongs to district judiciary or Inland Revenue Service.

6. **Salary, allowances and privileges.**—(1) A Member of the Tribunal shall be entitled to such pay, allowances and other privileges as are admissible to an officer in BPS-21 of the Federal Government appointed on contract basis, while the Chairman of the Tribunal shall be entitled to such pay, allowances and other privileges as are admissible to an officer in BPS-22 of the Federal Government appointed on contract basis.

(2) Notwithstanding anything contained in sub-rule (1), in addition to the pay and allowances sanctioned for the post of Member of the Tribunal, every member who is appointed in the Tribunal on deputation basis shall be entitled to a monthly deputation allowance equivalent to twenty percent of his basic pay subject to the maximum cap of twelve thousand rupees, or as per the applicable deputation policy/rules as amended from time to time.

(3) Notwithstanding anything contained in sub-rule (2), a person appointed on deputation in pay scales higher than the pay scale he was possessing before, such deputationist shall be entitled to the deputation allowance in accordance with policy given in Finance Division's OM No. 5(8)R-2/2007 dated 04-07-2007 or pay of higher post in terms of policy prescribed *vide* Finance Division's OM No. F. 8(4)R-2/97 dated 19-03-2003, OM No. 8(1)R-2/2007 dated 28-07-2008, OM No. F. 8(4)R-2/97-1024/09 dated 24-02-2009 and OM No. F. 8(4)R-2/97 dated 25-10-2012, or as per the applicable deputation policy/rules as amended from time to time.

7. **Resignation.**—(1) A Member may, subject to notice for a period of not less than thirty days or forfeiture of pay in lieu thereof, resign from his office by giving notice in writing addressed to the Prime Minister through Division concerned.

(2) A Member may be removed from office by giving him notice for a period of not less than thirty days or pay in lieu thereof after affording him the opportunity of being heard.

(3) Resignation, removal or expiry of tenure of a Member, who is on deputation, shall result in repatriation to his parent department.

8. **Provisions not provided for in these rules.**—Where these rules do not provide for procedure relating to any matter, such matter shall be dealt with in accordance with the Act and procedure applicable to officers of the Federal Government of the same rank and status as that of a member.

9. **Record of service.**—Record of service of every member shall be maintained in such form and manner as are applicable to the officers of the Federal Government of the same rank and status as that of a member.

10. **Repeal.**—(1) All notifications, orders, circulars and other instruments relating to the matters covered under these rules are hereby repealed.

(2) The Chairman and Members appointed prior to the commencement of these rules shall continue to hold their respective offices on the same terms and conditions applicable to their appointment before the commencement of these rules.

S. R. O. 1406(I)/2020.—In exercise of the powers conferred by section 194 of the Customs Act, 1969 (IV of 1969), the Prime Minister is pleased to make the following rules, namely:—

1. **Short title and commencement.**—(1) These rules shall be called the Customs Appellate Tribunal (Appointment of Chairman and Members) Rules, 2020.

(2) These rules shall come into force at once.

2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

(a) “Act” means the Customs Act, 1969 (IV of 1969);

(b) “Division concerned” means the Division to which business of the Tribunal stands allocated;

- (c) “member” means a judicial or technical member of the Tribunal appointed under the Act and rules made thereunder and where the context so requires includes the Chairman thereof; and
- (d) “Tribunal” means the Customs Appellate Tribunal established under the Act.

3. **Manner of appointment.**—(1) No person shall be appointed as a judicial member of the Tribunal unless—

- (a) he is a citizen of Pakistan;
- (b) he is of good mental and bodily health and free from any physical defect likely to interfere with discharge of his duty and for that purpose he shall be required to obtain a physical fitness certificate from authorized medical board before assumption of charge as member;
- (c) he has by a competent court of law not been convicted for an offence of moral turpitude;
- (d) he has by a competent court of law not been declared as un-discharged insolvent;
- (e) he has by a competent court of law not been declared insane or of unsound mind;
- (f) he has not been dismissed from service of Pakistan;
- (g) he has not been guilty of and for that purpose a penalty has not been imposed upon him for indiscipline, misconduct or corruption while in service of Pakistan and in case such penalty is imposed during his appointment as member it shall be a valid ground for his removal from office of the member; and
- (h) he—
 - (i) has been a Judge of a High Court;
 - (ii) is or has been a District Judge; or
 - (iii) is an advocate of a High Court with a standing of not less than ten years.

(2) The appointment of a judicial member shall be for a period of three years.

(3) No person shall be appointed as a technical member of the Tribunal unless—

- (a) he is a citizen of Pakistan;
- (b) he is of good mental and bodily health and free from any physical defect likely to interfere with discharge of his duty and for that purpose he shall be required to obtain a physical fitness certificate from authorized medical board before assumption of charge as member;
- (c) he has by a competent court of law not been convicted for an offence of moral turpitude;
- (d) he has by a competent court of law not been declared as undischarged insolvent;
- (e) he has by a competent court of law not been declared insane or of unsound mind;
- (f) he has not been dismissed from service of Pakistan;
- (g) he has not been guilty of and for that purpose a penalty has not been imposed upon him for indiscipline, misconduct or corruption while in service of Pakistan and in case such penalty is imposed during his appointment as member it shall be a valid ground for his removal from office of the member; and
- (h) he is —
 - (i) an officer of the Pakistan Customs Service equivalent in rank to that of member of the Board or Chief Collector of Customs or Director General; or
 - (ii) a Collector or Director or Chief of the Board having not less than three years' experience in that position.

(4) The appointment of a technical member shall be for a period of three years or till attaining the age of superannuation, applicable to his group, service or cadre in the service of Pakistan to which he belongs, whichever is earlier.

(5) Every person, before his appointment as member, shall be required to furnish a written declaration to the effect that he has not previously been convicted by a court of law for an offence involving moral turpitude or dismissed, removed or compulsorily retired from service of Pakistan as a result of disciplinary action against him and is also not a beneficiary of the National

Reconciliation Ordinance, 2007 (LX of 2007) or any plea bargain or voluntary return under the NAB Ordinance, 1999 (XVIII of 1999) and that he has not been declared by a competent court of law as un-discharged insolvent or has not been declared insane or of unsound mind.

(6) A member shall be appointed by the Prime Minister, in consultation with the Chief Justice of Pakistan.

(7) The Prime Minister shall appoint one of the members of the Tribunal to be the Chairman thereof and except in special circumstances, the person so appointed shall be a judicial Member.

4. **Age.**—No person shall be appointed as member unless at the time of appointment, he is below seventy years of age.

5. **Deputation.**—The appointment of a member shall be for a term of three years on contract:

Provided that such appointment shall be on deputation if the member belongs to district judiciary or Pakistan Customs Service.

6. **Salary, allowances and privileges.**—(1) Member of the Tribunal shall be entitled to such pay, allowances and other privileges as are admissible to an officer in BPS-21 of the Federal Government appointed on contract basis, while the Chairman of the Tribunal shall be entitled to such pay, allowances and other privileges as are admissible to an officer in BPS-22 of the Federal Government appointed on contract basis.

(2) Notwithstanding anything contained in sub-rule (1), in addition to the pay and allowances sanctioned for the post of Member of the Tribunal, every member who is appointed in the Tribunal on deputation basis shall be entitled to a monthly deputation allowance equivalent to twenty percent of his basic pay subject to the maximum cap of twelve thousand rupees, or as per the applicable deputation policy/rules as amended from time to time.

(3) Notwithstanding anything contained in sub-rule (2), a person appointed on deputation in pay scales higher than the pay scale he was possessing before, such deputationist shall be entitled to the deputation allowance in accordance with policy given in Finance Division's OM No. 5(8)R-2/2007 dated 04-07-2007 or pay of higher post in terms of policy prescribed *vide* Finance Division's OM No. F.8(4)R-2/97 dated 19-03-2003, OM No. 8(1) R-2/2007 dated 28-07-2008, OM No. F.8(4)R-2/97-1024/09 dated 24-02-2009 and OM No. F.8(4)R-2/97 dated 25-10-2012, or as per the applicable deputation policy/rules as amended from time to time.

7. **Resignation.**— (1) A Member may, subject to a notice for a period of not less than thirty days or forfeiture of pay in lieu thereof, resign from his office by giving notice in writing addressed to the Prime Minister through Division concerned.

(2) A Member may be removed from office by giving him notice for a period of not less than thirty days or pay in lieu thereof after affording him opportunity of being heard.

(3) Resignation, removal or expiry of tenure of a Member, who is on deputation, shall result in repatriation to his parent department.

8. **Provisions not provided for in these rules.**— Where no provision exists in these rules relating to appointment and other terms and conditions of service of the members, such matter shall be dealt with in accordance with the Act and procedure applicable to officers of the Federal Government of the same rank and status as that of a member.

9. **Record of service.**— Record of service of every member shall be maintained in such form and manner as are applicable to the officers of the Federal Government of the same rank and status as that of a member.

10. **Repeal.**—(1) All notifications, orders, circulars and other instruments relating to the matters covered under these rules are hereby repealed.

(2) The Chairman and Members appointed prior to the commencement of these rules shall continue to hold their respective offices on the same terms and conditions applicable to their appointment before the commencement of these rules.

[No. F. 2(9)/2015-A. IV.]

FAISAL MALIK,
Section Officer.