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ISLAMABAD, TUESDAY, JUNE 30, 1987

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law
Orders and Regulations
NATIONAL ASSEMBLY SECRETARIAT
Islamabad, the 30th June, 1987

The following Act of Parliament received the assent of the President
on the 28th June, 1987, and is hereby published for general information ;—

Act No. VI of 1987
—S—s———"TM"

An Act to give effect to the financial proposals of the Federal Government
for the year beginning on the first day of July, 1987, and to amend
certain laws

Wuereas it is expedient to make provisions to give effect to the

financial proposals of the Federal Government for the year beginning on

the first day of July, 1987, and to amend "certain laws for the purposes
hereinafter appearing ;

It is hereby enacted as follows: —

1. Short title and extent.—(1) This Act may be, called the Finance
Act, 1987.

(2) It extends to the whole of Pakistan.

2. Amendment of Act VIII of 1923,—In the Workmen's Compen-
sation Act, 1923 (VIII of 1923), in section 2, in sub-section (1), in clause
(n), in item (ii), for the words "one thousand" the words "one thousand
five hundred" shall be substituted.

[4052 Ex. Gaz.] (17)

Price Rs. 3.00

18 THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 [PART I

3. Amendment of Act I of 1944.—The following amendments shall be made in the Central Excises and Salt Act, 1944 (I of 1944), namely :—

(1) in section 4, in sub-section (2), for the words “other than octroi”, the words, figures and brackets “other than sales tax levied and collected on the basis of the sale price under the proviso to sub-section (16) of section 2 of the Sales Tax Act, 1951 (III of 1951), and octroi,” shall be substituted;

(2) in section 9.—

(i) in clause (g), the word “and” at the end shall be omitted ;

(ii) in clause (h), after the semi-colon at the end, the word “and” shall be added; and

(iii) after clause (h), amended as aforesaid, the following new clause shall be inserted, namely :— :

“(i) acquires possession of, or in any manner concerns himself in depositing, keeping, selling, purchasing or dealing for consumption in Pakistan, such excisable goods as were manufactured or cleared for export without payment of duty or under claim for rebate or refund of duty”; and

(3) the First Schedule to the said Act shall be amended in the manner specified in the First Schedule to this Act.

4, Amendment of Act VII of 1947.—The following amendments shall be made in the Foreign Exchange Regulation Act, 1947 (VII of 1947), namely :—

(1) in section 2, for clause (a), the following shall be substituted, namely :—

“(a) “Appellate Board” means a Foreign Exchange Regulation Appellate Board constituted under sub-section (1) of section 23C;

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THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987

(aa) "authorised dealer" means a person for the time being

authorised under section 3 to deal in foreign
exchange ;";

(2) insection 3,—

(a)

(b)

in sub-section (2), in clause (iii), the comma and words
"*, and may in all cases be revoked for reasons appearing to
it sufficient by the State Bank" shall be omitted; and

after sub-section (4), the following new sub-section shall be
inserted, namely :—

"(S) Without prejudice to the provisions of section 238, if
an authorised dealer commits contravention of any
term of authorisation or uses it for any purpose
other than the purpose, or after the expiry of the
period, for which it was given or contravenes or
attempts to contravene or abets the contravention of
the provisions of, or the general or special directions or
instructions or permissions issued by the State Bank
from time to time under any provisions of, this Act or
any rules made thereunder, or engages in transactions
not in conformity with the terms of authorisation or
fails to comply with any of the provisions of this Act
or any rules, directions, instructions, or permissions
made, issued or given thereunder or in the public
interest it is necessary so to do or there otherwise exist
reasons appearing sufficient to the State Bank, the
State Bank may, after giving a reasonable opportunity
of being heard to the authorised dealer, cancel the
authorisation:

Provided that, if, in the opinion of the State
Bank, any delay would be prejudicial to the public
interest, the State Bank may, at the time of giving
opportunity as aforesaid or at any time thereafter and

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THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 [PART T

pending the hearing as aforesaid, if any, by po
suspend, for a period specified in the order, the autho-
risation either wholly or to such extent as may be
so specified .”;

in section 19A, in sub-section (1),—

(a) after the words “the State Bank”, the words “or any
Adjudicating Officer” shall be inserted; and .

(b) after the word “inquiry”, the words “or adjudication
proceedings” shall be inserted;

in section 23, in subsection (1), after the word and comma
“thereunder,” the words, brackets, figures and commas “other
than the provisions of sub-sections (2), (3) and (5) of section 3,
sub-section (3) of section 4, section 10, sub-section (1) of section
12 and sub-section (3) of section 20 or any rule, direction or
order made thereunder,” shall be inserted;

after section 23A, the following new sections shall be inserted,
namely :— ‘

“23B.—Authorisation of Adjudicating Officers and their
powers, etc.—(1) The Federal Government may, by notification
in the official Gazette, authorise in relation to any area speci-
fied in the notification any officer of the State Bank to act
as the Director of Adjudication, an Additional Director of
Adjudication, a Senior Deputy Director of Adjudication, a
Deputy Director of Adjudication and an Assistant Director of
Adjudication (in this Act referred to as the Adjudicating Officer).

(2) Subject to such conditions and limitations as the
Federal Government may impose, an Adjudicating Officer
may exercise the powers and discharge the duties conferred
or imposed on him by this Act and shall also be competent

PART I]

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THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 21

to exercise the powers and discharge the duties conferred upon any Adjudicating Officer subordinate to him:

Provided that, notwithstanding anything contained in

this Act or the rules made thereunder, the State Bank may, by general or special order, impose such conditions or limitations on the exercise of such powers or discharge of such duties as it thinks fit.

(3) The State Bank may, by notification in the official Gazette, and subject to such limitations or conditions, if any, as may be specified therein, empower—

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any Additional Director of Adjudication or Senior Deputy Director of Adjudication or Deputy Director of Adjudication or Assistant Director of Adjudication to exercise the powers of the Director of Adjudication under this Act;

any Senior Deputy Director of Adjudication or Deputy Director of Adjudication or Assistant Director of Adjudication to exercise any of the power of an Additional Director of Adjudication under this Act:

any Deputy Director of Adjudication or Assistant Director of Adjudication to exercise any of the powers of a Senior Deputy Director of Adjudication under this Act; and

any Assistant Director of Adjudication to exercise the

powers of a Deputy Director of Adjudication under this Act.

Save as provided in sub-sections (5) and (6), if any person

contravenes or attempts to contravene or abets the contravention of the provisions of sub-sections (2), (3) and (5) of section 3, sub-section (3) of section 4, section 10, sub-section (1) of section 12 or sub-section (3) of section 20 or any rule, direction or order made there-

under, he shall be liable to such penalty not exceeding five times the

amount or value involved in such contravention or five thousand rupees, whichever is more, as may be adjudged by the Director or Additional Director of Adjudication or any other Adjudicating Officer having jurisdiction under sub-section (8) to take cognizance of such contravention, and, if he persists in such contravention, or where the contravention or default is continuing one, to a further penalty which may extend to two thousand rupees for every day during which the offence or, as the case may be, the contravention or default continues.

(5) If any authorised dealer—

(a) in any return or other document or declaration or in any information required or furnished by or under, or for the purpose of, any provision of this Act, wilfully makes a statement or permits the making of a statement which is false in any material particular, knowing it to be false or not true, or wilfully omits to make a material statement; or

(b) fails to submit or furnish any return, statement, declaration or other document or information required to be furnished by or under, or for the purpose of, any provision of this Act in the form and by the date prescribed by the State Bank for the time being without sufficient cause;

he shall be liable to a penalty not exceeding five thousand rupees and, where the contravention or default is a continuing one, with a further penalty which may extend to two thousand rupees for every day during which such contravention or default continues.

(6) If any authorised dealer sells foreign exchange to a person

not entitled to buy such foreign exchange or sells foreign exchange in an amount exceeding the limit, or otherwise than for the purpose,

permitted by the State Bank either generally or in a particular case in pursuance of the powers conferred on it under this Act, he shall be liable to a penalty not exceeding five times the amount or value of the foreign exchange so sold, and where the penalty so imposed is not paid within three days from the date of the order of the Adjudicating Officer, he shall, unless the penalty has meanwhile been recovered from him under section 23J, be liable to a further penalty not being less than the amount or value of the foreign exchange as aforesaid for every day during which such default continues.

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For the purpose of this section, amount or value shall

in the case of foreign exchange, the Pakistan rupee equivalent of the same calculated at the rate of exchange authorised by the State Bank as on the date on which an opportunity of making a representation is given under sub-section (9) or where no such rate has been authorised, the rate determined by the State Bank on the said date;

in the case of goods, their value in rupees if declared in Pakistan currency or where it is expressed in foreign exchange Pakistan rupee equivalent of the same calculated in accordance with clause (a); and

in case of any right to receive foreign exchange or to receive from any person resident outside Pakistan a payment in rupees or gold or silver or security or other property of any description, the sale proceeds which, taking all circumstances into consideration, such right, gold, silver, security or other property can, in the opinion of the Adjudicating Officer, fetch on the date referred to in clause (a).

For imposing a penalty under sub-sections (4), (5) and

(6), the jurisdiction and powers of the Adjudicating Officers shall

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be as follows:—

{a) the Director of Adjudication and an Additional Director of Adjudication may deal with all cases without any limit on the amount or value involved in any contravention:

(b) a Senior Deputy Director of Adjudication and a Deputy Director of Adjudication may deal with a case where the amount or value involved in any contravention on the date referred to in clause (a) of sub-section (7) does not exceed twenty thousand rupees; and

(c) an Assistant Director of Adjudication may deal with a case where the amount or value involved in any contravention on the date referred to in clause (a) of subsection (7) does not exceed ten thousand rupees:

Provided that the State Bank may, by notification in the official Gazette, reduce or extend the jurisdiction and powers of any particular Adjudicating Officer or class of Adjudicating Officers.

(9) For the purpose of determining whether a person has contravened any of the provisions of sub-section (4), (S\$) or (6), the Adjudicating Officer shall hold an enquiry in the manner prescribed, if any, after giving such person a reasonable opportunity for making a representation in the matter and if, on such inquiry, he is satisfied that the person has committed any contravention, he may impose the penalty provided for in this section.

(10) All doubts with regard to the jurisdiction of an Adjudicating Officer shall be referred to the Director of Adjudication and his decision thereon shall be final.

(11) The Director of Adjudication, on his own motion or on the application of any party to the adjudication proceedings and after notice to the State Bank and other parties, if any, and

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after hearing such of them as desire to be heard, may at any stage withdraw any adjudication proceedings pending before any Adjudicating Officer and adjudicate it either himself or transfer it to any other Adjudicating Officer subordinate to him and competent to dispose of the same or retransfer the same for adjudication to the Adjudicating Officer from whom it was withdrawn; and the Director of Adjudicating or, as the case may be, any other Adjudicating Officer or the Adjudicating Officer, or if the Adjudicating Officer who is seized of the matter as aforesaid vacates office for any reason and another person is authorised to act in his stead such person, shall not, by reason of the said withdrawal or transfer or retransfer or vacation of office, as the case may be, be bound to recall and re-hear any witness who has given evidence before the withdrawal or transfer or re-transfer or vacation of office and may act on the evidence already recorded by or produced before the Adjudicating Officer from whom the proceedings are so transferred or re-transferred or in whose stead he has been so authorised to act as Adjudicating Officer. |

(12) Subject to provisions of appeal under section 23C, no Court or other authority shall call, or permit to be called, in question any proceeding or order of the Adjudicating Officer or the legality or propriety of anything done or intended to be done by the Adjudicating Officer under this Act.

23C. Appeal to Appellate Board.—(1) The Federal Government may, by notification in official Gazette, constitute as many appellate boards, each to be called the Foreign Exchange Regulation Appellate Board, as it may consider necessary, and where it establishes more than one Appellate Board, shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction. F

(2) An Appellate Board shall consist of a person who is, or has been, or is qualified for appointment as a Judge of a High Court or a District Judge or an Additional District Judge.

26 THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 [PART I

(3) Any person aggrieved by any order of the Adjudicating Officer made under sub-section (4) or sub-section (5) or sub-section (6) of section 23B may, within thirty days of such order, prefer an appeal to the Appellate Board within whose jurisdiction the order is passed;

Provided that no appeal shall lie from an interlocutory order which does not dispose of the entire case before the Adjudicating Officer :

Provided further that the Appellate Board may entertain an appeal after the expiry of the said period of thirty days but not later than sixty days from the date of the aforesaid order if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

© Explanation.—For the purposes of this sub-section, the expression “any person aggrieved” shall include the Federal Government and the State Bank.

(4) No appeal shall be admitted for hearing unless the appellant deposits in cash with the Appellate Board the amount of penalty or, at the discretion of the Appellate Board, furnishes security equal in value to such amount of penalty.

(5) The Appellate Board may make such inquiry as it may consider necessary, and after giving the appellant an opportunity of being heard if he so desires, pass such order as it thinks fit, confirming, altering or annulling the order appealed against :

Provided that no order enhancing any penalty shall be passed unless the person affected thereby has been given an opportunity of showing cause against it and of being heard in person or through a counsel:

Provided further, that if the sum deposited by way of penalty under sub-section (3) exceeds the amount directed to be

THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 ee

paid by the Appellate Board, the excess amount shall be refunded to the appellant.

(6) The decision of the Appellate Board shall be final and no court, tribunal or other authority shall call, or permit to be called, in question any proceedings or order of the Appellate Board or the legality or propriety of anything done or intended to be done by the Appellate Board under this Act.

23D. Assistance to the Adjudicating Officers. —All officers of the Federal Government or a Provincial Government, including those of Customs, Federal Investigation Agency, Police, Pakistan International Airlines, Local Authorities, Port Trust, and all officers engaged in the collection of land revenue or taxes of any description or employed by a corporation owned or controlled by the Federal Government or a Provincial Government, either directly or indirectly, are hereby empowered and required to assist the Adjudicating Officers in the discharge of their functions under this Act.

23E. Powers of Adjudicating Officer and the Appellate Board to summon witnesses, etc (1) Without prejudice to any other provision contained in this Act, the Adjudicating Officer and the Appellate Board shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908) while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record or copy thereof from any court or office;

(d) receiving evidence on affidavits;

(e) issuing commissions for the examination of witnesses or documents;

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- (g) adding legal representatives of the accused person;
- (h) consolidation of cases; and
- (i) enforcing any order made by him or it under this Act or the rules made thereunder.

23F. Proceedings before Adjudicating Officer to be deemed to be judicial proceedings. — All proceedings before an Adjudicating Officer or Appellate Board shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and an Adjudicating Officer and the Appellate Board shall be deemed to be a Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

23G. Continuance of proceedings in the event of death or insolvency —(1) Notwithstanding anything contained in any other law for the time being in force, where a penalty has been imposed under section 23B on any person and no appeal against the order imposing such penalty has been preferred, or where any such appeal has been preferred and where in either case, such person dies or is adjudicated an insolvent during the pendency of proceedings before the Adjudicating Officer or the Appellate Board or before preferring an appeal, it shall be lawful for the legal representative of such person or the official assignee or the official receiver, as the case may be, to prefer an appeal to the Appellate Board, or as the case may be, to continue the proceeding or appeal before the Adjudicating Officer or the Appellate Board and in either case any such proceedings before the Adjudicating Officer or Appellate Board shall not abate but be continued as if such person were not dead or adjudged as insolvent,

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PART I] THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 29

(2) The power of the official assignee or the official receiver under sub-section (1) shall be exercised by him 'subject to the provisions of the Insolvency (Karachi Division) Act, 1909 (II of 1909), or the Provincial Insolvency Act, 1920 (V of 1920), as the case may be.

23H. Confiscation of currency, security, etc.—Any Adjudicating Officer adjudging any contravention under section 23B may, if he thinks fit, and in addition to any penalty which he may impose for such contravention, direct that any currency, security or any other money or property in respect of which the contravention has taken place shall be confiscated to the Federal Government and further direct that the foreign exchange, if any, of the person committing the contravention or any part thereof shall be brought into Pakistan or shall be retained outside Pakistan in accordance with the directions made by the State Bank in this behalf.

Explanation,—For the purposes of this section, property in respect of which contravention has taken place shall include—

(a) deposits in a bank, where the said property is converted into such deposits;

(b) Pakistan currency, where the said property is converted into that currency; and

(c) any other property which has resulted out of conversion of that property.

231. Correction of clerical errors, etc.—Clerical mistakes in any decision or order passed by the Appellate Board or Adjudicating Officer under this Act, or any errors arising therein from any accidental slip or omission may, at any time, be corrected by the Appellate Board or the Adjudicating Officer or his successor-in-office, as the case may be:

Provided that, where any correction proposed to be made under this section will have the result of prejudicially affecting

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THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 [PART I

any person, no such correction shall be made— o

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after the expiry of two years from the date of such decision or order; and

unless the person affected thereby is given a reasonable opportunity of making a representation in the matter.

Recovery of sums due to Government.—(1) Where any

penalty imposed on any person under this Act is not paid—

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the Adjudicating Officer may deduct, or direct the deduction of, the amount so payable from any money which is owed to such person, and which may be under the custody, power or control of an Adjudicating Officer or any other person; or f.

the Adjudicating Officer may recover the amount so payable by detaining or selling, or ordering the detention and sale of, any goods belonging to such person which are under the custody, power or control of any Adjudicating Officer or any other person; or”

in case the penalty is payable by an authorised dealer, the State Bank may, without further reference to him, recover the amount of penalty from him by debiting the account or accounts then held or held at any time thereafter with the State Bank by the authorised dealer; or

if the amount cannot be recovered from such person in the manner provided in clause (i) or clause (ii) or clause (iii), the Adjudicating Officer may prepare and

sign a certificate specifying the amount due from such person and send it to the Collector of the District in which such person owns any property or resides or

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THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 31

carries on business; and the Collector on receipt of such certificate shall proceed' to recover from the said person the amount specified in the certificate as if it were an arrear of land revenue.

(2) When any bond or other instrument or security is executed pursuant to section 23C, the amount due thereunder may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of sub-section (1).

(3) The several modes of recovery specified in sub-section (1) shall not effect in any way—

(i) any other law for the time being in force relating to the recovery of debts due to the Government; or

Gi) the right of the Government to institute a suit for the recovery of the penalty due to the Government; and it shall be lawful for the Government to have recourse to any such law or suit notwithstanding that the amount is being or is to be recovered by any mode specified in the said sub-section.

- (4) For the purposes of this section the expression "any other person" appearing in clauses (i) and (ii) of sub-section (1) shall include the State Bank, a banking company as defined in clause (c) of section 5 of the Banking Companies Ordinance, 1962 (LVII of 1962), a bank established by or under any Federal or Provincial law and any financial institution as defined in clause (ISA) of section 2 of the Companies Ordinance, 1984 (XLVII of 1984), and such other person as the Federal Government may, by notification in the official Gazette, specify in this behalf."; and

for section 26 the following shall be substituted, namely :—

"26. Bar of legal proceedings.—No suit, prosecution or any other proceeding shall lie against the Federal Government or the State

Bank or any officer of the Federal Government or of the State Bank or any other person exercising any power or discharging any functions or performing any duties under this Act, for anything in good faith done or intended to be done or purported to be done under this Act or any rule, direction or order made thereunder,”,

5. Amendment of Act III of 1951.—In the Sales Tax Act, 1951 (III of 1951), in section 3, in sub-section (2), in the proviso, for the full stop at the end a colon shall be substituted and thereafter the following new proviso shall be added, namely ! —

“Provided further that in case the retail price of the goods assessable on the sale price under the proviso to sub-section (16) of section 2 is not declared and is not legibly, prominently and indelibly printed on the consumers’ package or the label or cover thereof, the tax shall be at the rate of two hundred per cent on the value of such goods.”.

6. Amendment of the Banking Companies Ordinance, 1962 (LVI of 1962).—In the Banking Companies Ordinance, 1962 (LVII of 1962),—

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after section 27, the following new section shall be inserted, namely" —

“7A. Restriction on advertising for deposits.—_No company, firm or person, not being a banking company or a corporation or authority established by the Federal Government or a company duly authorised in this behalf by the Controller of Capital Issues and Corporate Law Authority or the Registrar Cooperative Societies, shall invite deposits of money from the public through advertisements in the public media or by postal circulars, handbills, displays in public places or by any other means.”; and

in section 83, after’ sub-section (IC), the following new sub-section shall be added, namely :—

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“(ID) If any company, firm or person contravenes the provisions 7

of section 27A, the chief executive of the company and its

PART I]

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THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 33

directors, every member of the firm and such person shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to one

‘hundred thousand rupees, or with both.’”.

Amendment of Act XV of 1963.—The following amendments

shall be made i in the Wealth-tax Act, 1963 (XV of 1963), namely :—

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in section 2, in clause (hh), for the word “Inspection”, wherever occurring, the words and commas “Survey, Vigilance, Inspection and Audit” shall be substituted;

in section 8, in sub-section (1), in clause (b), for the words “Directors of Inspection” the words and commas “Directors of Survey, Vigilance, Inspection and Audit” shall be substituted ;

in section 9, in subsection (1), for the words “Directors of Inspection” the words and commas “Directors of Survey, Vigilance, Inspection and Audit” shall be substituted ; and

in section 10, in subsection (1), in clause (a), for the words “Directors of Inspection” the words and commas “Directors of

Survey, Vigilance, Inspection and Audit” shall be substituted.

Amendment of Act IV of 1969.—The following amendments

shall be made in the Customs Act, 1969 (IV of 1969), namely :—

(1)

in section (2),—

(a) after clause (k), the following new clause shall be inserted, namely :—

“(kk) “detain”, in relation to goods, means to prohibit the disposal or use of the goods, pending the finalisation of any proceedings under this Act in relation to the goods or the owner thereof;” : and

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THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 [Part I

(b) after clause (r), the following new clause shall be inserted, namely :—

“(r) “seize” means to take into custody, physically or otherwise, goods in respect of which some offence has been committed or is believed to have been committed under this Act or the rules; and all cognate words and expressions shall be construed accordingly ;”;

in section 17, for the word ‘detention’ the word “seizure” shall be substituted ;

in section 156, in sub-section (1), in the Table,—

(a) against serial No. 59 in column 1, in column 2, after the word “rupees”, the semicolon, words and commas “; and upon conviction by a Special Judge, he shall further be liable to imprisonment for a term not exceeding five years, or to fine, or to both” shall be added,

(b) against serial No. 62 in column 1, in column 2, after the word “rupees”, the semicolon, words and commas “; and upon conviction by a Special Judge, he shall further be liable to imprisonment for a term not exceeding five years, or to fine, or to both” shall be added;

“in section 208, in sub-section (2), in the proviso for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely :—

“Provided further that the Central Board of Revenue may, by an order, published in the official Gazette, prohibit transaction with customs of any specified business through a clerk, servant or agent”; and

the amendments set out in the Second Schedule shall be made in the First Schedule to the Customs Act, 1969 (IV of 1969).

PART I] THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 35

; Amendment of Act 1 of 1974.—In the Employees Cost of Living (Relief) Act, 1973 (1 of 1974), in section 7, after the word “Scheme” the comma and words “, indexation of wages” shall be inserted.

10. Amendment of Ordinance XXXI of 1979.—(1) The following amendments shall be made in the Income Tax Ordinance, 1979 (XXXI of 1979), namely :—

{A) in section 12,—

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(b)

in subsection (5), in the Explanation, for the words, brackets and figures “and sub-section (4) of section 31” the commas, brackets, letters, figures and words “, clause (b) of section 24, sub-section (2) of section 30, sub-section (3A) of section 50 and section 80AA” shall be substituted ; and

after sub-section (17), the following new sub-section shall be added, namely :—

“(18) Where any sum, or the aggregate of sums, claimed, or shown, to have been received as loan by an assessee during any income year commencing on or after the first day of July, 1987, from any person, not being a banking company, or a financial institution notified by the Central Board of Revenue for, this purpose, otherwise than by a crossed cheque drawn on a bank, exceeds fifty thousand rupees, the said sum or the aggregate of sums shall be deemed to be the income of the assessee for the said income year chargeable to tax under this Ordinance:

Provided that, where the said loan is claimed, or shown, by way of the explanation, referred to in sub-section (1) of section 13, in a case to which the first proviso to the said sub-section applies, the income under this sub-section shall relate to the assessment year referred to in the said proviso.” ;

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“ B) in section 18. in sub-section (1),— - |

(a) the words and comma “in the course of any proceedings under this Ordinance,” shall be omitted ; and

(b) for the proviso the following shall be substituted, namely ;—

“Provided that, where any act referred to in clauses (a) to (e) is discovered after the assessment of income of the income year to which the said act relates has been made, the income chargeable to tax under this section shall be included in the total income of the income year relevant to the assessment year in which the said discovery is made:

Provided further that in cases referred to in clauses (aa) to (e) such income shall not be chargeable to tax unless prior approval of the Inspecting Assistant Commissioner has been obtained,”;

(C) in section 23, in sub-section (1), after clause (xix), the following new clause shall be added, namely :—

“(xx) any expenditure incurred by an assessee in the purchase of one machine used for recording and printing cash sales made by him during the regular course of his business:

Provided that such expenditure shall be allowable, in equal proportion, in the income year in which the said machine is purchased and the income year next following.” ;

(D) in section 24, in clause (b), after the word and comma “interest,” the words and comma “fees for technical services,” shall be inserted ;

(E) in section 26, in clause (c), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall

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PART I] THE GAZETTE OF PAKISTAN, EXTRA., JUNE 80, 1987 37

be added, namely :—

“Provided that nothing contained in this clause shall apply in the case of an assessee whose income has at any time been exempt from tax under clause (123A) of Part I of the Second Schedule.” ;

(F) in section 31, in sub-section (4), the words “or fees for technical services” shall be omitted ;

(G) in section 32A, in sub-section (1), for the words “duly certified” the words, figures, letter, brackets and commas “and an auditors’ report for that year, in Form 35A of the Companies (General Provisions and Forms) Rules, 1985, prepared and signed” shall be substituted ;

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in section 50,—

(a) in sub-section (3),—

(i) after the words, brackets and figure “or sub-section (2)”, the words, brackets, figure and letter “or sub-section (3A)” shall be inserted ; and

(ii) in the proviso, for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely :—

“Provided further that nothing contained in this sub-section shall apply to any payment made, by way of return on finance, to a branch in Pakistan of a non-

resident banking company.” ; and

(b) after sub-section (3), amended as aforesaid, the following new sub-section shall be inserted, namely :—

“(3A) Any person responsible for paying to a non-resident any sum by way of fees for technical services shall, unless

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38 THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30,1987 [PART I

such person is himself liable to pay tax thereon as an ag@_t, deduct, at the time of payment, tax at the rate specified in _ the First Schedule.” ;

(l) in section 55,—

(a)

(b)

in sub-section (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely ;—

“Provided that, where the entire total income of an assessee during the income year consists of income chargeable under the head “Salary”, he may, instead of furnishing a return as aforesaid, file a certificate from his employer in the prescribed form setting forth such particulars, and accompanied by such statements, and verified in such manner, as may be prescribed, and the said certificate shall be deemed to be a return under this sub-section.” ; and

in sub-section (2),—

(i) -in clause (a), for the words “first day of August” the words “thirty-first day of July” shall be substituted ; and

(ii) for clause (b) the following shall be substituted, namely :—

“(b) where the total income of an assessee, not being a company, in respect of the income year ending at any time between the first day of January and the thirtieth day of June, both days inclusive, consists of, or includes, any income chargeable to tax under the head “Income from business or profession” and the assessee has maintained, in respect of the said income year, books of accounts

{including a cash book and a ledger) or, as the case may be, the accounts in the form and manner prescribed by, or under, any rule or rules made in pursuance of section 32, on or before the fifteenth day of September next following:

Provided that, where the assessee was, at any time during the said income year, a partner in a firm or a member of an association of persons and his income year ends as aforesaid, he shall, whether or not he has maintained any books of accounts as aforesaid, file return of his total income by the said fifteenth day of September; and

(c) in other cases, on or before the thirty-first day of July next following the income year.”;

(J) after section 55, amended as aforesaid, the following new section shall be inserted, namely :—

“SSA. Acknowledgement of return. —The Income Tax Officer shall, on receipt of a return of total income for any year furnished under section 55, issue an acknowledgement of its receipt in the prescribed form.” ;

(K) in section 59, after sub-section (1A), the following new sub-section shall be inserted, namely :—

“(1B) In the case of a return qualifying for acceptance under sub-section (1), the acknowledgement issued under section 55A in respect of the said return, shall be deemed to be the order referred to in the said sub-section, and the notice of demand referred to in section 85, if the conditions to this effect, as specified in the scheme of self assessment for the relevant year, are fulfilled.” ;

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THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 [PART I

(L) after section 62, the following new section shall be added,

namely :—

“62A. Assessment after appellate decision,—Where an assessment or re-assessment or any order made under this Ordinance, has been annulled, set aside, cancelled or modified, the proceedings may commence from the stage next preceding the stage at which such annulment, setting aside, cancellation or modification took place and nothing contained in this Ordinance shall render necessary the re-issue of any notice which had already been issued or the re-furnishing or re-filing of any return, statement, or other particulars which had already been furnished or filed, as the case may be.”;

(M) in section 65,—

(a)

(b)

(c)

in sub-section (2), for the word “or” the word “and” shall be substituted ;

after sub-section (2), amended as aforesaid, the following Explanation shall be added, namely :—

“Explanation.—As used in this subsection, “definite information” includes information in respect of sales and purchases, made by the assessee, of any goods, and any information regarding acquisition, possession or transfer, by the assessee, of any money, asset or valuable article, or any investment made or expenditure incurred by him.” ;and

in sub-section (3), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“Provided that, where the said notice is issued on or after the first day of July, 1987, this sub-section

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PART I] THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 41

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shall have effect as if for the words "ten years" the words "five years" were substituted."";

(N) after section 80A, the following new section shall be inserted, namely :—

"B0AA. Tax on income of non-residents from fees for technical services.—(1) Notwithstanding anything contained in this Ordinance, where any consideration by way of fees for technical services referred to in the Explanation to sub-section (5) of section 12 is received or is deemed to be received by, or accrues or arises or is deemed to accrue or arise to, a non-resident, the whole of such consideration shall be deemed to be income of the non-resident and tax thereon shall be charged at the rate of twenty per cent of such income.

(2) A non-resident referred to in sub-section (1), or an agent authorised by him in this behalf, shall prepare and furnish to the Income Tax Officer within thirty days from the last day of each period of six months in every financial year, that is to say, the thirty-first day of December and the thirtieth day of June, respectively, a return, in respect of each such period of six months as aforesaid, showing therein full particulars of the income referred to in the said sub-section:

Provided that, where such non-resident is likely to leave Pakistan in any six month period as aforesaid or shortly after its expiry and he has no present intention of returning to Pakistan, the provisions of section 81 shall, so far as may be, apply as if references to financial year, the return of total income; the income year, the order of assessment, the assessment year and rate of tax were references to the corresponding provisions of this section.

(3) On receipt of such return, the Income Tax Officer may, after calling for such particulars, accounts or documents as he may require, determine the income referred to

_THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30,1987 [PART I

in sub-section (2) and charge tax thereon in accordance an
the provisions of this section.

(4) Nothing contained in this Ordinance shall be so construed as to allow any expense against the income determined under sub-section (3).

(5) The tax paid under this section shall, to the extent that the income of the non-resident is chargeable under this section, be deemed to be the final discharge of his tax liability under this Ordinance, and he shall not be required to file the return of total income under section 55 or be entitled to claim any refund or adjustment on the basis of such return,

(6) The provisions of this section shall not apply to a non-resident in respect of any consideration referred to in sub-section (1) for rendering technical services under an agreement entered into on or before the thirtieth day of June, 1987.";

(O) in section 91, after sub-section (4), the following new sub-

(P)

section shall be inserted, namely :—

“(4A) Where, in consequence of any order under this Ordinance, the amount of tax in respect of which penalty under this section was imposed is reduced, the amount of the said penalty shall be reduced accordingly.” ;

in section 106, after sub-section (5), the following new sub-section shall be inserted and shall be deemed always to have been so inserted, namely :—

“(SA) Notwithstanding anything contained in this section, a banking company or a financial institution shall not be entitled to tax credit under this section.” ;

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THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 = 43

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in section 107, in sub-section (7), after the figure "48", the words "or which is engaged in the business of exploration or extraction of coal deposits" shall be inserted ;

in section 111, in sub-section (1), for the words "would have been avoided if the income as returned by such person had been accepted as the correct income" the words and comma "the said person sought to evade by concealment of his income or furnishing of inaccurate particulars of such income, as aforesaid" shall be substituted;

in section 129, in sub-section (1), after the word, figure and comma "section 148," the words, figure and commas "or an order under section 52, treating a person to be an assessee in default," shall be inserted ;

in section 141 ,—

(a) after the brackets, words and comma "(not being interest _ on securities)," the words and comma "profit in respect of a profit and loss sharing account or deposit with a banking company," shall be inserted ; and

(b) after the word and comma "interest," wherever occurring, the word and comma "profit," shall be inserted ;

in section 143, for the words and commas "for the construction of a building for, or the supply of goods or services in connection therewith to," the word "with" shall be substituted ;

in the First Schedule,—

{a} in Part I, after paragraph DDD, the following new paragraph

shall be added, namely :—

"DDDD. Rate of income tax for 20 per cent purposes of deduction under sub- of the sum."

section (3A) of section 50.

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THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 [PART I

namely :—

“C, In the case of every registered firm,—

Where the total income does not exceed Rs. 24,000.

Where the total income exceeds Rs. 24,000 but does not exceed Rs. 50,000.

Where the total income exceeds Rs. 50,000 but does not exceed Rs. 100,000.

Where the total income exceeds Rs. 100,000 but does not exceed Rs. 150,000,

Where the total income exceeds Rs. 150,000,

Nil.

5 per cent of the amount exceeding Rs. 24,000,

Rs. 1,300 plus 10 per cent of the

amount exceeding Rs. 50,000.

Rs. 6,300 plus 20 per cent of the amount exceeding Rs. 100,000.

Rs. 16,300 plus 35 per cent of the amount exceeding Rs. 150,000.”; and

(c) in Part IV, in paragraph A, in clause (2), in sub-clause (a), after the words “such goods”, the words and commas “or, in respect of any goods specified by the Central Board of Revenue, by notification in the official Gazette, by

an amount equal to such percentage of the amount of the income tax and super tax, if any, attributable to the sale proceeds of such goods, as may be so specified” shall be

inserted ; and

(W) in the Second Schedule, in Part I,—

(a) for clause (95B) the following shall be substituted and shall

be deemed always to have been so substituted, namely :—

“Income from rendering agro-services. —

(95B) Profits and gains of an assessee, being a Pakistani

. company formed exclusively for, and engaged exclusively

in, the business of rendering of agro-services, derived from such business,

Explanation.—As used in this clause, “agro-services” means—

(a) renting out of machinery used for agricultural operations, including the furnishing of personnel or know-how in connection with the use of such machinery, where. such renting out does not constitute leasing out of such machinery by any arrangement under which the said machinery can, at any time, become the property of the lessee ; and

(b) the provision’ of services in the field of crop and water management and plant protection, where the said provision does not include sale of any goods.”;

(b) in clause (121A),—

(i) for sub-clause (c) the following shall be substituted, namely :—

“(c) fulfils the following conditions, namely: -

(i) that the undertaking is based on highly sophisticated technology ;

(ii) that the technology employed has fast obsolescence ;

(iii) that investment in the undertaking involves high risk; and

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46 THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 [PART I

(iv) that the goods produced, or to be produced, are such that neither these goods, nor identical or close substitutes thereof, are being produced in Pakistan; and”; and

(ii) for sub-clause (d) the following shall be substituted, namely :—

“(d) is approved, on an application made by the

assessee in such form and manner and accompanied by such statements, certificates, documents and undertakings, and in accordance with such procedure, as may be prescribed, by the Central Board of Revenue.”; and

(c) after clause (123), the following new clause shall be inserted.

namely :—

(123A) Income from an undertaking engaged ex-

clusively in the business of exploration or extraction of coal deposits against a mining lease obtained on or after the first day of July, 1987, for a period of five years beginning with the month in which commercial production is commenced.

The exemption under this clause shall apply to an

undertaking which is—

(a)

(b)

owned and managed by a company formed exclusively for, and engaged exclusively in, the business of exploration or extraction of coal deposits, and registered under the Companies Ordinance, 1984 (XLVI of 1984), having its registered office in Pakistan ; and

located in any of the areas specified in clauses (119), (120), (121) and (122).”

a —————

(2) The provisions of sub-clause (b) of clause (V) of sub-section (1) shall take effect in respect of any assessment year commencing on or after the first day of July, 1987.

11. Amendment of Ordinance XVIII of 1980.—In the Zakat and Ushr Ordinance, 1980 (XVIII of 1980), in section 3, in sub-section (1), for the full-stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely :—

“Provided further that the Federal Government may, by notification in the official Gazette, exempt any class of bonds or certificates issued by the Federal Government or a statutory corporation a company or other enterprise, owned, directly or indirectly by the Federal Government, a Provincial Government, a local authority or a corporation owned by the Federal Government or a Provincial Government, either singly or jointly with one or more of the other three, from deduction of Zakat on compulsory basis.”,

12. Levy of tax on foreign air tickets.—(1) Foreign air travel tax shall be levied at the rate of two hundred and fifty rupees on all air tickets issued to the customers, except the intending pilgrims for Haj, by any air line or travel agency for travel to any destination outside Pakistan.

(2) Foreign air travel tax shall be collected by the air companies or travel agencies on tickets alongwith the price of the tickets sold to the customers and account thereof shall be maintained in such form as may be prescribed by the Civil Aviation Authority established under the Pakistan Civil Aviation Authority Ordinance, 1982 (XXX of 1982), hereafter in this section referred to as the Authority,

- (3) The proceeds of the tax collected under sub-section (2) shall not form part of the Civil Aviation Authority Fund and shall be credited to the Federal Consolidated Fund under the Head of Account specified by the Federal Government.

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(4) Rules made under the Pakistan Civil Aviation Authority “Ordinance, 1982 (XXX of 1982), may make provisions relating to the collec-

tion, recovery and credit of the foreign travel tax.

THE FIRST SCHEDULE

(See section 3)

In Part I,-

(1) for item No. 02.01 in column 1 and entries relating thereto in columns 2 and 3 the following shall be substituted, namely :—

“02.01 Beverages—

A. Aerated waters, all sorts, whether or not flavoured or sweetened and whether or not containing juice or pulp of vegetables, foodgrains or fruits—

(1) if quantity, in millilitres, and the constituent materials are legibly, prominently and indelibly printed on each container or its cork or label—

(i) marketed under foreign brand names—

(a) if filled in containers containing not more than 250 millilitres

(b) if filled in containers containing more than 250 millilitres,

(ii) others—

(a) if filled in containers containing not more than 250 millilitres

(b) if filled in containers containing more than 250 millilitres

One rupee per unit container.

Ten paise per 25 millilitres or fraction thereof.

Eighty paise per unit container,

Eight paisa per
25 millilitres or
fraction thereof.

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PART I] THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30, 1987 49

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(2) if not covered by clause (1) 500 per cent ad
valorem.

B. Syrups, squashes and juices, all sorts,

whether or not made wholly or partly

from vegetables, foodgrains or fruits or

pulps thereof— :

(1) if retail price, quantity and the consti- 20 per cent of
tuent materials are legibly, promi- the retail price.
nently and indelibly printed on each
container or its cork or label

(2) if not covered by clause (1) 500 per cent ad

valorem.” ; and

(2) after item No, 02.03 in column 1 and the entries relating thereto
in columns 2 and 3, the following new items shall be inserted, namely :—

“02.04 Beverage concentrates—

Prepared concentrates, whether in liquid,
powder, paste or granular form, for use in
the manufacture of aerated waters falling
under item No. 02.01.A—

A. if the ingredients, weight, quantity and Such rates, not
mixing formula and instructions are exceeding sixty
legibly, prominently and indelibly, printed thousand rupees
on each container per unit of con-

centrate, as may
be fixed by the
Federal Govern-
ment by notifi-
cation in the
official Gazette,
and different
rates may be
fixed with refe-
rence to diffe-
rent conditions
and circumstan-
ces.

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50 THE GAZETTE OF PAKISTAN, EXTRA., JUNE 30,1987 [PART I
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- B. others One — hunared

thousand rupees
per litre in the
case of liquid
concentrates and
one hundred
and fifty thou-
sand rupees per
kg in the case of
other forms of
concentrates.

Explanation:

For the purposes of item No. 02,04, “unit of concentrate” shall mean
the unit of concentrate as may be determined and specified by the Federal
Government by notification in the official Gazette.”.

THE SECOND SCHEDULE

(See Section 8)

In the Customs Act, 1969 (IV of 1969), in the First Schedule, against
Heading Nos. and sub-heads, if any, specified in the first column of the
Table below, for the entries relating te the “Description of Goods” and
“Rate of duty” the corresponding entries in the second and third columns
of the table shall be substituted.

TABLE

Heading : ot

No. & Description of goods Rate of duty

Sub-head

1 2 3

08.12 Fruit, dried, other than that falling within heading No, 08.01,
08.02, 08,03, 08.04 or 08.05,

A. Tamarind. Rs, 4.00 per Ke

B. Other. 100% ad ral

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1 2 a0;

11.04 Flour of the dried leguminous vegetables falling within heading

14.03

19.04

29.05

40.04

49.07

No, 07.05 or of the fruits falling within any heading in Chapter 8; flour and meal of sago and of roots and tubers falling within heading No, 07,06,

A. Flour.

01 Sago flour.

02 Other. =~

B. Meals,

Vegetable materials of a kind used primarily in brushes or in brooms (for example, sorgho, piassave, couch-grass and istic), whether or not in bundles or hanks.

A. Broomsticks,

B, Palmyra fibre,

Cc, Other,

Tapioca and sago; tapioca and sago substitutes obtained from potato or other starches.

A. Sago.

EB, Other.

Cyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives.

A. Menthol.

B. Other,

Waste and parings of unhardened rubber; scrap of unhardened rubber, fit only for the recovery of rubber; powder obtained from waste or scrap of unhardened rubber.

A. Manufacturing waste and parings.

B. Scrap fit only for the recovery of rubber.

C. Powder obtained from waste and scrap.

Unused postage, revenue and similar stamps of current or new issue in the country to which they are destined | stamp-impressed paper; bank notes, stock, share and bond certificates and similar documents of title; cheque books,

A. Cheque books.

B. Stock, share, bond certificates and similar documents of title.

Rs. 4.00 per kg.

40% ad vel

40% ad val.

Rs. 2.00 per kg

40% ad val,

40% ad val

Rs. 4.00 per kg

B06 ad val.

Rs, 150.00 per kp

40% ad val.

2% ad vai.

20% ad vai.

20% ad val

Rs, 0.40 per cheque

100% ad vai.

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Fea] mp AARNE AD Dawranan PYPRA TINE 20 1927 TPARy, ¥
1 2 3

Cc. Stamps. Free

D. Stamp-inpressed paper, Free

E. Banknotes, Free

PF. Travelers' cheques. Rs. 0.40 per cheque

G. Credit card slips, Rs. 0.40 per slip

H, Other, Free

71.16 Imitation Jewellery,

A. Wrist watch bracelets of metal other than precious metal. 60% ad val,

B. Other. 150% ad val.

73.13 Sheets and plates, of iron or steel, hot-rolled or cold-rolled.

A. Rolled but not further worked, of « thickness of more than

4,75 mm,

01 Hot-rolled. Rs. 4600.00

. per metric ton

02 Cold-rolled. Rs, 4000.00

per metric ton

B. Rolled but not further worked, of a thickness of 3 mm or
more but not more than 4.75 mm,

01 Hot-rolled, Rs. 4000.00

per metric ton

02 Cold-rolled. Rs, 4000.00

per metric ton

C. Rolled but not further worked, of a thickness of less than

3mm,

01 Hot-rolled. Rs. 4000.00

per metric ton

02 Cold-rolled. Rs, 4000,00

' per metric ton

D, Tinned. Rs. 3000.00

= per metric ton

_—S _

x

_E. Other.

OI Galvanised.

02 Orher,

84,65 Machinery parts, not containing electrical connectors, insulators, coils, contacts or other electrical featurcs and not falling within any other heading in this Chapter.

A. Oil seals,

B. Other.

Rs. 4000.00
per metric ton

Rs. 4000.00
per metric ton

60% ad val
20% ad val.

_M. CHIMA,

Secretary,

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