

# RIAA Defends Leading Battery Manufacturer in Tax Fraud FIRs

RIAA Barker Gillette is representing a leading automotive battery manufacturer, one of the five sectors targeted by the Federal Board of Revenue (FBR) in tax fraud FIRs. The firm has secured pre-arrest bail for the CEO and directors, post-arrest bail for arrested employees, and is pursuing summary acquittal based on jurisdictional and other grounds.

We are representing a leading automotive battery manufacturer in tax fraud FIRs filed by the Federal Board of Revenue (FBR). The automotive battery sector is one of the five industries [recently targeted by the FBR](#). The company and its directors are facing three FIRs alleging bogus purchases and inadmissible input tax adjustments, despite full compliance with section 73 of the [Sales Tax Act, 1990](#), which requires all payments to registered suppliers to be made through banking transactions, and maintaining documentary records evidencing the receipt of goods supplied.

This case is part of a growing trend whereby the FBR seeks to recover tax through criminal proceedings instead of disputing tax assessments in civil proceedings. Notably, while two FIRs are registered by the Directorate General (Intelligence and Investigation) Inland Revenue, one is by the Directorate General (Internal Audit) Inland Revenue.

Our team, led by Partner Mayhar Kazi, has secured pre-arrest bail for the CEO and all directors and promptly obtained post-arrest bail for two employees who had been arrested. The cases continue to progress, and we are pursuing summary acquittal on jurisdictional and other grounds, drawing upon the principles established in several key judgments.

The Lahore High Court's decision in *F.M. Textile Mills v FBR* (2017 PTD 1875) is particularly relevant, as it established that the FBR's various directorates are created for distinct, specialized functions and cannot be granted powers beyond their designated roles. This principle has significant implications for the Internal Audit directorate's authority to investigate and prosecute tax fraud cases, which typically fall within the domain of the Intelligence and Investigation directorate.

Moreover, the Sindh High Court's judgment in *Waseem Ahmed v Federation of Pakistan* (2014 PTD 1733) emphasizes the need for officers of these directorates to be specifically appointed as Inland Revenue officers to exercise the corresponding powers. As regards whether prior adjudication of tax liability is a necessary requirement for initiating criminal proceedings, the conflicting views of the Lahore High Court in *Taj International v FBR* (2014 PTD 1807) and the Sindh High Court in *Waseem Ahmed* had added another layer of complexity to such cases. However, the Supreme Court recently dismissed the FBR's appeal against the Lahore High Court's judgment in *Taj International* through a short order dated 4 December 2024. The detailed judgment is awaited, and it is hoped that it will resolve the conflict created by the divergent views of the two High Courts.

Other crucial considerations in these matters include Section 37A(5) of the Sales Tax Act 1990, which requires the personal involvement of company directors and officers to be implicated in tax fraud cases. Further, the Sindh High Court in *Commissioner v Fateh Textile* (2020 PTD 203) has clarified that invoices issued by a registered supplier cannot be treated as fake or flying, to the detriment of their customer, unless they were blacklisted at the relevant time, and in *Waseem Ahmed* that not all parties in a supply chain can be implicated in one party's fraud.

Mayhar Kazi, Partner at RIAA Barker Gillette, noted:

*"The increasing use of criminal proceedings by the FBR in the absence of any finding in tax assessment raises serious concerns about taxpayers' rights and the proper exercise of powers by FBR's Directorates. These matters expose critical legal gaps in the tax authorities' powers to initiate criminal proceedings. We aim to protect our clients from unwarranted prosecution while clarifying important legal principles."*

Pakistan Partner [Mayhar Kazi](#) leads our team on this matter, including Associate [Zahid Ali Sahito](#).

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*This article is not legal advice; it provides information of general interest about current legal issues.*

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