



**FEDERAL TAX OMBUDSMAN  
PAKISTAN**

**ANNUAL REPORT  
2017**



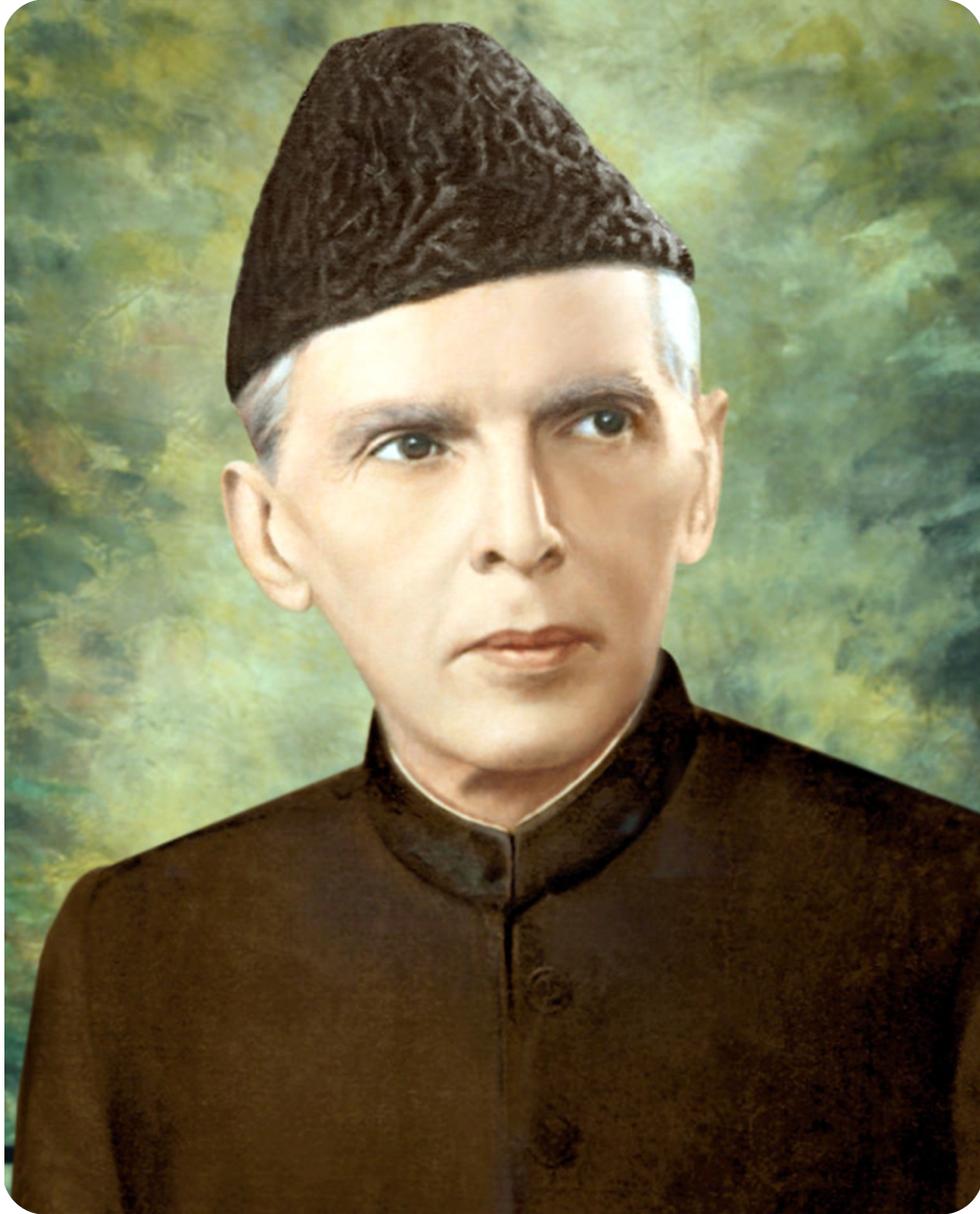
بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

إِعْدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ

**Be just; that is nearer  
to righteousness.**

6:5:8 (Al Quran)

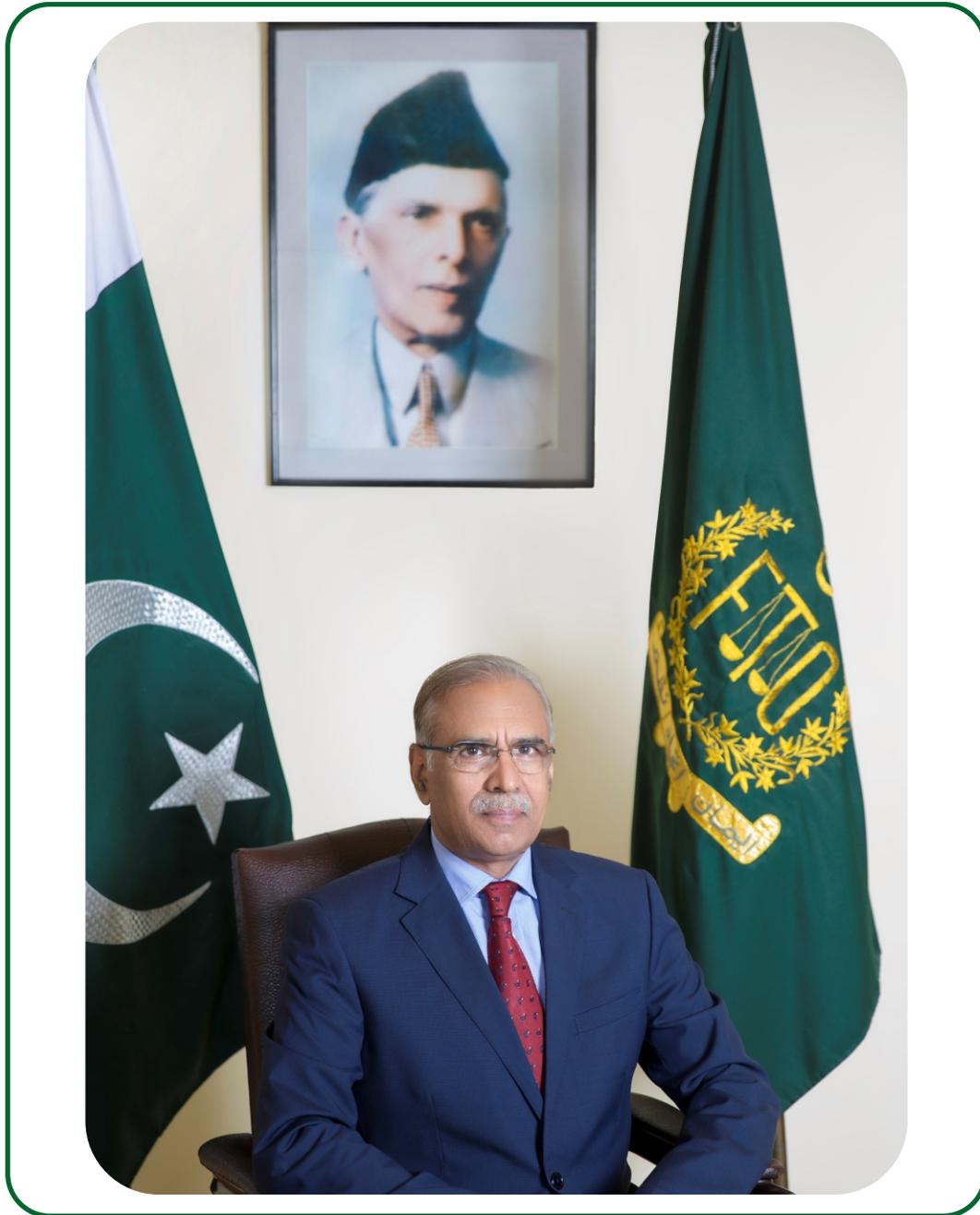




**Quaid-e-Azam Muhammad Ali Jinnah**  
Founder of Pakistan



**Mr. Mamnoon Hussain**  
Hon'ble President  
Islamic Republic of Pakistan



**Mr. Mushtaq Ahmad Sukhera**  
Federal Tax Ombudsman

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## FOREWORD

Institution of Federal Tax Ombudsman (FTO) was created in the year 2000, through a dedicated statute “Establishment of the Office of Federal Tax Ombudsman Ordinance, 2000” to establish a system which is people friendly, expeditious and capable of providing cost free redressal services to the public and taxpayers against the malpractices of tax officials.

2. The office has evolved into a well functional organization over the course of last 17 years with its presence at eight locations across the country. During these years it has proved its worth as an effective and efficient forum responsive to the needs of its users. Procedures for filing of complaints are simple to follow, no court fee or processing fee is charged, there is no need for mandatory assistance of counsel and complainants are provided multiple channels to lodge their complaints. Time lines have been defined to process and dispose off complaints speedily and online monitoring has significantly improved the progress of implementation.

3. While pursuing the institutional development, our focus has been on developing linkages with business community, tax bar associations and tax collectors. There is a greater recognition on our part that in addition to pursuing the traditional approach of addressing individual complaints, we need to focus on addressing structural systemic issues to promote tax friendly culture in the country.

4. This report is a brief overview of performance of FTO office during, 2017. The report also reflects our future plan for the coming years to improve service delivery.

5. I am thankful to my team of secretariat staff and Advisors for assisting me in pursuing the goals of this institution.

## HISTORICAL PERSPECTIVE

The concept of Ombudsman dates back in history. Prototype of Ombudsman was in existence in China during the Qin Dynasty (221 BC) and in Korea during the Joseon Dynasty (392–1910). The position of secret royal inspector was unique to the Joseon Dynasty, where an undercover official directly appointed by the king was sent to provinces for monitoring performance of government officials, while traveling incognito. The Roman Tribune also had similar role, with power to veto acts that infringed upon the members of the lower social classes. In the early Islamic governance structure, institution of Qadi-al-Qadat enjoyed complete independence and functional autonomy within the framework of an institution called ‘Hisbah’. The institution of ‘Hisbah’ and its functions were also adopted by the crusaders in Jerusalem; they even used the Arabic word ‘Mohtasib’ by calling it ‘Mathesep’. In Egypt this institution continued to exist until the middle of the 19th century.

2. But the real precursor to the institution of Ombudsman was the model of Turkish Diwan-al-Mazalim which in turn, goes back to the concept of Hisba. Its function was to examine complaints brought by the public against government officials. The institution was headed by a senior judge responsible for examining and redressing the grievances.

3. There is almost a consensus in world literature that chronological development of the institution of Ombudsman evolved into its modern form in Sweden. During his exile in Turkey, Charles XII, the King of Sweden, observed the working of the Mohtasib. On his return from exile, the King ordered setting up of a similar institution in Sweden, which was established in 1809 with the title of "justitie ombudsman", popularly known as Ombudsman. The first Swedish Ombudsman was Lars Augustin

Mannerheim. For more than 100 years, the office remained confined to Sweden and could hardly create any impact in other countries. Its contagion effect came out in the twentieth century when it was adopted in other Scandinavian countries. Introduction of the Danish Ombudsman in 1955 marked the beginning of the worldwide interest in the Ombudsman Institution. Later, introduction of Ombudsman in New Zealand in 1962, sparked off a great deal of interest in this forum throughout the world. After the Second World War, the institution of Ombudsman began to spread rapidly throughout Europe.

4. In essence, the institution of Ombudsman was established as a response to the major developments taking place during 20th century, especially in relation to democratization, human rights and importance of justice for a prosperous and just society. At present, the Ombudsman offices exist in over 150 countries around the world. Public demand for greater transparency in the process of governance is mainly attributable to the growth of this institution.

5. In Pakistan, the Constitution of 1973 provided for establishment of Federal Ombudsman, and the institution was setup through the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983, which started functioning on 8th August 1983. Considering the complexity and diversity involved in the disposal of public complaints about tax matters, institution of Federal Tax Ombudsman was created through Establishment of the Office of Federal Tax Ombudsman Ordinance, 2000, with the mandate to deal with complaints against officials of Revenue Division/Federal Board of Revenue (FBR), investigate cases of maladministration pointed out by the aggrieved taxpayers and public, and give suitable recommendations for dispensation of justice and appropriate action, if the maladministration is proved.

6. The complexity of the government processes and the wishes of the people for greater participation in decision-making means providing citizens with access to information about policies and procedures. FTO is

also empowered to adjudicate upon complaints registered under the Freedom of Information Ordinance, 2002.

7. Other Ombudsman institutions in Pakistan include Federal Banking Ombudsman, Federal Insurance Ombudsman, Federal Ombudsperson for Protection of Women against Harassment at Workplace and provincial Ombudsmen. The Forum of Pakistan Ombudsmen (FPO) provides a common platform for coordination. They also have affiliation with Asian Ombudsman Association (AOA), International Ombudsman Institute (IOI) and OIC Ombudsman Association.

8. Role of Ombudsman is to ensure that public officials perform their duties honestly and justly. The Ombudsman provides safeguards and avenues to the common man to voice their concerns and grievances. It provides opportunity for seeking remedy before searching solutions through costly and cumbersome judicial system. The Ombudsman improves quality of public administration and protects basic human rights. Hence, the Ombudsman even goes beyond the mere approach of 'investigation and report' mode by achieving outcome through findings and implementation of recommendations.

9. The institution of Ombudsman is not only desirable but also a necessary element of a national system of human rights protection as well as a key link in the reforms carried out in the countries, that chose to advance along the road of democracy and the rule of law.

## FEDERAL TAX OMBUDSMAN



**Mr. Justice (R) Saleem Akhtar**  
(19.09.2000 to 18.09.2004)



**Mr. Justice (R) Munir A. Sheikh**  
(08.12.2004 to 07.12.2008)



**Dr. Muhammad Shoaib Suddle**  
(03.06.2009 to 10.07.2013)



**Mr. Abdur Rauf Chaudhry**  
(10.07.2013 to 08.09.2017)



**Mr. Mushtaq Ahmad Sukhera**  
(08.09.2017 to date)

## WE BELIEVE AND WE SERVE

### Mandate

Investigate, diagnose, redress and rectify any injustice done to a person through maladministration by functionaries of Revenue Division/FBR administering federal tax laws.

### Vision

Eliminating tax maladministration and helping taxpayers to receive the highest level of service and respect.

### Mission

Redress taxpayers' grievances by instituting accountability.

### We Value

- Impartiality
- Integrity
- Transparency
- Accessibility
- Efficiency
- Objectivity

## Mr. Mushtaq Ahmad Sukhera took the oath of the office of FTO

Mr. Mushtaq Ahmad Sukhera, a member of the Police Service of Pakistan, rose to the highest rank of his career after 35 years of public service embedded with outstanding achievements. His service as Chief, Discipline and Internal Investigation Section, United Nations Mission in Bosnia & Herzegovina add to the riches of his experience as well. He was awarded United Nations Medal in recognition of his meritorious services in UN Mission in Bosnia & Herzegovina during 2000-02. Before joining FTO office, he served as Inspector General of Police in Punjab and Balochistan. President Islamic Republic of Pakistan, Hon'ble Mr. Mamnoon Hussain was pleased to administer oath of the office of FTO to Mr. Mushtaq Ahmad Sukhera at an oath taking ceremony held at Aiwan-e-Sadr, Islamabad on 8th September, 2017.



Appointment of Mr. Mushtaq Ahmad Sukhera as Federal Tax Ombudsman is a welcome development as he brings with him the richness of experience, unflinching commitment, fresh energy and passion to the institution of FTO.

## HIGHLIGHTS OF PERFORMANCE

Office of FTO did its best to redress grievances of taxpayers in keeping up with the past tradition. While details of performance have been discussed in the next chapter, the highlights are as under:

### Complaints (receipts and disposal)

Year	Receipts	Disposal*
<b>2017</b>	<b>1,858</b>	<b>1,860</b>
2016	1,768	1,807

\*Including cases carried forward from past year

### Grievances redressed at investigation stage

<b>2017</b>	<b>518</b>
2016	359

### Decisions in favour of taxpayers

<b>2017</b>	<b>1,385 (74.40%)</b>
2016	1,426 (78.90%)

### Complaints rejected

<b>2017</b>	<b>366 (18.06%)</b>
2016	289 (15.99%)

### Complaints withdrawn

<b>2017</b>	<b>109 (5.86%)</b>
2016	92 (5.10%)

**Recommendations accepted**

<b>2017</b>	<b>1,638 (88.06%)</b>
2016	1,515 (83.84%)

**Findings challenged**

<b>2017</b>	<b>222 (11.93%)</b>
2016	292 (16.15%)

**Amount refunded (in Rs. million)**

<b>2017</b>	<b>3,244.90</b>
2016	2,672.75

**Recommendations implemented**

<b>2017</b>	<b>1,669</b>
2016	1,684

**Recommendations pending for implementation**

<b>2017</b>	<b>299</b>
2016	654

**Average time for disposal of complaints**

<b>2017</b>	<b>47 days</b>
2016	49 days

## DETAILS OF PERFORMANCE

### Category-wise number and percentage of complaints

Category-wise break-up of the fresh complaints received as a percentage to total complaints is shown below in Table-1. It indicates that the complaints received in the category of Income Tax constitute more than 60% of all others.

**TABLE-1**

Category	No. of Complaints	Percentage
Income Tax	1123	60.4
Sales Tax	497	26.7
Customs	203	10.9
Federal Excise Duty	12	0.6
Freedom of Information	10	0.5
Others (Wrong filing etc)	13	0.7
<b>Total</b>	<b>1858</b>	<b>100.0</b>

### Region-wise receipt and disposal of complaints

Headquarters of FTO Secretariat is at Islamabad and its regional offices are located at Karachi, Quetta, Lahore, Multan, Faisalabad, Gujranwala and Peshawar. Most of the complaints are received in Karachi, Lahore and Multan offices followed by Islamabad and Faisalabad. Due to less work, offices at Abbottabad and Sukkur were closed during the last months of the year and work shifted to Peshawar and Karachi respectively.

Region-wise receipt and disposal of fresh complaints and their percentage-share in total number of complaints is reflected in Table-2 below:

**TABLE-2**

Region	Receipt		Disposal		Balance
	Nos.	%	Nos.	%	
HQ Islamabad	145	7.8	126	7.8	19
Karachi	550	29.6	489	30.2	61
Lahore	497	26.7	455	28.1	42
Quetta	86	4.6	79	4.9	7
Peshawar	60	3.2	37	2.3	23
Faisalabad	115	6.2	82	5.1	33
Abbottabad*	46	2.5	35	2.2	11
Multan	322	17.3	280	17.3	42
Sukkur*	34	1.8	34	2.1	0
Gujranwala**	3	0.2	0	0.0	3
<b>Total</b>	<b>1858</b>	<b>100.0</b>	<b>1617</b>	<b>100.0</b>	<b>241</b>

\*closed in October, 2017

\*\*established in December, 2017

### Region-wise monthly complaints

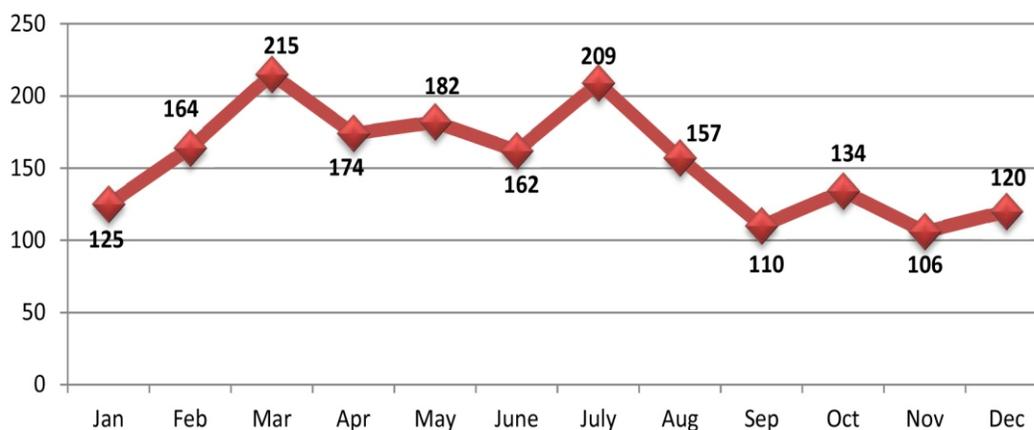
Region-wise position of monthly receipts of complaints is given in Table-3 below:

**TABLE-3**

Region	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Islamabad	10	16	26	14	19	5	18	9	3	14	7	4	145
Karachi	26	47	76	52	39	48	30	50	40	70	26	46	550
Lahore	33	47	50	52	62	43	78	37	29	21	23	22	497
Quetta	2	1	19	8	12	4	5	26	-	2	4	3	86
Peshawar	3	3	3	8	2	1	3	5	7	3	22	-	60
Faisalabad	12	11	6	11	10	6	10	6	11	4	10	18	115
Abbottabad	8	6	5	6	5	3	4	-	2	1	6	-	46
Multan	28	27	27	23	31	48	59	20	13	14	8	24	322
Sukkur	3	6	3	-	2	4	2	4	5	5	-	-	34
Gujranwala	-	-	-	-	-	-	-	-	-	-	-	3	3
<b>Total</b>	<b>125</b>	<b>164</b>	<b>215</b>	<b>174</b>	<b>182</b>	<b>162</b>	<b>209</b>	<b>157</b>	<b>110</b>	<b>134</b>	<b>106</b>	<b>120</b>	<b>1858</b>

### Trend of month-wise receipt of complaints

Following graph shows trend of month-wise receipts of complaints:



## Disposal of complaints

During the year under report, 2,101 complaints were investigated. FTO decided 1,860 cases comprising of 1,617 fresh complaints received during 2017 and 243 complaints carried forward from the previous years. Category-wise breakup is given in the Table-4, below:

**TABLE- 4**

Type of Tax	Complaints					
	Carried forward from 2016	Fresh receipts	Total	Disposal from fresh receipts	Total disposal	Pending at the end of 2017
Income Tax	149	1123	1272	989	1138	134
Sales Tax	65	497	562	419	484	78
Customs	28	203	231	178	206	25
Federal Excise Duty	0	12	12	9	9	3
Freedom of Information	1	10	11	9	10	1
Others	0	13	13	13	13	0
<b>Total</b>	<b>243</b>	<b>1858</b>	<b>2101</b>	<b>1617</b>	<b>1860</b>	<b>241</b>

## Trend of decisions in favour of complainants

Out of 1,860 decided complaints, 1,385 or 74.5% complaints were decided in favour of the complainants. Trend of such decisions in favour of the complainants since 2011 is given below in Table-5:

**TABLE-5**

Year	Cases decided in favour of Complainants	Percentage
2011	1,207	86.09%
2012	1,414	88.54%
2013	1,438	77.48%
2014	1,108	71.58%
2015	1,227	76.00%
2016	1,426	78.90%
2017	1,385	74.40%

Preponderance of findings in favour of complainants indicates that the complaints of the taxpayers are generally based upon facts and their dissatisfaction and discontentment from the tax-collectors is not without reasons. It warrants FBR to address systemic flaws which show that such a high number of complaints have been decided against the functionaries of FBR.

### **Average time taken for disposal of complaints**

“Justice delayed is justice denied” is a famous legal maxim. Timely redressal of grievance is as important as provision of justice itself. FTO strives to dispose of complaints in a reasonable period of time. The time taken for disposal of a complaint is counted from the date of filing of a complaint with the FTO office. It includes the time taken:

- i. by the FBR and its field offices in filing comments;
- ii. by the complainant for filing a rejoinder;
- iii. referring the rejoinder to the FBR for further comments;
- iv. holding of hearings;
- v. drafting of findings; and
- vi. approval of the recommendations.

The ‘Establishment of Federal Tax Ombudsman Ordinance, 2000’ provides for disposal of a complaint in 60 days. Keeping in view the difficulties faced by the taxpayers, efforts were made to reduce the time period for disposal even further. The average time taken for investigation

and disposal of complaints worked out to be **47 days in 2017** as compared to 49 days during 2016.

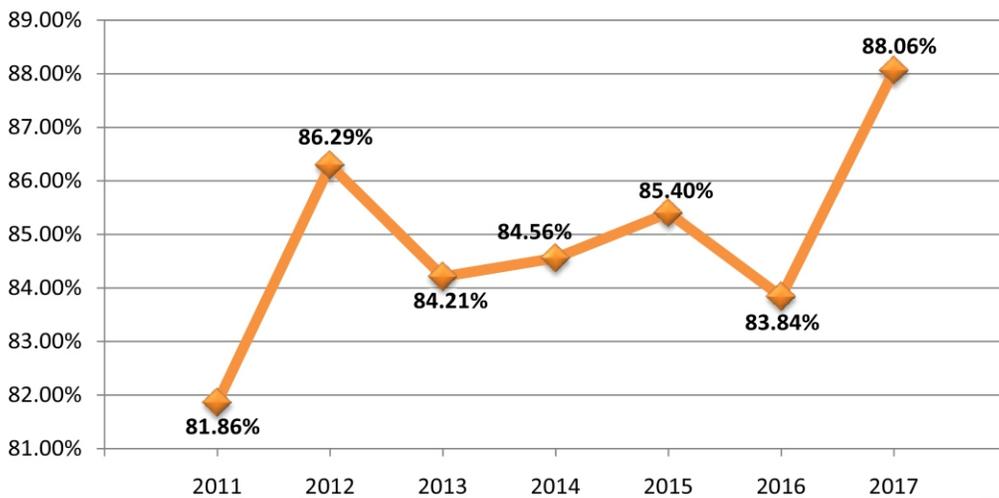
### Acceptance ratio of recommendations

Ratio of acceptance of FTO's recommendations shows a positive picture. This reflects the highest standards of professional competence, comprehensive understanding of legal domain and neutrality exercised by FTO in complaint handling. More significantly, it also shows increasing confidence of tax collecting authorities in the fairness of the recommendations of FTO. Acceptance percentage of the recommendations since 2011 is provided in Table-6, below:

**TABLE-6**

2011	2012	2013	2014	2015	2016	2017
81.86	86.29	84.21	84.56	85.40	83.84	88.06

Following graph shows trend of acceptance ratio of recommendations:



### Representations and Review petitions

174 recommendations were challenged through representations under section 32 of the FTO Ordinance, 2000 and section 14 of FOIR Act, 2013. Moreover 48 Review petitions were filed under section 14(8) of the

FTO Ordinance, 2000 read with section 13(1) of the FOIR Act 2013. Table-7 provides breakup of representations and review petitions during 2017:

**TABLE-7**

Applicant	Representations	Review petitions	Total
FBR	148	4	152
Taxpayers	26	44	70
<b>Total</b>	<b>174</b>	<b>48</b>	<b>222</b>

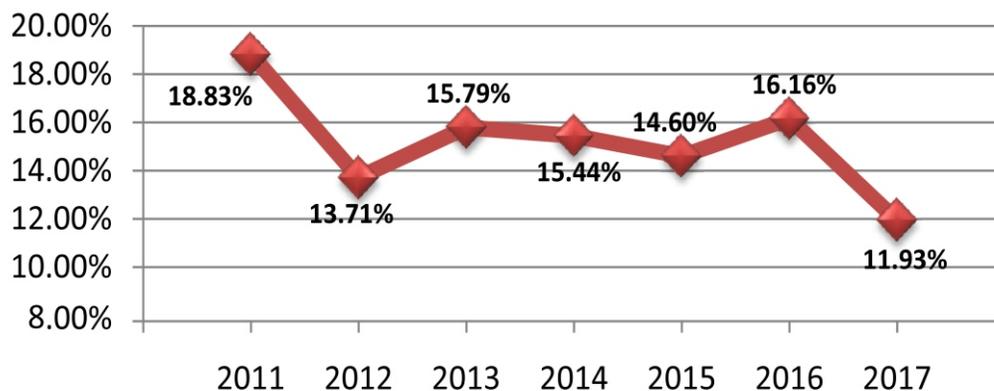
### Trend of recommendations challenged

Historical details of representations and review petitions filed against FTO's recommendations, since 2011 is given below in Table-8:

**TABLE-8**

Year	Findings	Representations	Review	Total (Col.3+4)	% of challenged Findings (Col. 5/2)
2011	1402	211	53	264	18.83
2012	1597	153	66	219	13.71
2013	1856	237	56	293	15.79
2014	1548	167	72	239	15.44
2015	1610	117	118	235	14.60
2016	1807	189	103	292	16.16
2017	1860	174	48	222	11.93
<b>Total</b>	<b>11,680</b>	<b>1,248</b>	<b>516</b>	<b>1,764</b>	<b>15.10</b>

Following graph shows year-wise trend of recommendations challenged since 2011:



## Decisions on representations

Table-9 below provides summary of the representations decided by the honorable President of Pakistan, during 2017:

**TABLE-9**

Representations made by	Rejected	Accepted	Total
FBR	91	92	183
Taxpayers	28	0	28
<b>Total</b>	<b>119</b>	<b>92</b>	<b>211</b>

## Decisions on Review petitions

13 review petitions were carried forward from last year. 48 were filed during the year under report. Out of these, 52 were decided during 2017, leaving a balance of only 9 review petitions. Table-10 shows receipt and disposal of the review petitions during 2017:

**TABLE-10**

Applicant	Received	Brought forward from 2016	Total	Disposal	Balance
FBR	4	3	7	4	3
Taxpayers	44	10	54	48	6
<b>Total</b>	<b>48</b>	<b>13</b>	<b>61</b>	<b>52</b>	<b>9</b>

It was noticed that most of the Review petitions filed by the FBR or the complainants were rejected on reconsideration, which is a manifestation of the fact that initial recommendations were prepared following stipulated laws and regulations and no serious lapse or irregularity was noticed during review proceedings. Acceptance/rejection ratio of Review petitions during 2017 is shown below in Table-11:

**TABLE-11**

Applicant	Accepted	Rejected	Withdrawn	Modified	Total
FBR	0	3	0	1	4
Taxpayers	10	35	3	0	48
<b>Total</b>	<b>10</b>	<b>38</b>	<b>3</b>	<b>1</b>	<b>52</b>

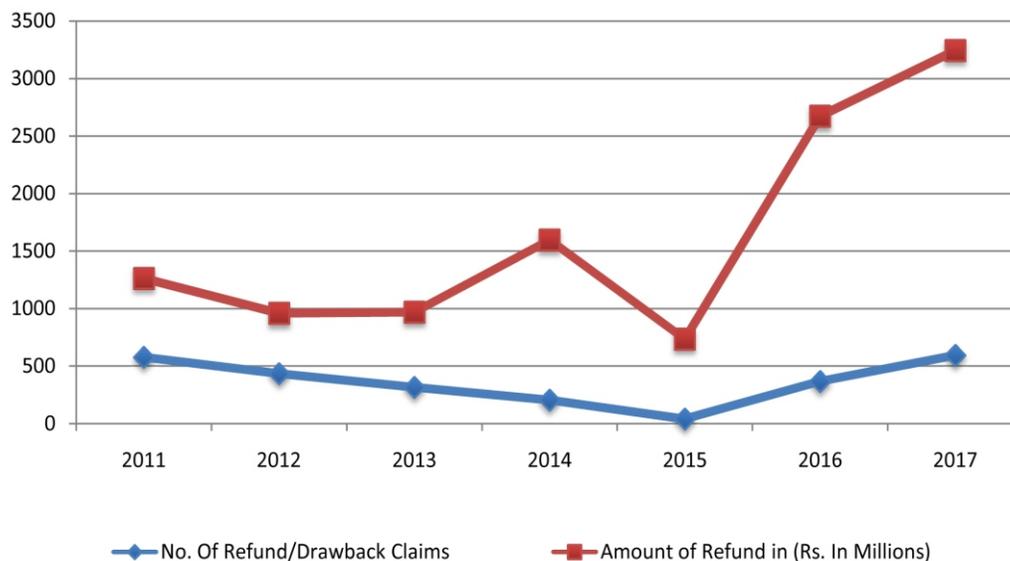
## Refunds

Intervention of FTO is greatly helpful in expediting settlement of delayed refund cases of the business community. Timely payment of refund claims is important to maintain liquidity in the business. Table-12, below shows the number of refund cases and amount of refund to the complainants since 2011:

**TABLE-12**

Year	No. of Refund/Drawback Claims	Amount of Refund (in Rs. million)
2011	577	1,263.04
2012	434	959.44
2013	315	969.85
2014	205	1,596.74
2015	41	734.80
2016	366	2,672.75
2017	593	3,244.90
<b>Total</b>	<b>2531</b>	<b>11,441.52</b>

Curve in the following graph representing the amount of refund depicts upward trend during 2016 and 2017 which is an attribute to vigorous follow up at the level of FTO office and interest shown by the FBR, Ministry of Finance and Prime Minister of Pakistan with reference to refund issues.



## Implementation

Recommendations or interventions of FTO office in 1,669 complaints were implemented by the FBR.

Table-13 below reflects that due to personal efforts of investigation officers, the grievances of **31%** complainants were addressed at the investigation stage during 2017 as against 21% in 2016. This is a sign of healthy coordination between the FTO and FBR.

**TABLE-13**

### Year-wise redressal of grievances during and after investigation

Year	Grievances redressed at investigation stage	Grievances redressed after FTO's decision	Total implementation / redressal
2011	399	760	1159
2012	493	927	1420
2013	524	684	1208
2014	396	978	1374
2015	452	960	1412
2016	359	1325	1684
<b>2017</b>	<b>518</b>	<b>1151</b>	<b>1669</b>

Table-14, below reflects the comparison between the years 2016 and 2017 relating to the progress on the implementation status of recommendations. 72% of the pending recommendations were implemented during 2016 whereas this figure increased to **85%** in 2017. This remarkable achievement was the result of quality findings and better persuasion by the FTO team.

**TABLE-14**

S.No.	Description	2016	2017
1.	Carried forward from 2016	821	654
2.	Fresh implementable added during 2017	1370	1213
3.	Recommendations/Representations/Review Petitions received during 2017	147	101
Total Recommendations during the year (1+2+3)		2338	1968
Recommendations implemented during the year		1684 (72.03%)	1669 (84.81%)
Number of recommendations pending at the end of year		654	299

## INSTITUTION BUILDING AND VISION FOR 2018

Institution of Federal Tax Ombudsman is a forum for redressal of grievances arising out of maladministration of tax functionaries. Therefore this Institution has to develop a strong and robust capacity and systems to address both the individual and systemic issues of governance. The incumbent Federal Tax Ombudsman took the oath of office on 8th Sep 2017. Since then, his focus has been on institution building and addressing systemic issues alongside the traditional work of dealing with individual complaints. Following is the synopsis of some major initiatives undertaken during the last quarter of 2017.

### **Rationalizing the work load**

Most of the complaints are received in Karachi, Lahore and Multan offices followed by Islamabad and Faisalabad. Due to limited work, regional offices at Abbottabad and Sukkur were closed during fourth quarter of year 2017 and work transferred to Peshawar and Karachi respectively. In order to further rationalize the work, Regional office Gujranwala was established during the month of December 2017 to share the work load at Lahore office. Being a new office, the Gujranwala office is expected to have a fair share of work load during the coming months.

### **Building of professional team**

Institutional capacity building received due attention as five fresh Advisors were hired on contract through an open and competitive process. The selection process was spearheaded by the FTO himself. Strict criterion of merit, based on professional competence and integrity was observed with transparency in the selection of new advisors.

## Monitoring of implementation

Recommendations are meaningless if not implemented. Improved MIS software was utilized to monitor the implementation status of recommendations. Ongoing feature of video conferencing on the progress and issues in implementation was intensified, which has proved its worth and has now become a regular fortnightly activity. Success of monitoring efforts is evident from the fact that at the end of 2017 only **299** recommendations were pending with FBR as compared to 654 recommendations pending implementation at the end of 2016.

## Identification and addressing systemic issues

The Federal Tax Ombudsman has also moved toward establishing institutional base for research work in identification of systemic issues aimed at improving the good governance in Tax Administration. Whereas the work on redressal of grievances is going in normal course, the idea is to identify and propose steps to rectify system loopholes in procedures and prevalent practices. For this purpose, an Advisor has been dedicatedly given the assignment of research on systemic issues.

Focus of research includes, though not limited to, the following:

- Identification of irritants through analysis of disposed off complaints - a repetition of same issue means it is a systemic issue.
- Identification of gaps between laid down procedures and their implementation to diagnose discretion.
- Identification of deficiencies in the procedures.
- Identification of areas for simplification of procedures.
- Identification of reasons for sub-optimal results in work resulting to revenue loss.

## **Way forward and Vision for 2018**

Vision of this office is to move further ahead of mere redressal of individual grievances. We intend to develop strategies to contain the maladministration through addressing their causes, ensuring good governance and proactively invoking powers to take action on own-motion notice under section 9(1) of the FTO Ordinance, 2000. We also intend to pursue a more vigorous ongoing outreach program i.e. harnessing the power of social and traditional media, and developing more user friendly interactive programs.

Use of Information Technology has become inevitable in almost every sphere of life. Office of FTO is implementing an ambitious plan to adopt Information Technology in prompt disposal of public complaints and creation of a paperless flow of business processes. The Complaint Management Information System (CMIS) for online processing of complaints, launched in the year 2010, is being improved continuously toward the goal of providing paperless environment in all offices of FTO.

In order to bring about reforms in the present tax system and create a modern and efficient client responsive tax administration, the institution of FTO intends to undertake a study to identify weaknesses and recommend actions to simplify laws and procedures, promote self-assessment, reduce physical interaction and create reliance on audit and risk assessment.

**ASSESSMENT FORM.**

Assessment for 1939-1940 under Section 23(1) of the Income-tax Act, 1922.

Name of assessee: *M. A. Jinnah & Co*  
 Status: *Individual*  
 Address: *Malabar Hill*

District or Area: *A WARD BOMBAY.*  
 Number in General Index: *A 2750*  
 Number of Miscellaneous Record: *-*

*has 25% of 1000000  
from return*

Detailed sources of income.	Amount of income.	TAX AMOUNT DEDUCTED OR OTHERWISE PAID AT SOURCE.			
		Income-tax.		Super-tax.	
	Rs.	Rs.	As.	Rs.	As.
Total income —					
Salaries . . . . .					
Interest on securities . . . . .					
Property . . . . .	13504				
Business, Profession or Vocation . . . . .					
Other sources. (In the case of dividends the gross amount liable to tax and the tax appropriate should be shown.)					
1. . . . . <i>D.W. Fund</i>	68171				
2. . . . . <i>in Foreign</i>	660				
3. . . . .					
Total income	82335				
Adjustments in total income to arrive at total world income* (give details).					
Total World income*					
Gross income tax and super-tax chargeable on Total income . . . . .				8250	
Gross income tax and super-tax computed on Total World income*					
Average rate of income-tax <i>19.23%</i> in the rupee . . . . .					
Amounts included in total income in respect of which income-tax is not payable —					
(a) Under section 7(1) or on account of a Provident Fund to which the Provident Funds Act, 1926, applies.					
(b) On account of recognised Provident and Superannuation Funds . . . . .					
(c) On account of insurance premium . . . . .					
(d) Shares from association of persons or from an unregistered firm the profits of which have been assessed to income-tax.					
(e) Interest from tax-free securities of the Central Government or of a Provincial Government.					
Total amount upon which relief is due, and income-tax thereon . . . . .					
Deduct income-tax and super-tax deducted or otherwise paid at source as above . . . . .					
<i>Super</i> Double income-tax relief <i>paid</i> . . . . .				3752	
Net amount of income-tax and super-tax <i>payable</i> <del>refundable</del> . . . . .				4498	
Penalties under sections 26(F), 28, 44E, 44F and 46(1)† . . . . .					
<b>TOTAL SUM PAYABLE</b> <del>refundable</del> <b>IN FIGURES AS WELL AS IN WORDS</b>					
Rs. 4498					
Date: 11-10-40					
<i>Four thousand four hundred ninety eight annas nil (words)</i>					

\*To be completed in the case of non-residents only.  
 †Delete inappropriate words or figures.  
 HPT-121 17-(M-183)-13-5-39-300,000.

Income Tax Return of  
 Quaid-e-Azam Muhammad Ali Jinnah

## OUTREACH AND AWARENESS ACTIVITIES

### FTO's outreach campaign

During the year 2017, teams consisting of senior officers of FTO organized awareness workshops on the dispute resolution mechanism of FTO's institution for members of Chambers of Commerce and Industries, entrepreneurs of medium and small scale enterprises and traders' associations at the following cities:

Islamabad	April 13, 2017
Mardan	April 25, 2017
Sargodha	April 28, 2017
Haripur	May 03, 2017
Gujranwala	May 04, 2017
Bhawalpur	May 09, 2017
Hyderabad	May 10, 2017

Leaflets, brochures and hand-outs highlighting mandate and services of the FTO office were developed and distributed amongst the participants.

The number of participants who attended the workshops ranged between 200-250 persons. The common feedback from the participants can be categorized as follows:

- i. Some of the participants were not aware of the existence of FTO office and welcomed such awareness campaigns of immense value.
- ii. Participants raised concerns about levying exorbitant taxes compared with other countries which rendered their businesses unviable, especially when cost of doing business

in the country is already high.

- iii. Some of the participants shared their personal experience of getting relief from FTO office and highly appreciated the role of FTO's grievance redressal mechanism.
- iv. A number of the participants complained about non-implementation of FTO's recommendations by the FBR.
- v. Preponderant majority of the participants demanded that sudden raids by the FBR officials must come to an end.
- vi. Participants raised concerns for not timely arranging payment of refunds of past several years. According to them such refund cases (sales tax and income tax) had been put on hold owing to different excuses and they requested that the government and the office of FTO should play their proactive role to resolve the pending cases of refunds.

The workshops were followed by interactive question and answer sessions. The participants were appreciative of the detailed and satisfactory responses from the officers of the FTO office. The overall feedback gathered from awareness project provided justification for its continuation with further refinement.

In addition to aforesaid activities, office of FTO also conducted:

- i. Awareness session for the Traders' Association Sukkur on February 28, 2017
- ii. Awareness seminar at Quetta on March 30, 2017.
- iii. Awareness seminar for the traders of Peshawar and outskirts on April 25, 2017.
- iv. Awareness session held on May 10, 2017 at hotel Indus, Hyderabad.

- v. Awareness seminar at Multan Bar Association on December 11-12, 2017.

### **Visit of Federal Tax Ombudsman to Islamabad Chamber of Commerce and Industry**

Mr. Abdur Rauf Chaudhry, former Federal Tax Ombudsman visited ICCI in April 2017, as part of program to meet the representatives of trade and industry to ascertain issues being confronted by them. In an interactive session, the office holders of ICCI shared their views and perceptions regarding overall taxation system and advanced proposals to further strengthen the role of FTO office for alleviation of problems of trade and industry. The former FTO, in his speech, highlighted the achievements, shared the roadmap of the organization and expressed his thanks for inviting him to ICCI and thought provoking discussion.



Chamber of Commerce and Industry Islamabad, presenting shield to Mr. Abdur Rauf Chaudhry, former FTO during his visit to Chamber House

### **Awareness seminar at Multan Bar Association**

Federal Tax Ombudsman, Mr. Mushtaq Ahmad Sukhera addressed the Multan Tax Bar Association on 11th and 12th December, 2017. Highlighting the role of FTO; he said that Federal Tax Ombudsman institution was protecting the rights of taxpayers through efficient, cost and hassle free services in tax matters involving maladministration. He added that delay in

settlement of refund claims remained one of the major irritants of the business community and FTO office was actively engaged to resolve the issue.

He assured that he would take immediate action against maladministration of tax machinery for not implementing the recommendations of FTO. He also offered the participants to approach him in case of unsatisfactory response from FTO officers or where personal intervention of FTO was urgently required.



## IMPORTANT LOCAL ACTIVITIES

### 17<sup>th</sup> meeting of the Forum of Pakistan Ombudsmen

A meeting of the Forum of Pakistan Ombudsmen was held on 10th February, 2017 at Karachi under the chairmanship of the former Federal Tax Ombudsman, Mr. Abdur Rauf Chaudhry. The purpose of the meeting was to consider the proposal for expanding the activities of the Mohtasib institutions to the district level, as desired by the Law Reforms Committee in its meeting held on 2nd February, 2017 under the chairmanship of Minister for Law and Justice. The meeting was attended by all Federal and Provincial Ombudsmen and their representatives.



It was concluded that since the representatives of Provincial Ombudsmen were available in almost all the districts of Pakistan and have plans to expand further, they may be considered as the focal Ombudsman offices at the district level, naming it “District Ombudsman office”. Moreover, offices of Provincial Ombudsman in the districts were already

providing space and staff, when needed to the representatives of Federal Ombudsman for dealing with their respective complaints, which might continue as such. This would entail minimum cost and resources without any amendments in law. The meeting authorized Mr. Abdur Rauf Chaudhry, President of the Forum to call on the Federal Minister for Law and Justice to apprise him of the Forum's deliberations and the unified viewpoint on the proposal to establish offices of Ombudsman at district level.

### **Advisory Committee**

Meeting of the newly appointed FTO Advisory Committee was held on 21st February 2017 in Islamabad. Mr. Abdur Rauf Chaudhry, former Federal Tax Ombudsman chaired the meeting.

Fresh issues proposed for discussion included:

- i. Coercive Measures by the Intelligence & Investigation wing of Inland Revenue.
- ii. Rules, Procedures and Forms in Urdu.
- iii. Selection Procedure for Audit.
- iv. Raising the Income Tax exemption limit to an appropriate level.
- v. Need for simplification of Income Tax Return Forms and their printing in Urdu.
- vi. Informal Resolution of disputes under section 33 of the FTO Ordinance, 2000.

All the members of the Advisory Committee took part in the deliberations and shared their experience in the context of the current developments on the proposed issues.



### **Budget proposals sent to FBR**

Based on the experience from day to day work and recommendations of the Advisory Committee, following budget proposals were sent to the FBR:

#### **Institutional reforms for Tax Policy, Collection and Adjudication**

To make the taxation system effective, the globally accepted principle of separation of Tax Policy, Collection of Revenue and Adjudication needed to be adopted. For that, it was recommended:

- i. Revenue Division needed to be made functional as an independent and competent body with adequate participation of private sector.
- ii. The role of FBR to be restricted to revenue collection within the policy frame work set by the Revenue Division. FBR should comprise of independent Members instead of FBR employees.
- iii. For providing fair and effective judicial adjudication system, departmental adjudication level and Commissioner of Appeals may be dispensed with and an independent National

Tax Tribunal (NTT) may be constituted under Ministry of Law or the hon'ble Supreme Court of Pakistan.

- iv. The proposed NTT should consist of a Judicial Member (qualified to be appointed as a judge of the High Court) and an Accountant Member.

### **Integrated Information System for Taxation**

FBR should establish Taxpayers Integrated Information System linked with CNIC/NTN. Every transaction involving banks, utility bills, purchase of moveable and immovable property, air travel tickets, payment of educational institutions fees, etc. be linked with the proposed system. At the end of year, an electronic income tax statement be sent to the individual taxpayer with the amount of tax calculated for payment.

### **Avoidance of coercive measures**

Arrest of taxpayers by the Intelligence and Investigation wing of Inland Revenue was highly agitating. It was emphasized that Intelligence and Investigation Authorities should not be allowed to negotiate amount of tax to be deposited by the taxpayers. Rather they should make Contravention Reports which should be adjudicated by the Adjudication Authorities, after issuing of Show Cause Notices. Coercive measures, in term of sections 25 and 38 of the Sales Tax should not be taken, till the matter was finalized u/s 11 of the Sales Tax Act, 1990.

### **Simplification of Rules, Procedures and Forms of Returns**

The rules, procedures and relevant forms pertaining to Income Tax be got printed in urdu and simplified so that the same could be understood easily by the business community. For this purpose, taxpayers guides may be got printed in urdu by the FBR.

### **Selection Procedure for audit and records**

The selection procedure for audit needed to be transparent. The parameters should not be secret and the Chambers of Commerce and

Industry be taken into confidence before finalizing this process.

At the time of audit, the tax functionaries virtually called for every book, register, voucher and bank statement etc for scrutiny, for which neither they had the workforce nor capacity. Since the FBR already has entire information/data in its systems, therefore it should use the said data during audit and communicate in writing, the discrepancies which needed further clarification.

### **Tax on Dividend and Bonus shares**

- i) Dividend received by a person from a company was already taxed in the hands of the company. The same taxed-income was again taxed in the hands of the recipient of the same profit which is a double taxation.
- ii) Under section 2(29) of the Income Tax Ordinance bonus share were taxed @7.50%. When a company issued bonus shares, it meant that the profits of the company instead of being distributed to shareholders, are re-invested in the project which not only increases the output capacity of the project but also generate further employment. Section 65E gives 100% tax credit on profits attributable to new equity investment in shares of a company whereas, on the other hand it taxed the expansion of a project under section 2(29) which are both contradictory.

### **Right of appeal under section 122C**

An assessment order passed under section 122C of the Income Tax Ordinance, 2001 (the Ordinance) was not appealable before the Commissioner (Appeals) under section 127 of the said Ordinance. While hearing complaints against the order passed u/s 122C of the Ordinance, the taxpayers had been frequently agitating that provision of barring appeal against such assessment order was against the spirit of law and fundamental rights of citizens. Expatriate Pakistanis, making significant

contribution in foreign exchange reserves, particularly suffered from the orders passed *ex parte* under this section by the taxation officers against them. Moreover, in some cases of taxpayers, Commissioner (Appeals) admitted appeal for hearing whereas in other cases, the appeals were not admitted, which was a discriminatory treatment. This provision of the Ordinance, therefore, needed to be suitably amended to allow the right of appeal against the order passed u/s 122C of the Ordinance.

This proposal was accepted by the government.

### **Presentation of Annual Report-2016**

Mr. Abdur Rauf Chaudhry, former FTO presented Annual Report 2016 on performance of his office to the hon'ble President of Pakistan, Mr. Mamnoon Hussain, at the Aiwan-e-Sadr on 4th May, 2017. The FTO briefed the President on working of the FTO Secretariat and apprised him about performance of his office during the year.



## INTERNATIONAL COOPERATION AND KNOWLEDGE SHARING

Following meetings/conferences were attended by the delegates of Pakistan during 2017. This interaction provided great opportunities to share the knowledge, experience and aspirations among the fellow Ombudsman institutions:

- The IOI Board of Directors annual meeting held from April 26-28, 2017 in Vienna, Austria
- 20th meeting of Asian Ombudsman Association (AOA) held on May 16, 2017 in PyeongChang, Republic of Korea
- 15th meeting of AOA General Assembly held on May 16, 2017 in PyeongChang, Republic of Korea
- International Ombudsman Institute (IOI) Asian Region meeting held on May 16, 2017 in PyeongChang, Republic of Korea
- PyeongChang Global Ombudsman Conference in PyeongChang, Republic of Korea from May 17-18, 2017.
- Second meeting of the Steering Committee of OICOA held on September 24, 2017 in Istanbul, Republic of Turkey.
- Second Conference of OIC Ombudsman Association held on September 25 and 26, 2017 in Istanbul, Republic of Turkey.
- First meeting of the General Assembly of OICOA held on September 26, 2017 in Istanbul, Republic of Turkey.

## **Second Conference of OIC Ombudsman Association**

Second conference of OIC Ombudsman Association was held from 25-26th September, 2017 in Istanbul, Republic of Turkey. The theme of the conference was “East and west meets in Istanbul”.

Ombudsmen and Human Rights Representatives of 50 countries attended the conference and OICOA meetings. President of the Republic of Turkey was chief guest in the inaugural ceremony of the conference.

Speaking at the opening ceremony, Chief Ombudsman Republic of Turkey Mr. Seref Malkoc stated that the activities of the office of Ombudsman in Turkey for the last five years were being carried out with the understanding that ‘people should get the best and they should be the real beneficiaries of the state resources’.

Mr. Ismail Kahraman, speaker of the Turkish Parliament while addressing the inaugural ceremony of the 2nd OICOA conference said that in every country, where democratic rights and freedom were valued, institutions were established to protect the rights and freedoms of citizens. He said that the Ombudsman institution was one of such institutions required for democracy.

While addressing the inaugural ceremony, His Excellency, President of Republic of Turkey, Mr. Recep Tayyip Erdogan, pointed out that Ombudsman was one of the institutions that ensured timely relief to the aggrieved citizens against unfair treatment of public offices and he wished success to friends who were part of that endeavor. While sharing his thoughts with the members, he said that today this institution was present in more than 150 countries and providing an effective legal framework against maladministration, corruption and human rights violations.

## **First meeting of the General Assembly of OICOA**

First meeting of the General Assembly of OICOA was held on 26th September, 2017 in Istanbul, Republic of Turkey. The meeting was presided

over by the chairman, OICOA, Mr. Mushtaq Ahmad Sukhera, Federal Tax Ombudsman Pakistan. The chairman, while welcoming the members of General Assembly thanked them for their kind response to the invitation for the event and showed his confidence that their presence would enormously contribute to the cause of Ombudsmanship in the Muslim World and the conference would remain memorable event in many ways.





## SELECTED FINDINGS AND RECOMMENDATIONS

Complaint redressal mechanism of FTO provides relief to the public and existing/prospective taxpayers, aggrieved from maladministration of tax officials. During the year under report, FTO disposed off more than 1800 complaints. An account of a few findings issued during 2017, is given below for the benefit of public / taxpayers and guidance of FBR's officials.

### **Complaint No.425/LHR/IT(326)/612/2017**

*The interpretation of any provision of the Ordinance can be rendered judicially by the hierarchy of the forums provided for under the above provisions of the Ordinance starting from Inland Revenue Officer to Supreme Court.*

The complainant, engaged in the business of running a CNG station filed complaint against non-issuance of income tax refund amounting to Rs.1.711 million for tax years 2009 to 2015, which arose on account of excess deduction of income tax on consumption of electricity. When confronted, the deptt stated that claim of refund required scrutiny/verification. By mere filing of return, a taxpayer did not become entitled to refund. Further, FBR vide letter No.4(19)IT-Budget/2017 dated 23.02.2017 had clarified that no adjustment of withholding tax under any other head could be claimed in the cases of CNG stations.

After hearing the arguments and perusal of record, it was held that though the FBR vide letter dated 23.02.2017 interpreting section 234A issued clarification that no adjustment of withholding tax under any other head could be claimed and the FBR had administrative control over the functionaries discharging their functions under the Ordinance but it did not figure in the hierarchy of the forum provided for adjudication of assessee's

liability as to the tax. Any interpretation, placed by the FBR on a statutory provision could not be treated as a pronouncement by a forum competent to any administrative direction of the nature which may interfere with the judicial or quasi-judicial functions entrusted to the various functionaries under the statute. The interpretation of any provision of the Ordinance could be rendered judicially by the hierarchy of the forums provided for, under the above provisions of the Ordinance starting from Inland Revenue Officer to the Supreme Court. In view of this, the interpretation circulated by the FBR through letter dated 23.02.2017 of the provisions of the Ordinance could be treated as administrative interpretation and not a judicial interpretation hence had got no binding persuasive force. Reliance was placed on a reported judgment captioned as M/s Central Insurance Co. and others Vs the CBR, Islamabad and others (1993 SCMR 1232). As the deptt failed to take action within the stipulated period of sixty days, the delay, inaction and negligence in processing the refund claim was held as maladministration falling within the ambit of section 2(3)(i)(d) & (ii) of the FTO Ordinance and it was recommended to the FBR to direct the concerned CIR to decide the refund claim of the complainant, as per law within 45 days.

### **Complaint No.FTO-LHR/000022/2017**

*Ombudsman forum has several attributes of a Court in many aspects of its power.....to provide alternate remedy for effective redress of grievance of a complainant.*

This complaint was filed against non-issuance of income tax refund for tax years 2010 to 2015. When confronted, the deptt submitted that such matter was appealable before the CIR (Appeals) as provided in section 170(5)(b) of the Ordinance and so the bar laid down u/s 9(2)(b) of the Ordinance was attracted. Moreover, the provisions of section 10(3) of the FTO Ordinance were also statedly attracted due to expiry of time limitation as the complaint was filed much after the expiry of the six months time limitation laid down in section 10(3) of the FTO Ordinance.

This office took up the complaint for investigation on account of the

protracted delay by the deptt in dealing with the long pending refund claims as the ambient circumstances of the case suggested that the taxpayer had been actively pursuing the refund matter with the department but the efforts elicited no response. The Ombudsman has exclusive jurisdiction to take up such complaints for investigation. Reliance was placed on the judgment reported as 1989 PTD 485 of the Supreme Court wherein it was held that Ombudsman forum has several attributes of a Court in many aspects of its power.....for providing alternate remedy for effective redress of grievance of a complainant. While deciding intra court appeal, Lahore High Court, in the judgment cited as 2005 PTD 1797, had held that “maladministration in the FBR or any of its establishment can be taken notice of by FTO”. The President vide order No.55/2007-Law(FTO) dated 31.07.2008, had endorsed the view that failure to deal with statutory obligation within the time prescribed under the statute amounted to maladministration. In the recent orders No.26/FTO/2016, dated 16.08.2016 and No.78/FTO/2016, dated 16.08.2016, the President rejected FBR’s representation on the contention that non issuance of refund was appealable u/s 170(5)(b) of the Ordinance, with the observation that “the agency has unnecessarily filed representation simply to delay the matter”. As for the time limitation is concerned, the Supreme Court in judgment reported as 77TAX172; 1998TCL354 (Pfizer Laboratories Ltd vs Federal of Pakistan-CA 48 of 1993), had made it clear that every effort be made by revenue to dispose of pending refund claims and return the money due to taxpayer without getting bogged down in technicalities, including questions involving perceived expiry of stipulated limitation of time for disbursement of refunds. As the delay in issuance of refund was established, it was recommended to the FBR to direct the Commissioner IR to issue refund/compensation due, in accordance with law within 45 days.

### **Complaint No.06/QTA/IT(03)05/2017**

*Short payment of refund and initiation of proceedings obtaining information from banks about transactions made by complaint*

The complainant was aggrieved by short payment of refund amounting to Rs113.036 million under section 170(4) of the Income Tax Ordinance, 2001 (the Ordinance) for tax year 2015 and initiating proceedings by the Directorate of Intelligence & Investigation (I&I) FBR under section 176 of the Ordinance by requisitioning the complainant's bank transactions from the banks.

After detailed investigation the FTO observed that SRO 115(I)/2015 reflected that I&I had prima facie jurisdiction to obtain information or evidence from any person. The proceedings initiated by I&I was not an audit into tax affairs of the complainant under section 177/214C of the Ordinance. Section 176 of the Ordinance did not require issuance of notice to the complainant for obtaining information or evidence about banking transaction.

However the grievance of the complainant about non issuance of balance refund for tax year 2015 was found to be justifiable and it was held that delay in settling the complainant's balance refund claim on technical grounds tantamount to maladministration in terms of section 2(3) of the FTO Ordinance. Accordingly it was recommended:

FBR to-

- (i) direct the Commissioner to ascertain and verify the amount of tax paid/deducted, remove technical error if any and settle the complainant's claim of balance refund without further delay; and
- (ii) report compliance within 45 days.

### **Complaint No.486/KHI/IT(157)/780/2017**

*Against alleged illegal recovery of AOP's income tax demand from the bank account of the complainant*

The complainant, an individual was registered with the deptt vide NTN 0255519-7. According to the AR, although no tax liability was

outstanding against the complainant, the deptt without adopting even due process and serving any notice recovered unlawfully Rs10.725 million from the complainant's account maintained in M/s Habib Metropolitan Bank Limited Karachi.

At the outset, preliminary objection of bar of jurisdiction in terms of section 9(2)(b) of the FTO Ordinance was raised on the basis of the High Court of Lahore's decision in W.P-599/2017. On merits, the deptt contended that demand for tax year 2014 amounting to Rs12.536 million was created against the complainant under section 122(1)(5) read with section 111 of the Income Tax Ordinance 2001 (the Ordinance). The complainant was served with above order dated 31.08.2017 along with the demand notice under section 137 of the Ordinance through FBR e-portal. As the complainant failed to make payment, provisions of section 140 of the Ordinance were rightly invoked and an amount of Rs10.725 million was recovered through attachment of the bank account.

The complainant vehemently argued that tax demand for tax year 2014 amounting to Rs12.536 million was created vide order dated 31.08.2017 under section 122(1)(5) read with section 111 of the Ordinance, against 'The Potato Factory International' an AOP, assessed to tax vide NTN 3026726 and not against the complainant. The above order was on the AOP and the Demand Notice (DN) was served for payment of demand on the complainant. Whereas, the complainant, though member of above AOP was a separate legal entity registered vide NTN 0255519-7. He further argued that demand outstanding against the AOP could not be recovered from its member. There was no provision of law to recover the AOP's tax liability from its member. However, notwithstanding position stated above, the complainant was not afforded even a single opportunity of hearing and his bank account unlawfully attached under section 140 of the Ordinance and an amount of Rs10.725 million was withdrawn. The AR referred to an Order in complaint No.426/KHI/IT(148)/1352/2015 dated 08.12.2016 whereby under the similar circumstances, the amount was

held to be illegally recovered from the bank was ordered to be refunded by the depts. Moreover, even otherwise, the impugned tax demand for tax year 2014 created against the AOP vide order dated 31.08.2017, stood deleted by the Commissioner-IR (CIR) (Appeals-IV) Karachi.

During the hearing, the DR contended that CIR (Appeals-IV) Karachi had set aside the assessment for tax year 2014 for fresh proceedings.

Arguments of the parties were given due consideration and available record perused. The preliminary objection of bar raised by the depts under section 9(2)(b) of the FTO Ordinance was misconceived as no order was passed against the complainant, but it was a matter of arbitrary recovery from the complainant's bank account. The preliminary objection was thus over ruled. The judgment of Lahore High Court referred to above, too was not applicable as facts of this case were quite distinguishable from the case decided by the High Court. Admittedly no demand was outstanding against the complainant. The depts, completed the assessment proceedings of AOP for tax year 2014 vide order dated 31.08.2017 whereby demand amounting to Rs12.536 million was created. The order and the DN were also served on the AOP and not on the complainant. However, without considering these facts and giving opportunity of hearing, the depts attached the complainant's bank account and recovered Rs10.725 million illegally against the tax liability of AOP. Unfortunately, the CIR Zone-IV, RTO-II, Karachi in his comments dated 21.11.2017 had tried to mislead this office by stating at Paras 3 and 4 that tax liability was created and DN was served on the complainant. The CIR needed to be circumspect while submitting comments to this office. Moreover, the depts also issued notice under section 140 of the Ordinance for attachment of bank account without considering the facts that in terms of section 139 of the Ordinance, tax liability of AOP was not recoverable from its member. This was a blatant case of highhandedness and maladministration on part of the depts where not only legal provisions were violated with impunity but the basic principle of *audi alteram partem* was completely overlooked.

Recovery of tax liability outstanding against the AOP from the bank account of the complainant without providing opportunity tantamount to maladministration in terms of section 2(3)(b)&(d) of the FTO Ordinance, 2000. FBR was required to direct the Chief Commissioner to ensure that the amount recovered illegally from the bank account of the complainant was refunded, as per law, and report compliance within 45 days thereafter.

### **Complaint No.FTO-KHI/0000039/2017**

*Refund of differential amount of duty and taxes secured under section 81 of the Customs Act, 1969*

The complaint was filed by the complainant against failure to refund differential amount of duty and taxes secured under section 81 of the Customs Act, 1969 (the Act).

The department responded to the notice of complaint raising preliminary objection that complainant has not attached the requisite documentary evidence to establish that incidence of duty had not been passed on to the buyer as per statutory requirement under section 19A of the Act. During hearing, it was informed that the complainant had furnished certificate issued by the Chartered Accountant confirming that the incidence of duty and taxes had not been passed on to the buyers.

The complaint was examined in the light of written and oral submission of the parties and documents available on record. It was established that the department failed to dispose of the claims despite lapse of considerable time. The certificate issued by the Chartered Accountant regarding discharge of burden of proof was not accepted by the department. At the same time, the department never specified what type of documents could be considered as corroborative documents to get the refund of duty and taxes, which was deposited as a security, till confirmation of the description of goods as declared in the Goods Declaration (GD). After the judgment of the Supreme Court of Pakistan, it was clear that application of proviso to section 33(1) was not applicable

and section 19A was also not attracted. It was also confirmed by the DR that the Civil Review Petition No.3/2017 in Civil Appeal No.450/2010 filed by the department against the Supreme Court Judgment had been rejected. The claim of the complainant, therefore, needed to be decided in the light of Supreme Court judgment, which was in field.

It was recommended to the FBR to direct the Collector, MCC Appraisalment (East), Karachi to decide the impugned refund claim as per law expeditiously after affording an opportunity of hearing to the complainant.

The Respondents preferred representation under section 32 of the FTO Ordinance, 2000 against the above recommendation of the FTO which was rejected by the hon'ble President of Pakistan vide order dated 17.07.2017.

## PUBLIC RECOGNITION AND FEEDBACK

Office of FTO annually receives about 1500-2000 complaints of maladministration against FBR officials and has emerged as a trusted oversight body against maladministration of the tax functionaries. This office receives regularly letters of thanks and e-mails of appreciation from taxpayers, whose grievances were redressed. Excerpts from some of these letters and e-mails are as under:

*“We reference to FTO’s order No. 1/341/16-Impl dated May 26, 2016, this is to inform you that we have received the refund amount from FBR as per your order*

*We further emphasize that without your help it could not have been possible to get this refund so quickly. We are very thankful for your support in this regard”.*

**Syed Naeem Tirmizi,**

*HYCARBEX – AMERICAN ENERGY INC.  
532, Street 33, E-11/3, (NPF), Islamabad*

*Dated: 14.03.2017*

*“Please refer to your letter No. 1/289&290/16-Impl dated 05.06.2017 in case of Foundation Wind Energy-I Limited [the company].*

*In this respect, we are writing you to acknowledge the receipt of RPOs and also acknowledge your valuable and continuous support in relation thereto in order to amicably resolve the matter.*

*Thanking you in anticipation”.*

**M. M. Faisal Banday,**

*Chartered Accountants,  
Sixth Floor, State Life Building No. 5,  
Jinnah Avenue, Blue Area, Islamabad  
Dated: 07.06.2017*

*“We thankfully acknowledge your judgment order No. 1/55-FSD/17-Impl dated 11.10.2017 in our above referred complaint.*

*We further appreciate your prompt and timely relief to us which saved us from the iron hands of tax department.*

*We have no words to appreciate your speaking order without any cost and at shortest possible time.*

*May you live long and prosper your institution, which is working for the welfare of the public at large!*

*May Allah the God Almighty bless you power and courage to overcome the difficulties of aggrieved innocent citizens of Pakistan”.*

**Muhammad Safdar Awan,**

*S.S.J. Property Center,  
C/o Naveed Anwer Bhatti (Advocate),  
299-A, Peoples Colony, Faisalabad.  
Dated: 13.10.2017*

*“It is acknowledged that an amount of Rs.390,686,122/- has been transferred electronically by FBR to PTA’s Account No. PK48NBPA1628003000942222, hence, implementation of the*

*decision of FTO has been completed by FBR”.*

**Abdur Rub Khan,**

*Director (Budget & Accounts),  
Pakistan Telecommunication Authority,  
Headquarters, F-5/1, Islamabad*

*Dated: 27.11.2017*

*“I am informing you, I have received refund amount in Oct-17, that claim was for the year of 2015. RTO did not take action on my refund application, but with efforts of FTO Islamabad, my refund process has been successfully completed and all issues have been resolved.*

*Really, I was very satisfied with your team members and management system. I highly appreciate you and your team efforts.*

*I would also like to say thanks to you and to your team members who performed their jobs with honesty, dignity and hard work.”*

**Syed Abbas Manzoor,**

*Head Maintenance Planning,  
Rumaila Oil Field Basrah, Iraq.*

*Dated: 05.12.2017*

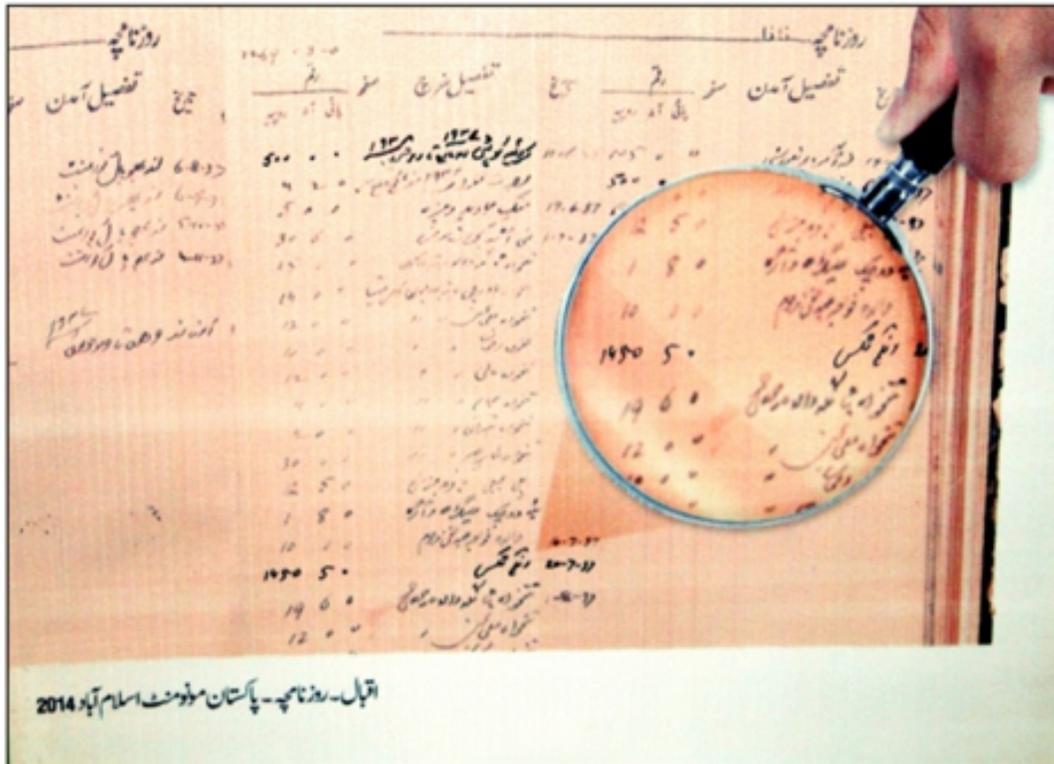
*“We honestly thankful to FTO office for its kind cooperation to direct the Regional Tax Office, Peshawar for releasing our Tax Refundable amount Rs.47,812,087/- The balance amount actually belongs to our imports cleared from Karachi Port and in this regard a letter has been sent by the RTO, Peshawar to the Collector Customs Karachi for verification of our import consignment. As soon as RTO, Peshawar receives verification report from Collector Customs Karachi, remaining amount will be released. We are satisfied with*

the proceeding of the RTO, Peshawar in this regard. Thanking you in anticipation with kind regard”.

**Abdul Qayyum**

Director

Plot No.144, Industrial Estate,  
Hayatabad, Peshawar



**Diary maintained by Allama Muhammad Iqbal showing payment of Income Tax Rs1450.50 on July 20, 1937**

## COMPLAINT FILING PROCEDURE

The complaint filing procedure is very simple. Complaint can be filed personally or through courier service, email, online and fax. complainant may file a complaint on Form "A" available free of cost in the Head Office and Regional Offices and website [www.fto.gov.pk]. Form "A" also contains the solemn affirmation of the complainant for the following:

- i. That previously no complaint on the subject was filed;
- ii. That a representation to a senior officer of the Revenue Division or any of its Collectorates/RTOs in respect of the allegations contained in the complaint was filed, but either or no reply thereto was given within a reasonable time or the application was unjustly turned down; or
- iii. No representation was filed.
- iv. That the matter is not subjudice before any court of competent jurisdiction, tribunal, board or authority.

The jurisdiction of the Head Office and Regional Offices is specified in the Schedule of FTO Investigation and Disposal of Complaints Regulations, 2001. The FTO may direct that a complaint falling within the territorial jurisdiction of one Regional Office be investigated at any other Regional Office, or the Head Office.

The complainant is assisted in filing the complaint by the FTO staff, if such assistance is requested.

### **Online filing of complaints**

The procedure for filing and tracking on line complaints is as under:

- a. Open FTO website [www.fto.gov.pk](http://www.fto.gov.pk)
- b. Click on Online Complaint System
- c. Click on File a New Complaint or Track Already Filed Complaint
- d. Fill in the required fields/data and click on Save button

### **Who can file a complaint?**

Any person aggrieved by maladministration of any functionary of the Revenue Division/FBR may file a complaint. Definition of maladministration has been provided in section 2(3) of the Establishment of the Office of Federal Tax Ombudsman Ordinance, 2000, which is reproduced as under:

- i) a decision, process recommendation, act of omission or commission which;
  - a. is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bona fide and for valid reasons;
  - b. is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory;
  - c. is based on irrelevant grounds; or
  - d. involves the exercise of powers, or the failure or refusal to do so, for corrupt or improper motives, such as bribery, jobbery, favouritism, nepotism, and administrative excesses;
- ii) neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities;

- iii) repeated notices, unnecessary attendance or prolonged hearings while deciding cases involving;
  - a. Assessment of income or wealth;
  - b. determination of liability of tax or duty;
  - c. classification or valuation of goods;
  - d. settlement of claims of refund, rebate or duty drawback; or
  - e. determination of fiscal and tax concessions or exemptions;
- iv) willful errors in the determination of refunds, rebates or duty drawbacks;
- v) deliberate withholding or non-payment of refunds, rebates or duty drawbacks already determined by the competent authority;
- vi) coercive methods of tax recovery in cases where default in payment of tax or duty is not apparent from record; and
- vii) avoidance of disciplinary action against an officer or official whose order of assessment or valuation is held by a competent appellate authority to be vindictive, capricious, biased or patently illegal.

Cognizance can also be taken by the FTO on receipt of reference from the:

- i) Hon'ble President of Pakistan;
- ii) Senate;
- iii) National Assembly;

- iv) Hon'ble Supreme Court of Pakistan;
- v) Hon'ble High Courts; and
- Vi) Own Motion.

### **Geographical locations for hearing of complaints**

Complaints are heard at the FTO HQ at Islamabad, Regional Offices at Karachi, Lahore, Gujranwala, Multan, Faisalabad, Quetta, and Peshawar. The same can be heard through video link as well.

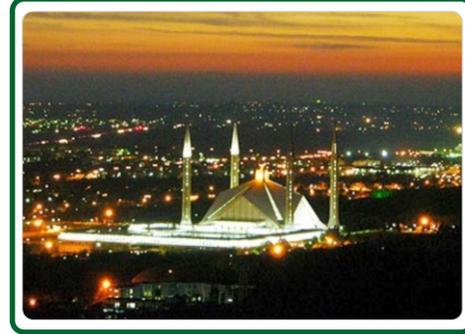
### **Acknowledgment of complaints**

All the complaints are promptly acknowledged by the FTO HQs and its Regional Offices online, email, by courier service or by hand, as the case may be. The deficiencies of requisite documents, if any, are intimated to the complainants. Para-wise comments of the FBR or its field formations are obtained and forwarded to the complainant to enable him to file rejoinder and prepare his case. During hearing of the complaint, fair opportunity is provided to the complainant as well as the agency, so that the complaint could be disposed off in the light of laws, rules and regulations and no injustice is done to any side.

## HOW TO CONTACT US

### Federal Tax Ombudsman Secretariat Headquarter, Islamabad

5-A, Constitution Avenue, Islamabad  
Tel: 051-9212316, 051-9202447  
Fax: 051-9205553  
E-mail: [info@fto.gov.pk](mailto:info@fto.gov.pk)  
Web: [www.fto.gov.pk](http://www.fto.gov.pk)



### Regional Office Karachi

4th Floor, Shaheen Complex  
M.R Kayani Road, Karachi  
Tel: 021-99213586-9  
Fax: 021-99213583  
E-mail: [ftokhi@fto.gov.pk](mailto:ftokhi@fto.gov.pk)

### Regional Office Lahore

Bungalow No. 186-A Scotch Corner,  
Upper Mall, Lahore  
Tel: 042-99201825  
Fax: 042-99201893  
E-mail: [ftolhr@fto.gov.pk](mailto:ftolhr@fto.gov.pk)



### Regional Office Peshawar

Plot No. 33, Sector B-1 Phase-V  
Hayatabad, Peshawar  
Tel: 091-9219507  
Fax: 091-9219506  
E-mail: [ftopwr@fto.gov.pk](mailto:ftopwr@fto.gov.pk)

### **Regional Office Quetta**

1st Floor, Mashriq Plaza  
Opposite FC HQ, Hali Road, Quetta  
Tel: 081-9202653,  
Fax: 081-9202841  
E-mail: [ftoqta@fto.gov.pk](mailto:ftoqta@fto.gov.pk)



### **Regional Office Faisalabad**

House No. 35, Canal Park  
East Canal Road, Faisalabad  
Tel: 041-9230241  
Fax: 041-9230244  
E-mail: [ftofsd@fto.gov.pk](mailto:ftofsd@fto.gov.pk)

### **Regional Office, Multan**

House No.04, Street 06 Income Tax  
Colony, Bosan Road, Multan  
Tel: 061-9330048,  
Fax: 061-9330049  
E-mail: [ftomultan@gmail.com](mailto:ftomultan@gmail.com)



### **Regional Office Gujranwala**

House No.06, Street 01 Climax Town,  
Near FECO Industries G.T. Road,  
Gujranwala.  
Tel: 055-9330590  
Fax: 055-9330589





# Federal Tax Ombudsman Pakistan

5-A, Constitution Avenue Islamabad

Telephone: 051-9202437

Fax: 051-9205553

E-mail: [info@fto.gov.pk](mailto:info@fto.gov.pk)

Website: [www.fto.gov.pk](http://www.fto.gov.pk)