



Bogus sales tax refunds
FTO directs FBR to initiate action against tax officials

Mehtab Haider

ISLAMABAD: Federal Tax Ombudsman (FTO) has directed FBR to initiate action against tax officials who opened the bank accounts through which refund cheques were drawn. According to the FTO report, failure of such an important tax evasion exercise carried out by the 1&1-IR led to several instances of maladministration on account of acts of omission and commission, reflecting negligence, jeopardizing the revenue and transference of FTO findings to fake tax persons who are related to the officials.

Smuggling of NDP vehicles

President rejects Quetta Customs representation

Mehtab Haider

ISLAMABAD: President of Pakistan has rejected another representation of FBR's Customs Quetta against recommendations of Federal Tax Ombudsman (FTO) regarding illegal smuggling of NDP vehicles. The Collector (Model Customs) (MCC) Quetta, however, recommended it to FBR to direct the department as well as by the directorate, police and FC reflected that menace of smuggling of NDP vehicles, its business and being openly placed not only in Balochistan but all over the country is an undisputed fact. The actions taken by the department seem to be having effect.

Gold trade

FBR representation against FTO's recommendation rejected

President lauds Ombudsman Ahmad Sukhera's steps to curb evasion; FTO recommends to initiate probe against all officials in departments, importers, exporters who misuse facility on gold, jewellery and other precious metals

Media Releases 2019

By Mehtab Haider

ISLAMABAD: President Dr Arif Alvi has rejected the representation filed by the FBR against the recommendations of Federal Tax Ombudsman (FTO) regarding illegal gold trade. The president in its decision lauded Ombudsman Ahmad Sukhera's steps to curb evasion; FTO recommends to initiate probe against all officials in departments, importers, exporters who misuse facility on gold, jewellery and other precious metals.



Some FBR, PRAL Officials Issue Fake NTN

FTO seeks detailed reply from FBR on the accusation

THE EXPRESS
TRIBUNE
WITH THE International New York Times

January 20, 2019

In an attempt to help non-filers of tax returns in the purchase of cars and immovable property, some officials of the Federal Board of Revenue (FBR) and the Pakistan Revenue Automation Limited (PRAL) are engaged in providing fake documents to the non-filers in order to show them as filers of tax returns, it has been learnt.

In this regard, the Federal Tax Ombudsman (FTO) has issued orders for investigation to trace out the elements issuing fake national tax number (NTN) certificates. He also directed that fool-proof standard operating procedures (SOPs) should be developed with the help of the Federal Investigation Agency's (FIA) cybercrime wing to stop the use of fake documents at PRAL.

The FTO told the FBR to submit a detailed response regarding the accusation of wrongful use of the Active Taxpayers List. Meanwhile, the Revenue Division secretary and members of the FBR information technology wing have received notices from the tax ombudsman, who directed them to appear in a hearing on the fake NTN case scheduled for January 22. When contacted, the FBR spokesperson and Inland Revenue Policy

member Hamid Ateeq Sarwar said an FBR representative would appear before the FTO on January 22 to give a comprehensive reply. He said it was initially suggested to introduce biometric verification for the NTN registration of a taxpayer, but for the ease of doing business and on the suggestion of the business community, the process was made easier.

NTN numbers can be issued through mobile phones, computerised CNIC and email. Sarwar said he was not aware of the details of the case, however, he would investigate and the ombudsman should probe the matter as well.

He was of the view that if a few cases had surfaced, it did not mean that the whole system was corrupt.

According to the documents available with The Express Tribune, the ombudsman has expressed annoyance over the non-serious attitude of PRAL and the FBR in a sensitive and important case pertaining to the misuse of the Active Taxpayers List. None of the officials has given any comments or appeared before the FTO in order to pursue the case.

FBR's Customs Clearance System Vulnerable to Fraud: FTO

Daily Times February 8, 2019

The office of the Federal Tax Ombudsman (FTO) Pakistan has observed that loopholes in Federal Board of Revenue (FBR)'s computer assisted system for filing Goods Declarations can possibly cause a heavy loss to the national exchequer.

The office of the FTO has said that FBR failed to identify vulnerabilities in Risk Management System (RMS) parameters and loopholes and weaknesses in WeBOC (Web Based One Customs) system – computerized Customs Clearance System. The FTO office disclosed in its findings that third party assessment of WeBOC has not been carried out since its deployment in 2012; hence, the FTO has recommended the FBR to consider hiring services of firms for third party assessment of the system without delay. Shahid Ahmad (Advisor to FTO), in a newsletter, disclosed that in an own motion investigation case of recovery of smuggled mobile phones of one billion rupees, the FTO office observed that it appears that prima facie FBR failed to identify vulnerabilities in RMS parameters and loopholes and weaknesses in WeBOC.

According to details, in response to the notice by FTO Office, issued to Secretary, Revenue Division, the Department of Risk Management contended that imported goods are cleared through WeBOC system. The Department of Risk Management further contended that all the seized mobile phones from Lahore, Karachi and Quetta were not cleared from the port through misuse of the Green Channel facility. However the observation of FTO Office was

acknowledged that risk factors of RMS need regular review. It was also recognized that a well-defined maintenance process (i.e. regular and update of key system parameters) of risk management system is critical per international RMS best practices.

The FBR had constituted a Risk Management Unit (RMU) for identifying, assessing, monitoring and managing the risks associated with WeBOC. According to the FTO Office findings, the traders' profiling system is exposed to the possibility of traders artificially building their profiles to obtain high scores that ultimately allow them to be processed through the Green Channel. In addition, The FTO also recommended that FBR must direct Directorate General of Post Clearance Audit (PCA) to carry out post import transaction verification of GDs cleared under the Green Channel facility to satisfy the accuracy and authenticity of declarations filed by the importers through the examination of relevant books, accounting records and commercial data held by the importers and cross match their data with sales tax and income tax returns filed by the importers. It also recommends that FBR should consider installation of scanners at Exit Gates for effective check on mis-declaration and to deter the traders who may abuse the system, and cases detected by external agencies like PCA, Directorate of Intelligence, Auditor General of Pakistan etc, must be linked with traders' profiles so that upward and downward movements of traders' profiles become more credible.

President Appreciates FTO's Role in Resolving Taxpayers' Complaints

**BUSINESS
RECORDER**
— PAKISTAN'S PREMIER FINANCIAL DAILY —

April 1, 2019

President Dr Arif Alvi on Monday said the Federal Tax Ombudsman (FTO) was playing an important role in resolving complaints of the people against the decisions of tax collecting authorities.

The President said this while talking to Federal Tax Ombudsman Mushtaq Ahmad Sukhera, who called on him here at the Aiwan-i-Sadr to present the annual report (2018).

Dr Alvi expressed his satisfaction on the decreasing number of representations against the FTO's recommendations. He appreciated the launching of e-based Complaint Management Information System (CMIS), which provides paperless office environment.

He appreciated the FTO's efforts for starting focused SMS (short message service) and email campaigns to reach out to taxpayers. Moreover, he commended the FTO for the development of a system for registration of complaints through android-based hand-held devices.

The President highlighted that video link of the FTO with regional offices was a step in right direction to eliminate time and space barriers. Integration of the FTO's CMIS with the Federal Board of Revenue would improve its efficiency.

He emphasized that there was a need for further steps to create awareness about the efficacy of the forum. He assured his support to the institution in the discharge of its duties and function.

FTO Calls For Tax Reforms

DAWN

April 18, 2019

Federal Tax Ombudsman Mushtaq Ahmad Sukhera on Wednesday proposed reforms in the tax system to expand tax net and facilitate taxpayers.

He also urged the business community to approach his office for the resolution of complaints about income tax, sales tax, customs and federal excise duty. Addressing traders and industrialists during a meeting at the Sarhad Chamber of Commerce and Industry here, Mr Sukhera said his office was taking steps to resolve the issues of taxpayers and address their complaints by carrying out independent investigations about tax maladministration.

He said the FTO would continue to play its important and effective role against the discriminatory attitude and unjust decisions with taxpayers. The FTO said he had taken a notice of more than 200 tax cases.

He said the tax system should be made simple and easy to increase the government's revenue. Mr Sukhera opposed the imposition of additional taxes on registered taxpayers. He said economy would be stabilised with the help of wealth generation.

The FTO said new people won't come under the tax net until the problems of the existing registered taxpayers were resolved. He said the payment of rebate and refund was being ensured. Mr Sukhera said the FTO had issued directives to the Federal Board of Revenue to make simple tax

returns and issue separate forms of tax turns for different sectors.

He said he won't disappoint the business community.

SCCI senior vice-president Saad Khan Zahid, vice-president Haris Mufti, former president Zahidullah Shinwari, adviser (sales tax and customs) Nasir Masawar Ahmad, adviser of FTO (regional office), Peshawar, Abdul Wadood Khan, members of the chamber's executive committee, traders and industrialists also shared views on the occasion.

SCCI SVP Saad Khan declared the Federal Tax Ombudsman an effective forum to address the taxpayers' complaints and provide justice to them. He said taxpayers should avail the services of FTO for amicable resolution of issues pertaining to income tax, sales tax, customs and federal excise duty and subordinate institutions of FBR.

Mr Saad praised the FTO for framing business-friendly policies and services, which ensured the provision of speedy relief to business community. Zahidullah Shinwari called for close liaison between FTO and SCCI saying terrorism-hit business of Khyber Pakhtunkhwa was confronted with host of challenges and difficulties and urged the FTO to give special importance to the community of this region and to play its effective role in issues relating to tax. He said the FTO laws and rules should be made further business-friendly and should be reformed by fulfilling all requirements of justice.

FTO Unearths Irregularities in FBR's Registration System

**BUSINESS
RECORDER**
— PAKISTAN'S PREMIER FINANCIAL DAILY —

April 29, 2019

Federal Tax Ombudsman (FTO) has unearthed massive irregularities in the taxpayer registration system of Federal Board of Revenue (FBR). It observed a serious loophole in the 'IRIS' module being exploited by the unauthorised and

unscrupulous persons for their ulterior interests at the cost of innocent taxpayers and national exchequer.

It is learnt that it was cited in a landmark order issued by the FTO on

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FTO unearths Irregularities (Continued from Page 3)

the complaint by Zeeshan Shahid referred through tax lawyer Waheed Shahzad Butt. The FTO in its order has stated that by not pressing the condition of cell number of the CNIC holder, the department has opened floodgate for the unlawful and unauthorised persons to exploit the user free IRIS system for their nefarious designs.

The FBR has been recommended to ensure that at the time of registration, the taxpayer should provide his own cell phone number duly registered in his name at least thirty (30) days prior to the registration also his/her email that also required in the original user free "IRIS" module.

The complainant stated that quite surprisingly it was categorically stated by Rehmatullah Khan Wazir, the then member (Taxpayers Audit) in a report submitted on automatic selection for audit under section 214D that 428,830 returns belonging to taxpayers with nil tax paid/nil turnover but no one in FBR is willing to consider the aspects of potential planned tax robbery/evasion seriously. Earlier, FTO has issued notice to chairman FBR, secretary Revenue Division and member (IT) FBR for initiating disciplinary proceedings against PRAL/IRIS/FBR/IT-Wing employees.

The FTO order stated: "The complaint was filed against (i) Unauthorised access to the Complainant's CNIC; (ii) unilateral issuance of NTN and unlawful filing of return and wealth statement. The complainant, a non-filer individual, purchased a motor vehicle during April 2018. According to the AR, after paying all dues/taxes applicable, the complainant sought services of an agent operating in the vicinity of the RTO, Nabha Road, Lahore, for registration of the vehicle. He alleged that the above agent in connivance with officials of the FBR, Lahore, got unilaterally issued NTN in the complainant's name in spite of the fact that he had never submitted such application. Subsequently, on the same day again, without knowledge and permission, the rogue elements working in the FBR/IRIS filed online income tax return together with wealth

statement showing 'nil' income/wealth. He alleged that these rogue elements also supplied a fake cell phone number and a fake email ID to the department.

He contended that as FBR's own figures showed huge number of taxpayers who purchased motor vehicles, immovable properties and banking transactions filed 'nil' returns paying no tax but no one in the FBR appears to be interested in the rule of law as they simply seemed habitual in protecting each other. Admittedly, the complainant, originally a non-filer, sought services of an agent on his own volition for registration of vehicle. And only after handing over the CNIC to the above person, the complainant was found himself registered with the department followed by filing of the return. It has been observed that after launching IRIS, the FBR, vide letter dated 29.03.2016, also allowed the prospective taxpayers, the option to file online application for NTN and attach requisite documents, procure pin code and password and file return while sitting at their homes.

The CNIC was admittedly handed over with the complainant's consent to the agent for the purpose of registration of vehicle and payment of taxes etc, as non-filer. The fact, however, remains that fake cell number and e-mail address had been used while obtaining NTN. Although initially, the new taxpayers were required to disclose their cell numbers with SIM registered against their own CNIC, as per SOP issued regarding new user's free IRIS registration module. Later, by withdrawing this important check, the department had created a serious loophole in the IRIS module, which is being exploited by the unauthorised and unscrupulous persons for their ulterior interests at the cost of innocent taxpayers and the government exchequer. Notwithstanding position discussed supra, by not pressing the condition of cell number of the CNIC holder, the department has opened floodgate for the unlawful and unauthorised persons to exploit the user free IRIS system for their nefarious designs, according to FTO order.

FBR's Taxpayer Registration Electronic System: Mobile Numbers, Email Addresses of Strangers Used, FTO Told

BUSINESS
RECORDER
— PAKISTAN'S PREMIER FINANCIAL DAILY —

May 6, 2019

Pakistan Revenue Automation Limited (PRAL) CEO has reported to Federal Tax Ombudsman (FTO) that mobile phone numbers and email addresses of strangers have been used in FBR's taxpayer registration electronic system, in a complaint of massive irregularities and misuse of Active Taxpayer List (ATL) facility, causing huge revenue loss to the national exchequer.

It is reliably learnt that FTO has unearthed massive irregularities in the taxpayer registration system of FBR. FTO observed a serious loophole in the 'IRIS' module being exploited by the unauthorised and unscrupulous persons for their ulterior interests at the cost of innocent taxpayers and national exchequer.

It was cited in a landmark order issued by the FTO on the complaint by Zeeshan Shahid referred through Advocate Waheed Shahzad Butt. The FTO in its order has stated that by not pressing the condition of cell number of the CNIC holder, the department has opened floodgate for the unlawful and unauthorised persons to exploit the user free IRIS system for their nefarious designs.

Tax expert told this correspondent it is categorically reported by the CEO PRAL to FTO in the following unambiguous manner "The person got registration through IRIS system with email "mohsintex982@gmail.com" and a cell number, whose owner is one Ahmed Ali as per mobile data. When contacted tax lawyer Waheed Shahzad Butt, he told this correspondent "Quite surprisingly it was categorically stated by Rehmatullah Wazir, the then Member (Taxpayers Audit), in a report submitted on Automatic Selection for Audit under Section 214D that 428,830 returns belonging to taxpayers with NIL tax paid/NIL turnover but no one in FBR is willing to consider the aspects of potential planned tax evasion seriously." The lawyer has also forwarded a synopsis of potential revenue loss due to active connivance of FBR/IRIS/PRAL functionaries.

Waheed further added that the circumstances and highly suspect sequence of events discussed supra raise many questions and strongly suggest foul play by PRAL functionaries.



The FBR has been recommended to ensure that at the time of registration, the taxpayer should provide his own cell phone number duly registered in his name at least thirty (30) days prior to the

registration also his/her email that also required in the original user free "IRIS" module, FTO ordered.

FTO Recommends Disciplinary Action Against Commissioner IR

**BUSINESS
RECORDER**
— PAKISTAN'S PREMIER FINANCIAL DAILY —

May 16, 2019

Federal Tax Ombudsman (FTO) has recommended the Federal Board of Revenue (FBR) to initiate disciplinary proceedings against Commissioner Inland Revenue for passing an order which was contrary to law and exercise of powers for corrupt motives to extend huge illegal benefit from the complainant and cause substantial loss of national exchequer.

A tax expert told Business Recorder that in the latest landmark order it has been observed by the FTO that action of the CIR setting aside the order passed by the DCIR under Section 122(1) by invoking provisions of Section 122A, being contrary to law, procedure, established Departmental practice and involving exercise of powers for corrupt motives is established, which is tantamount to maladministration as defined in Section (2) (3) (i) (a) & (d) of the FTO Ordinance.

When contacted, tax lawyer Waheed Shahzad Butt said that in the context of FTO's jurisdiction, an unseemly 'tug of war' has been going on for many years between obdurate FBR officials and the FTO. It is high time that drastic steps have to be taken by the newly appointed Chairman Shabbar Zaidi, to take action against the officials violating the laws.

Waheed further added that earlier President of Pakistan has fully endorsed the verdicts of FTO in various cases such as in No. 66/2002-Rep (FTO) Law it states "sub-section (6) of section 14 of the 2000 Ordinance provides that if the FTO has reason to believe that any tax employee has acted in a manner warranting disciplinary proceedings against him he may refer the matter to the appropriate authority for necessary action." In F.No.11/2003-Law (FTO), No. 12/2003-Rep(FTO)Law and No. 218/2004-Law(FTO), President has rejected the representations of the FBR employees against FTO with the directions that "the Chairman CBR shall institute an enquiry to find if any disciplinary action against CIT would be proper and justified", "CBR shall take appropriate disciplinary action against the officials".

In case of jurisdiction assumed by the FTO, law is unambiguous and clear, FTO is empowered u/s 9(1) of the FTO Ordinance to take up a matter for investigation, even on his own volition. Supreme Court in 2000 SCMR 1615 categorically observed "...the Ombudsman would be free to deal or touch upon in the context of the dispute referred and he would remain free to exercise his suo motu powers generally in the matter, again in consonance with S.9 of the said Act--." Maladministration has an inclusive definition and under Section 2(3)(vii) of the FTO Ordinance, professional incompetence of FBR functionaries falls in this category. View point regarding jurisdiction of FTO is unambiguous in the verdict issued by Division Bench of Lahore High Court in 2005 PTD 1797 which states "The Ombudsman could suggest measures to curb the maladministration in view of the facts of a particular case."

The FTO order states, "Precisely, the Complainant, a member of AOP, filed return of total income declaring income at Rs 0.928 million. Bank account of the complainant in the ABL was concealed and deptt by taking action under section 122(1) completed amendment of assessment proceedings on account of unexplained concealed credit entries in bank account amounted to Rs.685.279 million for which the Complainant was issued show cause notice. The complainant stated that he had availed tax amnesty scheme for an amount of Rs.42.834 million. After allowing the said amount, claimed in amnesty, amendment in assessment was made. A show cause notice u/s 182(2) of the Ordinance, for imposition of penalty. Total liability in this case worked out was at Rs 450,361,672.

While attending the question of jurisdiction, it has been found that contradictory comments had been submitted by the deptt i.e. on one hand order passed by the deptt: under Section 122(1) was quite in accordance with law and simultaneously it was stated that the same had been set-aside by the CIR by invoking provisions of Section 122A. Question arises that when order passed by the DCIR under Section 122(1) was strictly in accordance with law then why the same was set-aside by the Zonal CIR.

The SA to CIR submitted his response to the notice of this office addressed to Zonal CIR, stating as under: "Regarding observation of the FTO that why I put up draft under Section 122A on 31.10.2018 when time for filing of appeal was available. Sir, in this regard it is respectfully submitted that your honour handed over me file on 31.10.2018 and I prepared draft under your honour's instructions. Furthermore, Sir I have to obey your honour's order and as directed by your honour"

It is evident that appeal was filed on 29.10.2018 and application for its withdrawal on 31.10.2018. Order of the CIR (Appeals) (accepting withdrawal) was received by the AR on 01.11.2018. The said order was formally sent to Zonal CIR vide letter No.216. Draft order under Section 122A was prepared on 31.10.2018 when even the Complainant had not received the order of CIR (Appeals). This indicates some collusive arrangement amongst the Complainant and the Zonal CIR. This all leads to an irresistible conclusion that the order u/s 122A of the Ordinance is not only contrary to law but also involves the exercise of powers for corrupt motives.

Action of the CIR setting-aside the order passed by the DCIR by invoking provisions of Section 122A, being contrary to law and involving exercise of powers for corrupt motives is established. FBR to initiate disciplinary proceedings against the Zonal CIR for passing order which was contrary to law and exercise of powers for corrupt motives to extend huge illegal benefit to the Complainant and causing substantial loss of revenue to the state: the FTO ordered.



Misuse of Zero-rating Facility: FTO Tells FBR to Conduct Audit of Manufacturers

**BUSINESS
RECORDER**

May 19, 2019

— PAKISTAN'S PREMIER FINANCIAL DAILY —

Federal Tax Ombudsman (FTO) Mushtaq Ahmad Sukhera has held the Federal Board of Revenue's systems and rules responsible for massive misuse of sales tax zero-rating facility available to manufacturers-cum-exporters under SRO 1125(I)2011. In a major move to check misuse of zero-rating regime by manufacturers-cum-exporters sectors, the FTO has further directed the FBR to conduct audit of all manufacturers who availed the benefit of SRO 1125(I)2011 to verify their manufacturing status.

In a case of own motion investigation of FBR's systemic maladministration, the FRO has further directed the FBR to introduce institutional and systemic reforms in the zero-rating regime and address failure of the FBR to timely check registration of persons misusing the "manufacturing status".

The FTO has categorically declared that the Inland Revenue authorities have totally failed to take timely action in integrating the registration module in IRIS system thereby providing opportunity to the unscrupulous elements to take advantage of the weaknesses in the registration procedure of the sales tax department.

The FTO has further held FBR responsible for review of sales tax registration rules and risk parameters used for granting registration, which lead to misuse of manufacturer" status by registered persons.

The FTO has directed the FBR to develop a comprehensive risk management framework in the working c f IRIS based Sales Tax Registration Rules and revisit the approved risk engine and scores to mitigate the possibility of any misuse of "manufacturer status" by the registered persons.

The FBR has been directed to arrange audit of all manufacturers, who availed the benefit of SRO 1125(I)/2011 to find out whether "manufacturer status" was granted after fulfillment of requisite conditions and in cases of irregular approvals of "manufactures status" fix responsibility on the dealing staff for proceedings under E&D Rules and take necessary measures under law/rules for recover) of losses caused to government revenues.

The FBR should direct PRAL and Directors to of Reforms and Automation (Customs) to develop and implement system/software for live date synchronization with WeBOC regarding sales tax

registration to ensure blacklisted and suspended registered persons (RPs) are not able to import and get undue benefit of SRO 1125(1)/2011 and direct all Commissioners to conduct half yearly physical verification of all units registered in their jurisdiction as "manufacturer" to verify existence of manufacturing facility of all such units.

The FTO took notice of reported news that ghost entities registered as manufacturers with fictitious addresses, being setup only for tax evasion by claiming benefit of SRO 1125(1)/2011 dated 31.12.2011. These fraudulent entities not only evaded sales tax in respect of imported fabrics but were involved in issuance of fake invoices for claiming sales tax refund as the FBR had failed to build robust system whereby such fake registration could had been avoided. Once these fraudsters are registered as "manufacturers" by the Local Registration Office of the RTO concerned, the benefit of SRO 1125(1)/2011 dated 31.12.2011 is extended by the Customs Department at the time of import on the basis of profile available on FBR's website.

According to the findings of the FTO, the review of Sales Tax Registration Rules and risk score weightage assigned to the risk parameters employed in the registration process which lead to misuse of manufacturer" status by registered persons for the purpose of tax evasion.

The FBR vide SRO 494 (1)/2015 dated 30th June, 2015 showed that the IRIS based Sales Tax Registration module failed to timely incorporate the provisions of revised registration rules.

The requisite changes in IRIS were incorporated after nine months vide SRO 227 (1)/2016 dated 21st March, 2016.

The FTO observed that the FBR had failed to take timely action in integrating the registration module in IRIS system thereby providing opportunity to the unscrupulous elements to take advantage of the weaknesses in the registration procedure of the sales tax department. Moreover, modification in the registration module was carried out after nine months of the revision of Sales Tax Registration Rules, but evidently no exercise was carried out by the field formations to verify that the existing manufacturers were registered in conformity with the provisions of revised rules, the FTO added.

FTO Launches Probe into 'Unlawful' Compulsion on Non-residents to File Returns

**INTERNATIONAL
THE NEWS**

May 22, 2019

The Federal Tax Ombudsman (FTO) of Pakistan has launched a probe to know why non-resident Pakistanis are being compelled 'unlawfully' to file tax returns prior to open foreign currency bank account, The News learnt on Tuesday.

"Such treatment is prima facie in violation of the express provisions of section 114 of the Income Tax Ordinance, 2001 whereby the non-residents are not under an obligation to file return of their foreign

income," FTO said.

The FTO sent the matter for comments to the secretary of the Revenue Division.

The Federal Board of Revenue (FBR) contended in a reply that a non-resident was not required to be a 'filer'. The banks might have some internal administrative issues in opening the bank account, "which can only be resolved by the SBP (State Bank of Pakistan),"

the FBR said.

The Deputy Director SBP in a statement to the FTO last month said the banks had been directed to follow the law.

“It has come to our notice that some authorised dealers are not allowing non-residents to open and maintain foreign currency accounts on the pretexts that they are not appearing as filers in the active taxpayer’s list (ATL) of the FBR,” the SBP said in a direction to the banks. “Instructions contained in the Income Tax Ordinance, 2001, are not applicable to non-residents.”

The FTO took the action, exercising powers of own motion against systemic maladministration. The FBR managed to have 1.96 million for the tax year 2018 which, albeit up from 1.84 million from the tax year 2017, is small compared to the country’s population of over 200.

The apex tax authority is expecting the number of return filers to cross two million by June 30 if the government implements local and foreign assets declaration scheme, which awaits final touchups. The FBR received around 78,000 income tax returns in the amnesty scheme for local and foreign assets Introduced last year. The returns filing has been made mandatory to be included in the ATL and which is important for availing reduced rates of withholding tax in making certain financial transactions.

The FBR sources said the revenue body evolved a strategy to make substantial increase in number of return filers.

The revenue body has so far issued around 4.3 million national tax numbers and all the national tax number holders are required to file income tax returns.

FTO for Inquiry Against Misuse of Jewellery Export, Import Facility

INTERNATIONAL
THE NEWS

May 24, 2019

Federal Tax Ombudsman (FTO), in a suo moto case, has recommended to the FBR and FIA to initiate inquiry against all the officers, departments and importers/exporters involved in misuse of imports- cum- exports facility in respect of gold, jewellery and other precious metals resulting in massive loss of revenue to national exchequer.

The FTO finding reveals that gold worth billions of rupees was either not exported against imported gold or was exported against fake form-E.

The FTO observed that the export promotion scheme did not put in place institutional mechanism to stop abuse of entrustment scheme/self-consignment scheme regulated through concessional SROs issued by the Ministry of Commerce. As a consequence, the importers-cum-exporters deceived the departments with impunity especially in cases where concession available under the entrustment scheme/self-consignment scheme was misused.

The entrustment scheme provides facility for export of jewellery against imported gold supplied as partial advance payment, by the foreign buyer to be used in the manufacture of jewellery to be exported. The exporter is required to export eligible and authorised items within 120 days from the date of import. Under Self-consignment scheme export of gold jewellery is made from locally procured gold and gemstones and sale proceeds are realised in foreign exchange. The registered exporter shall apply to the TDAP for export authorisation. The sale proceeds shall be realised within 120 days from the date of export and the commercial banks shall ensure that sale proceeds are repatriated in full within 120 days; otherwise, commercial banks shall inform State Bank of Pakistan as well as to TDAP.

The FTO observed that during special audit, the Directorate General of Internal Audit detected serious irregularities relating to Customs Collectorates of MCC, Peshawar, MCC (Export), Port Qasim, Karachi, MCC, Islamabad and MCC (Preventive), Lahore.

It was observed that repeated exports were made by exporters. Admittedly, foreign exchange was not repatriated against Forms-E which subsequently turned out to be fake. Ignoring the said fact, there is no explanation that how subsequent exports were allowed when it was evident that foreign exchange was not repatriated

within the specified period. This reflects the negligence, inattention and ineptitude in discharge of duties and responsibilities.

It is rather strange that the Collectorates had failed to recover the adjudged amount of fine imposed on the clearing agents, who are, otherwise, licensee of the Department. Perusal of the record shows that either no stay had been granted or the period for stay of order under appeal had been lapsed. But the department had not initiated recovery proceedings for which no explanation could be advanced. This again reflects negligence, inattention, inefficiency and ineptitude in discharge of duties and responsibilities by concerned officers/officials of the Department which are tantamount to maladministration.

In order to ascertain the amount of foreign exchange involved in the import of gold and other raw materials and jewellery exported under SRO 266(I)/2001 dated 07.05.2001 and SRO 760(I)/2013 dated 02.09.2013, The FTO sought information from Trade Development Authority of Pakistan (TDAP) and State Bank of Pakistan (SBP). The SBP, vide its letter dated 12.02.2019, informed that in terms of both SROs 266(I)2001 dated 07.05.2001 and SRO 760(I)2013 dated 02.09.2013, complete data of export and imports of precious metals and jewellery along with the amount of foreign exchange being maintained by TDAP and may be obtained from them. The TDAP vide its letter dated 15.03.2019 informed that all the remittances actually realised are maintained by the SBP and provided value of imports and exports of gold under the scheme. The position emerged on the basis of information provided by TDAP and SBP, reveals that there is a gap between the value of import and value of export and lack of data synchronisation relating to data provided by the TDAP and SBP. It appears that the TDAP has not put in place any mechanism of monitoring and reporting of exports and imports taking place under SRO 760(I)2013 dated 02.09.2013. In the absence of authentic and complete data of import and exports under the said SRO, no meaningful analysis can be carried out.

The FTO recommended to the FBR to direct the chief collectors (North), (Central), and (enforcement) South to initiate departmental enquiry to ascertain the officers/officials and take disciplinary action against those found involved in illegal/inadmissible imports/exports in violation of SRO 266(I)/2001 and SRO

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Misuse of Jewellery Export (Continued from Page 7) 760(I)/2013 and ask the collectors concerned to initiate recovery proceedings in accordance with law to recover the adjudged amount. The FBR has to request the Ministry of Commerce to constitute a committee comprising of representatives from SBP, FBR and TDAP to review SRO 760(I)/2013 dated 02.09.2013 and proposed amendments to plug in the loopholes in the procedure to obviate chances of misuse /abuse in future.

The FTO recommended to the Ministry of Commerce to get a study conducted to measure impact analysis of the incentive scheme as provided for under the Import and Export of Gold, Gold Jewellery

and gemstones Order, 2001 and Import and Export of Precious Metals Jewellery and Gemstones Order, 2013. The Ministry of Commerce has to examine the proposal to prescribe bank guarantee against import value of precious metal instead of one percent cash margin and make necessary amendment to the import and export of precious metals jewellery and Gemstones Order, 2013, notified vide SRO 760(I)/2013 dated 02.09.2013.

The FTO also recommended to the FIA to conduct inquiry against all concerned departments/agencies and initiate criminal proceedings against those found involved, in accordance with law.

FBR Asked to Take Action Against Officials For Illegal Gold Trade

INTERNATIONAL
THE NEWS

May 28, 2019

The Federal Tax Ombudsman (FTO) has directed the Federal Board of Revenue (FBR) to initiate inquiry against the customs officials, who connived in illegal trade of gold and jewellery to have caused at least Rs1.36 billion in losses to exchequer, sources said on Monday.

Sources in Pakistan Customs on Monday said the FTO took the decision after detecting 'serious' lapses in import and export of gold and jewellery. The commercial import of gold into Pakistan is not allowed under a law. However, exporters of jewellery are allowed to import the gold under a quota as raw materials for their exports.

They could import gold under entrustment or self-consignment schemes. The country's gold imports amounted to \$20.7 million in the July-June 2017/18 fiscal year, up 24.3 percent over the corresponding period a year earlier.

The sources said the FTO found a number of export consignments of jewellery without receipts against goods sent to their foreign buyers. It was further detected that the import of gold was much higher than the exports of jewellery. So, the imports were done in connivance with the customs officials, they added. The FTO ordered the Federal Board of Revenue to direct the Chief Collector (North), Central and Enforcement South to initiate departmental enquiry to ascertain the officers and take 'disciplinary' actions against those who were found "involved in illegal / inadmissible import/export in violation of law". "Under the prevalent laws, the export receipts of jewellery shall be realised within 120 days from the date of export

and the commercial banks shall ensure that sale proceeds are repatriated in full 120 days otherwise commercial banks shall inform the State Bank of Pakistan as well as to Trade Development of Pakistan," the FTO said in a document. "As a consequence, the importers-cum-exporters hoodwinked the customs department with impunity especially in cases where concession (is) available under entrustment scheme/self consignment scheme."

The FTO observed that billions of rupees worth of foreign exchange were not realised against exports of jewellery. The FTO found in the inquiry that around 10 importers/exporters were involved in 22 consignments/cases, causing Rs1.36 billion in losses to exchequer. "Failure of customs officials to take timely action under the Customs Act 1969 as well as under Import and Export Control Act, 1950 and failure to exercise due precaution in the discharge of their duties and responsibilities (are) resulting in massive losses of revenue to the national exchequer which is a sheer negligence," the FTO said. The FTO further directed the FBR to order the collectors to initiate recovery proceedings in accordance with the law to recover the "adjudged amount".

The ombudsman also asked the commerce minister to constitute a committee comprising of representatives from the SBP, the Federal Board of Revenue and Trade Development Authority of Pakistan to review concessionary regime for gold import to plug loopholes in the procedure to obviate chances of misuse in future.

Immediate Payment by Tax Officers Ordered

DAWN

May 28, 2019

The Federal Tax Ombudsman has ordered two officers of Abbottabad's inland revenue department to immediately pay Rs0.9 million to a private company's director for illegally withdrawing money from his bank accounts.

FTO Mushtaq Ahmad Sukhera issued the orders for RTO Abbottabad Zonal CIR Mohammad Asghar Khan Niazi and IAO Unit of RTO Abbottabad (costs and compensation) Hafiz Mohammad Rafaqat on the complaint filed by Faryal Khan of the East End Tobacco Company against the 'unlawful' recovery from his bank account of the tax outstanding against his firm and undue delay in refunding that amount.

He had also sought the payment of the case cost and compensation under Section 22 of the FTO Ordinance.

The complaint said the inland audit officer of Unit 2 Haripur at the Abbottabad Regional Tax Office had made the recovery though his tax assessment was already made at the Regional Tax Office-III Karachi and that he had no outstanding tax.

He added that Rs1.714 million was illegally recovered from his bank accounts after their attachment without issuance of any prior notice to him. While asking the two officers to pay Rs0.9 million to the complainant, the FTO also ordered punitive action against the officials responsible for maladministration.



President Endorses FTO's Order On Agri Income Tax

INTERNATIONAL
THE NEWS

Oct 23, 2019

President Arif Alvi has endorsed the order of Federal Tax Ombudsman (FTO) and instructed the FBR to devise IT based solution to verify claims of tax paid by taxpayers on account of exempted agriculture income on real time basis.

While rejecting the representation of the FBR, the president has ordered that by taking up the matter in suo motu jurisdiction the learned FTO did not commit any wrong. The president has further issued instructions to the FBR to develop and implement an IT based solution whereby all claims of tax paid by FBR's taxpayers to the provincial authorities against exempted agri-income should be cross-checked on real time basis.

System generated communications (without any human interface) asking for evidence of payment of agri income tax may be used prior to any formal amendment in deemed assessments under Universal Self-Assessment Scheme (USAS).

The president further directed the FBR chairman to direct the Chief Commissioner-IR, Hyderabad to complete the verification process and pass appropriate amended orders in respect of taxpayers who

have claimed exemption on account of agriculture income for Tax Years 2014, 2015, 2016 and 2017, but failed to provide supporting evidence, as per law, and report compliance within 60 days.

The FTO on its Own Motion (OM) investigation, assumed jurisdiction under Section 9(1) of the Federal Tax Ombudsman Ordinance 2000 (FTO Ordinance) against the alleged systemic mal-administration of the department. It was noted that after insertion of the proviso to Section 111 (l)(d)(ii) of the Income Tax Ordinance 2001 (the Ordinance) vide Finance Act (FA) 2013 the explanation about the agriculture income declared by the taxpayers as exempted, was acceptable "to the extent of agricultural worked back income on the basis of agriculture Income Tax paid, under the relevant provincial laws."

Pending the investigation before the learned FTO, it revealed that during the period relevant to Tax Years 2016 and 2017, 606 taxpayers had declared agriculture income tax in their returns filed in RTO, Hyderabad.

FTO Finds Irregularities in Jewellery Trade, Recommends Probe Against FBR Officials

DAWN

Oct 23, 2019

President Arif Alvi has rejected the Federal Board of Revenue's (FBR) representation against the Federal Tax Ombudsman (FTO).

The FBR had appealed the president against the recommendations of the FTO regarding illegal gold trade and initiation of inquiry against tax officials.

FTO Mushtaq Ahmad Sukhera, exercising his jurisdiction, began investigations into the alleged systemic maladministration in cases detected against gold/jewellery exporters and failure of the FBR in the regard to take due action against violation of import and export policy orders under the Customs Act, 1969.

The ombudsman had recommended the FBR to initiate departmental inquiry and take disciplinary action against those officials who had failed to identify or reprimand those found involved in illegal imports and exports.

The FTO findings revealed that gold worth billions of rupees was exported using fake form-E or in some cases not exported against imported gold.

The FBR, on the other hand, was not happy with the ombudsman's findings and lodged a representation before the president against its recommendations.

The decision issued by the president said that it has been noted that by taking up the matter in suo moto jurisdiction, the FTO has not committed any violation; rather the step is laudable, suggestive of reforms and improvements in the system.

The statement further said the recommendations are relevant in curbing the menace of tax evasion. Further, it advised the revenue

collection functionaries of the state to take necessary steps to implement such recommendations wholeheartedly in order to improve its functions.

"There is no justification made out to upset the recommendations of the learned FTO, nor there is any ground for interference with the aforementioned directions", observed the president's order.

The suo moto jurisdiction was taken after a media report alleged misuse of import-cum-export facility of gold, jewellery and other precious metals at various customs stations. The reports said that some jewellery exporters failed to remit foreign exchange and Customs Stations Department did not take cognisance in the matter due to jurisdictional issue.

Prima facie, the FBR did not put in place any institutional mechanism to stop abuse of scheme regulated through concessional SROs issued by the Ministry of Commerce.

Consequently, the importers-cum-exporters hoodwinked the department with impunity especially in cases where concession available under entrustment/elf-Consignment Scheme was misused.

The FTO had recommended the FBR and the Federal Investigation Authority (FIA) to initiate inquiry against all the officers, departments and traders involved in misuse of imports-cum-exports facility in respect of gold, jewellery and other precious metals resulting in massive loss of revenue to the national exchequer.

The FTO observed that the export promotion scheme did not put in

Continued on Page 10





Irregularities in Jewellery Trade (Continued from Page 9)
 place institutional mechanism to stop abuse of entrustment/self-consignment scheme regulated through concessional SROs issued by the Ministry of Commerce. Therefore, the importers-cum-exporters deceived the departments with impunity especially in cases where concession available under the entrustment/self-consignment scheme was misused.

The entrustment scheme provides facility for export of jewellery against imported gold supplied as partial advance payment, by the foreign buyer in the manufacturing of jewellery to be exported. In addition, the exporters are required to only export eligible and authorised items within 120 days from the date of import.

Under self-consignment scheme, export of gold jewellery is made from locally procured gold and gemstones and sale proceeds are realised in foreign exchange. According to the scheme, the registered exporter shall apply to the Trade Development Association (TDAP) of Pakistan for export authorisation. The sale proceeds shall be realised within 120 days from the date of export and the commercial banks shall ensure that sale proceeds are repatriated within the same period; otherwise, commercial banks shall inform the State Bank of Pakistan as well as the TDAP.

The FTO observed that during special audit, the Directorate General

of Internal Audit detected serious irregularities relating to Model Customs Collectorate (MCC) Peshawar, MCC Export Port Qasim, Karachi, MCC Islamabad and MCC Preventive Lahore.

It was also observed that exporters also made repeated exports. Admittedly, foreign exchange was not repatriated against Forms-E, which subsequently turned out to be fake.

Moreover, there was also no explanation as to how subsequent exports were allowed when it was evident that foreign exchange was not repatriated within the specified period.

This reflects the negligence, inattention and ineptitude in discharge of duties and responsibilities by the concerned officials.

It is rather strange that the MCCs failed to recover adjudged amount of fine imposed on the clearing agents, who are, otherwise, licencees of the department. Perusal of the record shows that either no stay had been granted or the period for stay of order under the appeal had also been lapsed.

However, the department had not initiated recovery proceedings without which no explanation could be advanced.

This failure to do so reflects negligence, inattention, inefficiency and ineptitude in discharge of duties and responsibilities by concerned officers/officials of the department, which are tantamount to maladministration.

Smuggling of NDP Vehicles: President Rejects Quetta Customs Representation



Oct 25, 2019

President Arif Alvi has upheld recommendations of the Federal Tax Ombudsman (FTO) to investigate wide spread reports on presence of showrooms dealing in non-paid vehicles (NDP) in Quetta and further transportation of these automobiles to other parts of the country.

Collector Customs, Model Customs Collectorate (MCC) Quetta had filed representation before President Alvi against the orders of FTO. The president in his order rejected the representation of the customs collectorate and upheld all recommendations of tax ombudsman against smuggling of non-duty paid vehicle.

The FTO had recommended the Federal Board of Revenue (FBR) to direct Chief Collector (Enforcement) Quetta to examine seizure reports of NDP vehicles. It further recommended disciplinary action against officials who failed in exercising their powers against smuggling of these automobiles and providing protection to offenders.

The FTO had also recommended the FBR to direct Chief Collector (Enforcement) Quetta to form a task force for action against

smuggling of NDP vehicles by regularly conducting raids on the showrooms and ensure that all seizures in future be made complying with legal requirements, including criminal prosecution against the persons/owners of the show rooms from whom the NDP vehicles are recovered.

Being dissatisfied by the comments and progress in the matter, the FTO observed that serious efforts are needed to eradicate this menace [smuggling].

The submissions made by the department as well as by the directorate, police and FC reflected that menace of smuggling of NDP vehicles, its business and being openly plied not only in Balochistan but all over the country is an undisputed fact. The actions taken by the department seems to be having no effect, it noted.

The FTO observed that the data provided by MCC Quetta and Directorate reflects that 'influx of NDP vehicles instead of decreasing has increased due to lack of deterrence' as no action is taken against the smugglers or the individuals involved in it.

Govt Urged to Make FTO Laws Business Friendly



Oct 25, 2019

The Sarhad Chamber of Commerce and Industry (SCCI) has demanded of the government to make the Federal Tax Ombudsman (FTO) laws and rules business-friendly to provide speedy justice to the taxpayers.

The demand was made by SCCI president Engineer Maqsood Anwar

Pervaiz during a meeting with FTO provincial advisers Abdul Wadud and Tariq Ahad Nawaz at the Chamber House here on Thursday.

According to a statement, the meeting was also attended by the chamber's senior vice-president Shahid Khan, members of the executive committee and officials of FTO regional office.



Mr Wadud and Mr Nawaz asked the business community to approach their office for resolution of complaints about income tax, sales tax and customs and federal excise duty.

They said that the FTO would continue to play its effective role against the unjust decisions affecting taxpayers. Mr Nawaz said that their office had issued directives to the Federal Board of Revenue (FBR) to simplify the filing of tax returns and issue separate forms of returns for different sectors.

Mr Wadud asked the taxpayers to send their complaints on plain

paper along with the copy of CNIC, on which instant action would be taken.

Earlier, Mr Pervaiz called for close liaison between the FTO and SCCI, saying the business community of Khyber Pakhtunkhwa was facing a host of difficulties. He urged the FTO to give special attention to resolution of issues of the community of this terrorism-hit region. He said that the FTO laws should be made business friendly through proper reforms so that the issues related to taxes could be resolved on priority.

FBR Not Collecting Full Duties From Cigarette Manufacturers: FTO

INTERNATIONAL
THE NEWS

Nov 8, 2019

Federal Tax Ombudsman (FTO) has found that the Federal Board of Revenue (FBR) was not realising its full potential of Federal Excise Duty (FED) and General Sales Tax (GST) from majority of cigarette manufacturers by either failing to conduct proper audit or ensuring account of production of these units.

FTO Mushtaq Ahmad Sukhra has directed FBR to develop a special, focused and across the board monitoring and enforcement regime for high revenue yielding sectors like cigarette, cement, sugar, beverages and fertilizers. The FTO observed that in these major sectors rules for record keeping of raw material, production, storage, compliance and monitoring be re-aligned with classic mode of Central Excise, and implemented in IT based system.

According to the findings of FTO, the information provided by FBR and its field formations was reviewed in order to investigate the effectiveness of monitoring and audit provisions of relevant laws for collection of due government revenue. It was found that audits had not resulted in major tax detections, the cases for normal audit of manufacturing units particularly need to be selected by the FBR and its field formations after desk audit of data of these units available with FBR and its field formations in the form of periodic returns and statements prescribed by it (FBR) under various tax laws/rules.

According to the FTO report despite the fact that snap monitoring of production of the cigarette units was in place for smaller units, since 2016-17 revenue from cigarette sector had considerably declined. This negative trend appears to be triggered by departmental action under Section 40B of Sales Tax Act read with 45B of FED had been diluted to mere physical presence of FBR staff at the manufacturing premises of the small cigarette manufacturers without having access to the record of production, sale of goods and stock position and posting of FBR officials at manufacturing premises without checking their integrity and competence, the exercise goes counter to the interest of revenue. In some cases it practically amounts to certification/stamping the evasion. FTO observed that even this monitoring regime is confined to the small KPK cigarette manufacturing units. Large units run by multinationals are not covered under this regime. In order to provide electronic monitoring and tracking in the Sales Tax and Federal Excise Duty regime both Sales Tax Act 1990 and Federal Excise Act, 2005 were amended and new Section 40C and 45A were inserted respectively vide Finance Act, 2013. Even after lapse of more than five years, these provisions remained dormant and electronic monitoring system is yet to see the daylight. Instructions for maintaining record of raw materials, production, sales and invoicing are scattered across

rules, SROs, STGOs which renders both compliance and audits, difficult. FTO has recommended it to FBR to introduce electronic record keeping and real time data exchange between manufacturers of cigarettes and FBR formations till electronic monitoring, tracking and tracing system is operationalised. FBR has to develop a special, focused and across the board monitoring and enforcement regime for high revenue yielding sectors like cigarette, cement, sugar, beverages and fertilizers. In these major sectors rules for record keeping of raw material, production, storage, compliance and monitoring be re-aligned with classic mode of Central Excise and implemented in IT based system. FTO has recommended to form a dedicated enforcement IT team focused on evasion in tobacco/cigarettes and other evasion prone sectors; entrusted with suitable powers to intervene across the jurisdiction, promptly. FBR to extend the procedure prescribed for monitoring Green Leaf Threshing (GLT) units under rules notified vide SRO 1149(i)2018 dated 18.09.2018 to cigarettes manufacturers as well. FBR has to license for introducing electronic monitoring, tracking and tracing system in respect of tobacco products in terms of SRO 250(1)/2019 dated 26-02-2019 has recently been issued to National Radio Telecommunication Corporation (NRTC). Close liaison should be maintained with NRTC for placing the requisite system at all relevant Units expeditiously. The FTO has recommended to prescribe standard operating procedures should be devised for the staff posted to manufacturing units under Section 40(b) of the Sales Tax Act, and Section 45 of the Federal Excise Act, 2005. FBR to assign higher weightage to integrity and competence in defining parameters for selection of staff to be posted to manufacturing units under Section 40(b) of the Sales Tax Act and 45 of the Federal Excise Act 2005 and define performance indicators for monitoring their performance. FBR has to consolidate rules, SROs prescribing procedures and general orders to ensure transparency and facilitation of registered persons in compliance and to take effective enforcement measures including: coordinated profiling of smugglers, targeting of routes, warehouses and transport of smuggled cigarettes to check the smuggling of cigarettes from abroad and in the guise of local manufacturing. FBR has to request the AJK government to adopt similar electronic system for record keeping and exchange of data as would be developed by FBR and sign MoU with AJK government to work out a mutually agreed procedure for cigarettes manufactured in AJK including live electronic exchange of clearance data of the consignments destined to the tariff areas of Pakistan.





'Tax Officials Raising Unnecessary Objections'



Oct 25, 2019

The Federal Tax Ombudsman (FTO) on Monday said the Federal Board of Revenue's (FBR) unnecessary representation to the president, challenging its jurisdiction, is creating hindrances for taxpayers in getting their due rights.

FTO Mushtaq Ahmad Sukhera, deciding a complaint against non-issuance of refunds, said FBR officers appear to be adamant in challenging the jurisdiction of ombudsman's office and raising unnecessary objections.

Although, the FBR has directed its officers to raise objections on jurisdiction in appropriate cases, he said that they continue to submit para-wise comments and unnecessarily raise objections over ombudsman's jurisdiction.

In hundreds of decisions, the president has held that FBR files unnecessary representations, he added. However, the FBR and tax

officers are obstinate to file representations frustrating the taxpayers.

Moreover, he said that president's decisions were being communicated to the FBR but perhaps officers take no pain to peruse the same.

It has time and again been emphasised that FBR functionaries are required to abide by the mandate of the ordinance/statutes rather than to create difficulties for the taxpayers. Precious time is consumed only to attend FBR's frivolous objections, the FTO said.

In another recommendation to the FBR, FTO stated that it is settled by the courts that taxpayer's outstanding money with the FBR is trust money which should be refunded expeditiously, by using good conscience.

FTO Assures PTBA, LTBA Officials of Correcting FBR Systems



Oct 25, 2019

Pakistan Tax Bar Association (PTBA) and Lahore Tax Bar Association (LTBA) office bearers Thursday met Federal tax Ombudsman (FTO) Mushtaq Ahmad Sukhera.

During the meeting the associations' office bearers raised a number of questions for which Federal Tax Ombudsman Mushtaq Ahmad Sukhera replied.

The FTO ensured the representatives of the bar that all out measures would be taken to correct the Federal Board of Revenue (FBR) systems especially IRIS as the system was often go inoperative when the filers countrywide attempted to file their returns by using the system. The FTO was quoted as saying that he himself would like to establish liaison with the FBR chairman to make things better for the filers and taxpayers. The FTO ensured the representatives that there would be no discrimination between the tax collectors and taxpayers when it comes to hearing of the cases by the FTO advisors. If anything happens in this regard he would take prompt action and the responsible would not be spared, Sukhera stated, adding tax returns would also be ensured to be

simplified. The bars representatives also discussed with the FTO the matters relating to the draft for the small traders and the retailers. He said he would seek a comprehensive report on the delays in finalising the draft and as to why it was not finalized. While talking about the asset declaration scheme, the FTO was quoted as replying that he would also seek response from the FBR as to why the internet system could not be able to cater the need of the taxpayers when the date of assets declaration was extended.

"This is not acceptable that over 15,000 thousand taxpayers are still hanging in balance and not being properly accommodated," he told the bars representatives.

PTBA and LTBA former president Naeem Shah, PTBA former general secretary Rana Munir, PTBA Senior Vice President Habibur Rehman Zubari, General secretary Ferhan Shahzad, Finance Secretary Shahbaz Sidique, Vice presidents Sohail, VP Ansri, LTBA Khuram Shabaz Butt, Vice President Ashiq Ali Rana and other were present on the occasion.

Bogus Sales Tax Refunds: FTO Directs FBR to Initiate Action Against Tax Officials



Dec 24, 2019

Federal Tax Ombudsman (FTO), in suo motu case, directed FBR to initiate disciplinary action against the tax officials involved in sanctioning of millions of rupees bogus sales tax refund during 2011-14.

According to FTO report, investigation conducted by Directorate General I&I-IR (FBR) revealed that in the case of M/s Crescent and Yasdan Traders International, a Registered Person (RP), Rs46.916 million sales tax was refunded.

Similarly, M/s AZ, had been issued sales tax refund amounting to

Rs7.507 million. M/s Silicon International had been issued Rs5.458 million sales tax refund while M/s Amharic Traders had been refunded Rs4.120 million.

According to FTO investigation, Directorate General I&I-IR (FBR) had issued "Red Alerts" in such cases to the concerned field formations but neither any action was initiated against the fake claimants and their connivers in FBR and PRAL management nor was any action proposed against the related bank officers who opened the bank accounts through which refund cheques were drawn.



According to FTO report, failure of the FBR to sleep over such an important anti-tax evasion exercise carried out by the I&I-IR led to serious instances of maladministration on account of certain acts of omission and commission, reflecting improper motives, jeopardizing good governance and transparency in tax administration.

FTO findings reveal that fake persons were registered with the connivance of the FBR staff, refunds were claimed on the basis of fake and flying vouchers, which led to massive loss to already cash starved exchequer. Although the Director I&I-IR Karachi issued Red Alerts, however, FBR officials did not realise the gravity of the situation and except blacklisting status of the RP (Registered Persons), no efforts appear to have been made for retrieving loss of revenue incurred on account of issuance of refund amounting to millions of rupees.

The FBR also did not make any effort to unearth the culprits from within and out, who were involved and connived in the sales tax

registration of the fake registered persons. Obviously, the registration and issuance of refund was not a simple task but a teamwork, involving not only the main beneficiaries but also having connivers in the FBR and bank officials who opened the bank accounts. The CCIR RTO-III Karachi had said that Red Alert letters were not in the record received from the defunct RTO.

His silence of the part of CCIR RTO-III Karachi, regarding failure to retrieve huge loss of revenue and not initiating action against the culprits, is also very strange.

FTO report states that this is evidently a case of gross maladministration where, except blacklisting the registered persons, FBR had failed to initiate proceedings for retrieval of bogus refunds. It also sounds strange that the Directorate General I&I-IR (FBR), after conducting such laudable effort of detecting fraudulent activities and issued letters of Red Alerts to the filed formations but did not pursue the matter to its fruition.

Gang Using Fake Invoices to Evade Taxes Busted

INTERNATIONAL
THE NEWS

Oct 27, 2019

The Federal Board of Revenue busted a gang of 50-60 unscrupulous persons for issuing invoices in the name of bogus companies involving tax fraud of billions of rupees.

The Karachi-based Directorate of Intelligence and Investigation of FBR has unveiled a scam of evaders, who are engaged in issuing and utilising fake and flying invoices either to evade sales tax or to facilitate other persons in minimising their sales tax liabilities.

The gang is operating through various cities of Pakistan and issuing sales tax invoices without any physical movement of goods.

As per the investigation so far, paper transactions valuing Rs7.729 billion involving sales tax amount of Rs1.305bn is detected. The suspected revenue involve in the same can rise up to Rs10bn when the investigation completes, a senior tax official said.

The official said that investigations are underway to trace and apprehend the mastermind of the mafia.

Bogus companies, which exist only on papers, issue fake invoices. Then they claim refund from the sales tax department on raw material never purchased. Meanwhile, flying invoices are used by registered taxpayers to claim undue refunds from the FBR by showing excessive use of raw materials.

Further details show that an investigation is underway and so far suspension and black-listing of 10 bogus registered persons in Karachi has been initiated. These include Shahid Enterprises,

Hashmi Traders, Jibran Enterprises, Rizwan Enterprises, Lucky Corporation, Zaid Enterprises, Zahid & Co, Khatri Enterprises, SSS Expo, and A-One Package.

The cases of bogus registered persons falling in other cities were referred to their respective directorates for further investigation.

These bogus registered persons have declared sales of multiple descriptions of goods, including coal and related products, lubricating oil and greases, petroleum and similar products, article of plastic, chemicals, paper, yarn and filament, textile articles, computer and other equipment, miscellaneous electrical, furniture beddings and cushion, which are not relevant to purchases of their buyers.

It was found that most of the persons engaged in the scam have not paid a single penny to the treasury either as sales or income tax despite the declared supplies of millions of rupees.

The practice of issuing fake and flying sales tax invoice claims has been rampant for several years and costs billions of rupees to the exchequer every month. People involved in the cases are said to be using connections in the FBR for release of refunds which were delayed because of red alerts, making them 'suspicious' claims.

The Federal Tax Ombudsman also took suo motu of the illegal refunds last week.

FTO to Help Clear Sales Tax Refunds of Exporters

THE EXPRESS
TRIBUNE
WITH THE International New York Times

Dec 27, 2019

Federal Tax Ombudsman (FTO) Mushtaq Ahmad Sukhera has assured exporters that he will use his powers to help release sales tax refunds worth billions of rupees that have been stuck for the past many years.

Talking to textile exporters at the Pakistan Hosiery Manufacturers Association (PHMA) House, Sukhera said, "Sales tax refund complainants should come to the FTO to launch their individual

complaints," adding that the FTO would also take suo motu action to resolve the issue.

"To discourage imports we have devalued the rupee against the US dollar, to mitigate the current account deficit we have borrowed dollars, however, due to different goals of institutions, the exporters are facing problems instead of being facilitated," he added.

Continued on Page 14



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Sales Tax Refunds of Exporters (Continued from Page 13)

In the last budget, the Federal Board of Revenue (FBR) suggested that by removing the zero-rated status for the export sector, the national exchequer would earn Rs80 billion, he said. "We ended zero-rating and I don't want to comment on whether we will achieve the target or not. But the decision is having implications."

Had the government imposed a 5% flat tax across the board instead of 17% sales tax, it would have been a better decision, he remarked.

In order to expedite the refund process, the FBR has introduced the Fully Automated Sales Tax e-Refund (FASTER) System, which would process refund applications without human interaction.

Talking about the new system, the FTO said the FBR launched FASTER system without any trial and did not even put in place a feedback system to make improvements.

"The FTO has the mandate under which it plays its role, however, it also can make recommendations if it sees any malfunctioning

system. Therefore, the exporters should come to the FTO Karachi Office to discuss their issues," he said.

Speaking on the occasion, the exporters said the new FBR system encountered a large number of technical glitches but they could not do anything about it.

"The system shows only a one-liner objection for more than one objection and does not explain the precise reason for the delay in refund," an exporter said.

It was suggested that the FBR should establish a separate consultation department, which should advise what steps a particular exporter should take to get the issues resolved.

They suggested that the system should give details like the Web-Based One Customs (Weboc) system of Pakistan Customs and provide detailed information. For example, it should inform which one of the 10 traders it could not verify in the refund claim instead of making a generic reply to all the issues.

FTO Office Fully Committed to Make Tax System Flawless: Sukhera

BUSINESS RECORDER

Dec 28, 2019

— PAKISTAN'S PREMIER FINANCIAL DAILY —

Enhancing export is a national cause and facilitation to exporters shall be a service to the nation. Resolving the tax matters of exporters should be among the priorities of FBR. The office of the Federal Tax Ombudsman (FTO) is fully committed to fairly and independently correct the lacunas and flaws in taxation system.

The FTO as per the law may exercise its jurisdiction and authority against reported maladministration in FBR on individual claims and can also take suo moto in the larger interest of the country. FTO will swiftly respond to the requests of exporters for justice against non-compliance of laws, rules and procedures by FBR machinery which may cause unjustified delays, particularly against sales tax refund claims of exporters under new FASTER System."

This was stated by Honourable Federal Tax Ombudsman Mushtaq Ahmad Sukhera during his visit to Pakistan Apparel Forum office, PHMA House, Karachi. He was accompanied by Manzoor Hussain Qureshi, Advisor (Incharge), Income Tax / Sales Tax and Syed Ayaz Mahmood, Advisor and Abid Mehmood Director Admin.

Addressing the value added textile exporters, Honourable FTO took pride in stating that the FTO Offices across Pakistan were holding the professional advisers having high integrity and fame with remarkable career of service to the country. The FTO team has strong believe in service to Pakistan and reciprocate to the society and citizens. He informed that being the FTO, since assumption of responsibility, he has invoked his jurisdiction and authority and took suo moto on several taxation related matters and maladministration and referred the FTO inspections to probe several cases in Faisalabad, smuggling and confiscation of vehicles in Quetta and misuse of green channel by a mobile phone company in Karachi, which unearth the maladministration by functionaries administrating tax laws.

The FTO gave patient hearing to the problems and issues apprised by the Chairman, Pakistan Apparel Forum, M Jawed Bilwani, Chairman (PHMA), Aslam Karsaz, Chairman (PRGMEA), Shaikh Shafiq, Chairman (PAKSEA), Kamran Chandna, Chairman (PCFA), Khawaja M Usman, former Chairman (PCMA) Abdus Samad, Deputy

Chief Coordinator (PHMA) Junaid Makda, Senior Vice Chairman (PHMA) Khizer Mehboob, Vice Chairman (PHMA) Abdur Rehman and leading textile exporters and articulated that the grievances mentioned by the Forum were genuine, however, the current state of economy was also facing a set of unprecedented challenges like the current account deficit, fiscal deficit etc. The government in the last budget removed the Zero Rated Status for the five export sectors and imposed 17% sales tax. He was of the view that to start with 5% sale tax would have been an appropriate percentage to avoid any liquidity hardships for SME exporters as currently billions of rupees in shape of sales tax refunds have been stuck up. He agreed to the reservations of exporters that it would have been better option for the Govt. to follow the Bangladesh Model rather than introducing slow responding FASTER Refund System which was enforced without prior trial and testing, reportedly, FASTER lacks efficient feedback and monitoring was not in place to timely respond to exporters against their claims.

He advised to exporters to identify the flaws and lacunas in the system and also report their genuine grievances to FTO to resolve their matters in accordance with the law. Jawed Bilwani, Chairman, Pakistan Apparel Forum in this welcome address to Honourable FTO conveyed gratitude for his 2nd visit to this office and informed that huge amount of exporters' liquidity of billions of rupees in Sales Tax Refund, Custom Rebate and Withholding Tax has been stuck up with the Government causing great sufferings to the already burdened exporters who are now at a loss to understand how to make both ends meet and such an alarming situation will ruin the export business of the Value Added Textile Exporters.

Reportedly, hundreds of exporters SMEs have stopped their production owing to liquidity problems and shall be compelled for closure if their sales tax refunds are not released on immediate basis to facilitate them to get new orders and resume production. Small and Medium Export Industries are in total dire straits and demand immediate attention of the government for their survival. He stated that it was agreed that refund would be paid to exporters along with export proceed like Bangladesh Model. Contrary to this



FASTER System was introduced for speedy refunds in 72 hours which is totally failed. Despite of issuance of RPOs, refunds have not been given. Most of the cases are not cleared within 72 hours of submission of claim.

FASTER System runs only once a month instead of every week. Complete details of Objection / Rejection are not provided by FBR to claimants. FBR is not complying its own rules and regulation processing of refund claims under new system FASTER. We have collected the data of refund status of July-Oct 2019 from few exporters and it was revealed that only 17% amount is sanctioned against total refund claimed in Annexure H of new refund system FASTER while remaining 83% amount is deferred and pending with the FBR. However, many of the SME exporters are unable to claim refund due to difficult new refund system.

He requested the FTO to intervene and direct the FBR to inform as to why the new FASTER system has not performed efficiently and how many exporters among total registered exporters got refunds under

new refund system FASTER. He conveyed his apprehensions on Notices issued by RTOs and LTU Karachi to manufacturers-cum-exporters regarding Withholding of Sales Tax u/s 3(7) of Sales Tax Act 1990 for furnishing record, documents and statement for the period Aug-2014 to June-2017 which has created unrest among our members manufacturers-cum-exporters. Requisition of plethora of record without seeking any specific document is quite unwarranted despite in the presence of electronically data including details of exports, imports, purchases and other related record in sales tax return with FBR. Bilwani appealed to the Honourable FTO to take cognizance of the issues and problems being faced by the exporters due to non-compliance of rules, regulations and laws by the Tax Officials. While concluding the meeting, Honourable FTO assured to address all the genuine grievances of exporters and invited the team of Pakistan Apparel Forum to visit FTO Office along with issues and proposals to take up the same with the concerned to resolve





وفاقی ٹیکس محتسب

ٹیکس سے متعلقہ شکایات کے فوری، منصفانہ، بلا معاوضہ حل کا آئینی ادارہ

وفاقی ٹیکس محتسب کا کردار

▶ ٹیکس سے متعلق شکایات کا ازالہ

▶ ٹیکس حکام اور ٹیکس گزاروں کے مابین اعتماد میں اضافہ

▶ ٹیکس نیٹ میں اضافے سے قومی معیشت کا استحکام

اب ٹیکس معاملات میں ناانصافی، بدانتظامی اور بدعنوانی سے پریشان ہونے یا ان معاملات سے نمٹنے کے لئے وکلاء کو بھاری فیس ادا کرنے کی ضرورت نہیں۔ وفاقی ٹیکس اتھارٹی بشمول انکم ٹیکس، سیلز ٹیکس، کسٹم اور فیڈرل ایکسائز سے متعلقہ شکایات کے فوری اور منصفانہ حل کے لئے وفاقی ٹیکس محتسب کی خدمات بلا معاوضہ دستیاب ہیں۔



بدانتظامی

اختیارات
کا غلط
استعمال

تاخیری
حربے

نامناسب
رویہ

بددیانتی

شکایت درج
کرنے کے طریقے

آن لائن، ای میل، کوریئر یا دفتری اوقات میں شکایت گزار خود بھی درخواست جمع کروا سکتے ہیں۔ متعلقہ دستاویزات کی تفصیل اور مزید معلومات کیلئے ہماری ویب سائٹ www.fto.gov.pk پر جائیں۔

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