

FEDERAL TAX OMBUDSMAN SECRETARIAT

Regional Office, Lahore

Complaint No. 126/LHR/IT(96)/389/2015

Dated: 31.03.2015

Mr. Muhammad Aslam,
Prop: Malik Ice Factory,
Main Road, Dina Nath,
Tehsil Pattoki, District Kasur.

...Complainant

V e r s u s

The Secretary,
Revenue Division,
Islamabad.

...Respondent

Dealing Officer : Mr. Afzal Nau Bahar Kayani, Advisor
Authorized Representative : Mr. Abdul Waheed Shakir, Advocate
Departmental Representative : Dr. Athar Ishaq, DCIR

FINDINGS / RECOMMENDATIONS

This complaint was filed in terms of Section 10(1) of the FTO Ordinance, 2000 against delay in issuance of income tax refund for Tax Years 2013 and 2014.

2. Refunds of Rs. 66,730 and Rs.140,866 were claimed on the basis of income tax returns filed electronically on 30.01.2014 and 13.01.2015 for the two years respectively which were followed by refund applications e-filed on 13.01.2015 and 20.01.2015. Original documentary evidence in the form of electricity bills was also claimed to have been submitted on 28.04.2015. Despite completing the legal and procedural requirements, the Department failed to pay the lawful refund.

3. On reference to the Secretary, Revenue Division, in terms of Section 10(4) of the FTO Ordinance, the FBR forwarded vide its letter

*Date of registration in FTO Sectt.

dated 23.04.2015, the comments of Chief Commissioner and Commissioner. The Commissioner without controverting the facts about the filing of returns and refund applications simply stated that the refund applications did not appear in his inbox of the Inland Revenue Information System (IRIS) due to which refund could not be processed. He also claimed that the evidence of tax payments under section 235 (electricity bills) of the Income Tax Ordinance, 2001 (the Ordinance) was not filed by the Complainant.

4. The AR contended that the return and refund application having been filed in accordance with the prescribed procedure, legal responsibility was adequately discharged by the Complainant taxpayer. Further, if any difficulty was faced by the concerned Commissioner with regard to the automated system, it was the departmental obligation to correct it and ensure that refund was processed and order passed within the statutory time limitation.

5. The DR while reiterating the departmental position, explained that the refund claim was required to be processed through newly introduced Inland Revenue Information System, IRIS, but the instant claim did not reflect in the Commissioner's folder/ inbox, so it could not be issued. He failed to rebut the AR's contention that removal of deficiencies in its automated system was the departmental responsibility and the taxpayer could not be deprived of its lawful right by the Department for its inadequacy. The DR admitted during the hearing on 04.05.2015 that original electricity bills had been filed and the refund claims were in process and would be settled accordingly.

6. Both the parties have been heard and record perused. After the introduction of IRIS, the new procedure for processing the refund claims, it was the Departmental obligation to ensure that the system was in line with the provisions of law so that the taxpayer's right to

receive refund was not neglected. The Hon'ble Supreme Court of Pakistan in its judgment, reported as 1998 PTCL 354, has clearly disapproved the withholding of legally admissible refunds. The FBR admitted the inadequacy of its automated system as the latest procedural technicalities brought about through automation system of PRAL were not compatible with the legal provisions, nor the taxpayers have been made aware of such technical formalities through any publicity by FBR. The new techniques introduced by PRAL should have been publicized through press and electronic media atleast six months before their implementation, which must be done now. Before adopting such a measure, refusal to settle refund claims on the basis of such technicalities would amount to arbitrary act tantamounting to maladministration.

Recommendations:

7. FBR to ensure that-

- (i) adequate publicity is made for the awareness of taxpayers regarding technical/procedural changes for refund claims;
- (ii) the IRIS is fully compatible with the provisions of income tax law to facilitate timely processing of refund;
- (iii) refund claim of the Complainant is settled by removing irritants in the procedure, as per law, within three weeks; and
- (iv) report compliance within 30 days.

(Abdur Rauf Chaudhry)
Federal Tax Ombudsman

Dated: 30-7-2015
Kayan/AH

Approved for
reporting. 30/7/15