

**FEDERAL TAX OMBUDSMAN SECRETARIAT**  
**Islamabad**

**Complaint No.132/ISD/ST(11)/667/2010**

**Dated: 10-05-2010**

Syed Tahir Haider  
Messrs Nayyab Gas CNG Station  
GT Road Sangjani  
Islamabad

.. Complainant

**Versus**

The Secretary  
Revenue Division  
Islamabad.

... Respondent

**FINDINGS/RECOMMENDATIONS**

Dealing Officer : Mr. Yasir Tahir, Senior Advisor  
Authorized Representative : Mr. Khurram Shahzad Warraich,  
Advocate.  
Departmental Representative : Mr. Naveed Mukhtar, IR (RTO),  
Islamabad  
Mr. Shafiqat Mahmood, Auditor  
Sales Tax (RTO), Islamabad

The Complainant is running a CNG station. Under the Sales Tax law, he was required to file Sales Tax Return on quarterly basis as per Para 2(d), Chapter V of the Special Procedure Rules, 2007, which he did regularly. Regardless of this, he was included in the list of non-filers and imposed a penalty of Rs. 5,000/- for non-filing of Sales Tax Return for the month of August, 2009. As he was not required by the law and procedure to file Sales Tax Return on monthly basis. his inclusion in the list of non-filers for August, 2009, and imposing penalty for non filing was unjustified, illegal and based on malafide. He

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\* Date of registration in FTO Secretariat

accordingly prayed that imposition of penalty under Section 33 of the Sales Tax Act, 1990, be declared as null and void.

2. The complaint was referred for comments to the Revenue Division. In his reply, the Chief Commissioner, RTO, Islamabad, admitted the mistake of including the Complainant in the list of non-filers for August, 2009. He informed that he had directed the Commissioner (Enforcement) for re-opening of the case under Section 45A of the Sales Tax Act, 1990, for withdrawal of the penalty mistakenly imposed on the Complainant.

3. Hearing of the parties was held in the FTO Secretariat. It transpired during the hearing that there being no mechanism in place to separate the quarterly filers from those required to file the Returns on monthly basis. The AR informed that previously also the Complainant had been included in the list of non-filers for the month of July, 2009. On receipt of Show Cause Notice the Sales Tax authorities were informed that being a quarterly filer, he was not required to file Sales Tax Return for the month of July, 2009 separately. Although the Show Cause Notice was withdrawn, he was again included in the list of non-filers for August, 2009. However, this time he did not receive any Show Cause Notice and thus the adjudication was conducted ex parte and the penalty was imposed without providing him any opportunity of hearing.

4. The DR admitted that this was a systemic issue which needed to be corrected to save the quarterly filers from avoidable hassle and harassment. He promised that he would make sure that necessary steps were taken to forestall the chances of repetition of such mistakes in the future.

### Findings

5. In view of the foregoing discussion, it is evident that there is no fool-proof mechanism to separate monthly non-filers from quarterly non-filers. Non service of Show Cause Notice, for which the DR had no plausible explanation, and ex parte clamping of penalty reflect gross neglect, inefficiency, arbitrariness and injustice. These acts of omission and commission evidently tantamount to maladministration under Section 2(3)(i) and (ii) of the FTO Ordinance, 2000.

**Recommendations**

6. FBR to –

- (i) direct Chief Commissioner, RTO Islamabad, to confirm withdrawal of penalty illegally imposed on the Complainant within 15 days;
- (ii) issue a letter of apology to the Complainant;
- (iii) direct PRAL to put in place a fool-proof mechanism to avoid such systemic cases of gross maladministration; and
- (iv) report compliance within 30 days.

(Dr. Muhammad Shoaib Suddle)  
Federal Tax Ombudsman

Dated: 20/07/2010  
A.H.

*Muhammad Shoaib Suddle*

**ATTESTED**

*Ch. Muhammad Siddiq Tabassum*

Ch. Muhammad Siddiq Tabassum  
Advisor (Implementation & Monitoring)  
Federal Tax Ombudsman Secretariat  
Islamabad