

## Federal Tax Ombudsman Pakistan

## MAKING A DIFFERENCE

Annual Report 2013



### MAKING A DIFFERENCE

ANNUAL REPORT

2013





# اعُدِلُوا هُوَ اَقُرَبُ لِلتَّقُوٰى اللَّهُوا عَلْمَ اللَّهُ اللَّ

# Be just; that is nearer to righteousness.

6:5:8 (Al Quran)





#### Introduction

The Office of the Federal Tax Ombudsman (FTO) is a quasi-judicial forum established under the Establishment of Federal Tax Ombudsman Ordinance (No XXXV) of 2000 dated August 11, 2000, with the objective of providing prompt and inexpensive redress of taxpayers' grievances against maladministration by tax functionaries of the Revenue Division, Federal Board of Revenue and their field offices.

- 2. The FTO Secretariat started functioning on September 19, 2000, when the first FTO, Hon'ble Justice (R) Mr. Saleem Akhtar, took oath of the Office. He was succeeded by Hon'ble Justice (R) Mr. Munir A. Sheikh. Hon'ble Dr. Muhammad Shoaib Suddle was the third Federal Tax Ombudsman. He has been succeeded by Hon'ble Mr. Abdul Rauf Chaudhry who took oath of the Office on 10 July, 2013.
- 3. The FTO Secretariat comprises its Headquarters at Islamabad and Regional Offices at Karachi, Lahore, Peshawar and Quetta. Another Regional Office will be established, early next year, at Faisalabad. Prior to the establishment of the Office of the FTO, tax maladministration fell in the jurisdiction of Wafaqi Mohtasib in terms of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 dated 24 January, 1983.
- 4. The law empowers the FTO to entertain complaints against the FBR officials administering income tax, customs duties, sales tax and federal excise duty. The FTO is mandated to identify and review systemic issues and maladministration related recurrent problems within the Revenue Division / FBR and their field offices. Also, a citizen can file a complaint with the FTO against the Revenue Division / FBR and their field offices for failing to provide the requested information as per the Freedom of Information Ordinance, 2002.
- The FTO Office maintains a website: www.fto.gov.pk





Annual Report 2013

D.O.No.10(2)/2014-A-II Islamabad, the 28 March, 2014

Dear Mr. President,

am pleased to present to your good office the 14th Annual Report as required under Section 28(1) of the Establishment of the Office of Federal Tax Ombudsman Ordinance, 2000.

- 2. After taking oath of the Office of Federal Tax Ombudsman on 10 July, 2013, I have given a fresh look to the working of the Office. Although the performance of this Office has remained fairly satisfactory in the past, it continues to be constrained by a number of factors, particularly, inadequate office accommodation which is too small to meet even the bare minimum organizational needs of the FTO HQs at Islamabad. Other areas requiring improvement are: administrative set-up; investigation and IT skill-sets; remuneration package; procedural framework and e-enablement. Being the Chairperson of the Forum of Pakistan Ombudsman (FPO), established in April 2011 by consensus of all federal and provincial Ombudsmen including AJK, I am also responsible for coordinating capacity building of all Ombudsman Offices in the country.
- 3. We have initiated a capacity audit of these vital aspects of the FTO Secretariat aimed at further improving the service delivery. While doing so, I acknowledge the work done by my illustrious predecessors to upgrade the skill-sets, ensure integrity and promote competence of staff for efficient investigation of taxpayers' complaints. However, the FTO needs to break new ground to achieve higher order professionalization to fully realize its potential. I need your kind support and guidance to achieve the critical objective of the FTO as well as the FPO which is strengthening good governance in the country by ensuring effective accountability of maladministration.

With profound regards,

Yours sincerely,

(Abdur Rauf Chaudhry)





Oath Taking Ceremony of Hon'ble Federal Tax Ombudsman Held at Karachi on July 10, 2013



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Hon'ble Federal Tax Ombudsman Meeting with the Hon'ble President of Pakistan On 31 October, 2013

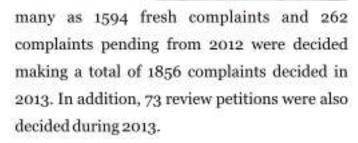


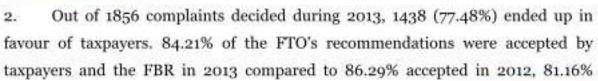


## Message by the Federal Tax Ombudsman

am pleased to present the Annual Report for the year 2013, during which the FTO Secretariat attained new heights in service delivery. In 2013, the FTO received 1898 fresh complaints as compared to 1689 fresh complaints received during 2012. 886 (46.68%) of the fresh complaints received during 2013 pertained to income tax, 721 (37.98%) to sales tax, 281 (14.81%) to customs and 10 (0.53%) to

As many as 1594 fresh complaints and 262 complaints pending from 2012 were decided making a total of 1856 complaints decided in 2013 federal excise. As





accepted in 2011, 76.82% accepted in 2010 and 77.79% accepted in 2009. Significantly, the taxpayers' grievances in as many as 524 out of 1856 complaints decided in 2013 got redressed at the investigation phase. The number of grievances redressed at investigation phase was 493 in 2012; 399 in 2011, 367 in 2010 and 151 in 2009.

Significantly, the taxpayers' grievances in as many as 524 out of 1856 complaints decided in 2013 got redressed at the investigation phase

 The average time taken to decide a complaint was 54 working days in 2013, as compared to 48 days in 2012; 60 days in 2011, 67 days in 2010 and 117 days in 2009.



The main reasons for increase in average disposal time in 2013 were: (i) increased workload, (ii) complicated complaints, and (iii) paucity of investigation and support staff.

4. A sum of Rs8.23 billion was got refunded to the taxpayers in 2013 through FTO intervention as compared to Rs9.787 billion refunded in 2012, Rs 7.889 billion refunded during 2011, Rs7.080 billion refunded in 2010 and Rs0.094 billion refunded in 2009. Out of the total amount of Rs 8.23 billion involved in 178,617 claims got refunded during 2013, Rs7.26 billion involved in 178,309 claims were got refunded through own motion notice by the FTO as compared to Rs8.83 billion refunded in 231,250 cases in 2012, Rs6.625 billion refunded in 181,880 cases in 2011, Rs4.90 billion refunded in 194,056 cases in 2010. In 2009, however, no claim of refund or

In 2013, the taxpayers also received a sum of Rs58.38 million in compensation for delayed payment of refunds in 07 cases duty drawback was settled on own motion intervention by the FTO. In 2013, the taxpayers also received a sum of Rs 58.38 million in compensation for delayed payment of refunds in 07 cases.

5. In pursuance of the FTO's recommendations to address the systemic issue of delay in settlement of tax refund and duty drawback claims, the FBR has been constantly improving the system of refund settlement. Therefore, many more tax refund and duty drawback claims may have been expedited by the FBR due to the FTO

recommendations. However, a lot more needs to be done by the Revenue Division, the FBR and there field offices to fully eliminating the systemic problem of delay in refund claim settlement process, dispute resolution, and redressing grievances of the taxpayers.

A lot more needs to be done by the Revenue Division, the FBR and their field offices to fully eliminating the systemic problem of delay in refund claim settlement

- In addition to disposal of 1856 complaints formally docketed for investigation,
   complaints were informally disposed of, redressing the taxpayers' grievances
   without formal investigation. In such complaints, the element of maladministration is
   usually too apparent to be contested by the FBR or its field offices.
- 7. Performance of the FTO Secretariat during 2013 indicates effective service



delivery to the taxpayers aggrieved by tax maladministration. Significantly increased number of complaints received and decided during 2013, also reflects greater faith of taxpayers in the FTO mechanism for prompt redressal of their grievances.

8. Experience has shown that the less influential, weak and vulnerable citizens are the greatest victims of maladministration by public functionaries. The Ombudsman mechanism is being used with advantage to protect the interests of the less influential taxpayers. The own motion interventions by the FTO in cases of maladministration and systemic problem solving strategy reflect a proactive approach to redressal of taxpayers grievances.

The own motion interventions by the FTO in cases of maladministration and systemic problem solving strategy reflect a proactive approach to redressal of taxpayers grievances

The FTO Secretariat is working hard, in coordination with all other federal and 9.

The FTO Secretariat is working hard to reduce the tolerance level of the citizens for maladministration and also to allay their fear of reprisals by public functionaries

provincial Ombudsmen, at the platform of the Forum of Pakistan Ombudsman (FPO), to reduce the tolerance level of the citizens for maladministration and also to allay their fear of reprisals by public functionaries.

All possible tools of advocacy are 10. being used to enhance public awareness

about the effectiveness of Ombudsman mechanism which is increasingly being recognized as an effective accountability mechanism for promoting good governance. A lot more needs to be done to harness the complementarities of the Ombudsman mechanism with other oversight institutions to reduce maladministration and promote good governance in the country.

> Abdur Rauf Chaudhry Federal Tax Ombudsman





Participants of the Workshop to familiarize the Federal Ombudsman Officers with the provisions of the FOIRA-2013, held at Islamabad on 18 March, 2013





## Mandate, Vision, Mission and Values

#### Mandate

 Diagnose, investigate, redress and rectify any injustice done to a person through maladministration by functionaries administering federal tax laws.

#### Vision

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

#### Mission

Redressing taxpayers' grievances and addressing systemic issues.

#### Values

- Accessibility
- Efficiency
- Integrity
- Objectivity
- Transparency





Members of Advisory Committee with the Outgoing FTO Hon'ble Dr. Muhammad Shoaib Suddle who retired on 10 July, 2013





### Jurisdiction

#### Mandate

The FTO mandate is to diagnose, investigate, redress and rectify any injustice ▲ done to a person through maladministration by functionaries administering federal tax laws. Apart from the taxpayers' complaints, the FTO also investigates cases referred to him by the President, the Parliament, the Supreme Court or a High Court during the course of any proceedings before it, or of his own motion. The FTO The FTO mandate is not mandate is not only to efficiently issue only to efficiently issue recommendations but also to get these implemented recommendations but effectively. The President of Pakistan vide his also to get these Directive No. 1 of 1990, the Prime Minister of implemented effectively Pakistan vide his instructions issued in 1995 and the Supreme Court of Pakistan vide its judgment reported as 199 SCMR 2189, have emphasized that Ombudsman's recommendations ought to be implemented promptly and delaying tactics should be avoided.

#### Maladministration Defined

The FTO entertains citizens' complaints of maladministration by the functionaries administering laws relating to income tax, sales tax, customs duties and federal excise duty. The important areas of maladministration which the FTO can investigate include decisions or The important areas of under section 2(3) of the FTO discriminatory or unreasonable

processes as are contrary to law, maladministration which the FTO rules or regulations and acts of can investigate include decisions or omission or commission as are processes as are contrary to law, rules inept, perverse, arbitrary, unjust, or regulations and acts of omission or oppressive or unreasonable. The commission as are inept, perverse, definition of maladministration arbitrary, unjust, oppressive,



Ordinance, 2000, also covers exercise of official power by tax functionaries for corrupt or improper motives, neglect, inattention, delay, discrimination, incompetence and inefficiency.

#### Scope of Maladministration

3. The FTO has the authority to investigate complaints on such grounds as issuance of repeated notices, requirement of unnecessary attendance and prolonged hearings done to harass taxpayers. The FTO can investigate cases involving willful withholding of refunds, coercive methods

The FTO has the authority to investigate complaints on such grounds as issuance of repeated notices, requirement of unnecessary attendance and prolonged hearings done to harass taxpayers

of tax recovery and the FBR's avoidance of disciplinary action against those who are held by the FTO as willful, vindictive, whimsical or biased.

#### Complaints under FOI Ordinance, 2002

Citizens can file complaints with the FTO against the Revenue Division/ FBR and their field offices for not providing the required information in defiance of the Freedom of Information Ordinance, 2002 4. Citizens can file complaints with the FTO against the Revenue Division/ FBR and their field offices for not providing the required information in defiance of the Freedom of Information Ordinance, 2002.

#### Empowerment to Conduct Inquiry

5. The FTO can himself initiate an inquiry into a complaint or assign his officials to conduct investigation. In the process, the authorized officials are entitled to have access to any official document necessary for investigation. Presently, complaints are investigated by subject-specialist Advisors who are mostly Secretary (BS-22) or Additional Secretary (BS-21) level retired officers of the FBR and the judiciary. The FTO meticulously cross-checks the legality and propriety of the investigation before signing the findings/ recommendations drafted by the Advisors. A specialist legal



Advisor assists the FTO in ascertaining the quality of drafts submitted by the Advisors for the FTO's approval. Review petitions are personally heard by the FTO.

#### Powers of a Civil Court

6. Ordinance, 2000, the FTO has the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters, namely:

Under Section 14(1) of the FTO Under Section 14(1) of the FTO Ordinance, 2000, the FTO has the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908

- summoning any person and examining him on oath; a)
- b) Enforcing attendance of any person;
- c) compelling production of documents;
- d) receiving evidence on affidavits; and
- issuing commission for examination of witnesses. e)
- 7. The FTO has the power under Section 14(2) of the FTO Ordinance, 2000, to require any person to furnish information on such points or matters as, in the opinion of the FTO, may be useful for, or relevant to, the subject matter of any investigation.
- Under Sections 10 and 11 of the Federal Ombudsmen Institutional Reforms 8. Act, 2013 (FOIRA-2013), the FTO has also the powers of a Civil Court, for:
  - (i) granting temporary injunctions for a period not exceeding sixty days; and
  - (ii) getting his recommendations, orders or decisions implemented.

#### Power to Punish for Contempt

Under section 16 of the FTO Ordinance, 2000, the Federal Tax Ombudsman 9. has the same powers, mutatis mutandis, as the Supreme Court of Pakistan, to punish any person for contempt, if he abuses, interferes with, impedes, imperils, or obstructs the process of the FTO in any way or disobeys his orders.

#### Power to recommend disciplinary action

In case the charge of maladministration gets established against a tax 10.



functionary, the Ombudsman may recommend to the concerned authority for an appropriate remedial action. He can recommend disciplinary action and also order compensation by the errant tax official to the aggrieved citizen. Under Section 9(3) of the FOIRA-2013, the FTO can recommend disciplinary action, by the competent authority, if written comments are not submitted by the Revenue Division/FBR within 15 days or if representative of Revenue Division/FBR does not attend hearing of a complaint as required by the FTO. The FBR will have to explain reasons in case it does not implement the FTO recommendations within 30 days, and if the FTO is not satisfied with the explanation, he can refer the matter to the President of Pakistan.

#### Independence from the Executive

11. The FTO performs his functions and exercises his powers independent of the executive. However, all executive authorities throughout Pakistan are required by law to act in aid of the FTO, in terms of Section 3(3) of the FTO Ordinance, 2000.

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#### Power to Review

Under section 14(8) of the FTO Ordinance, 2000 read with Section 13 of the 12. Federal Ombudsmen Institutional Reforms Act, 2013 (FOIRA-2013), the Federal Tax Ombudsman has the power to re-examine any findings/recommendations made

The FTO is also empowered to identify and review the frequently emerging maladministration-related systemic issues within the FBR and its field offices that have a negative impact on taxpayers

or any order passed by him. The FTO is also empowered to identify and review the frequently emerging maladministrationrelated systemic issues of maladministration within the FBR and its field offices that have a negative impact on taxpayers.

#### Exclusivity of Jurisdiction

Section 18 of the Federal Ombudsmen Institutional Reforms Act, 2013 13. (FOIRA-2013) fortifies exclusivity of the FTO jurisdiction on the element of



#### maladministration as under:

"18. Bar of Jurisdiction.- No court or authority shall have jurisdiction to entertain a matter which falls within the jurisdiction of an Ombudsman nor any court or authority shall assume jurisdiction in respect of any matter pending with or decided by an Ombudsman."

No court or authority shall have jurisdiction to entertain a matter which falls within the jurisdiction of an Ombudsman nor any court or authority shall assume jurisdiction in respect of any matter pending with or decided by an Ombudsman

#### Limitations of Jurisdiction

14. The FTO jurisdiction does not extend to cases that are sub judice before a court or a tribunal of competent jurisdiction. He is not mandated to carry out functions such as interpretation of law, assessment of tax, valuation and classification of goods, except when these issues are intermingled with maladministration.

#### Administrative and Financial Powers

The FTO, being the Principal Accounting Officer and Chief Executive of the

The FTO enjoys complete financial and administrative powers as conferred by Section 17 of the FOIRA-2013

Office, enjoys complete financial and administrative powers as conferred by Section 17 of the FOIRA-2013. He has full powers to create new posts, abolish old

posts, change nomenclature and upgrade or downgrade any post, provided the expenditure is met from within the allocated budget. He has full powers to reappropriate funds from one head of account to another and to sanction expenditure on any item from within the allocated budget.

#### Power to make rules

16. The FTO has the power under Section 22 of the FOIRA-2013 and Section 36 of the FTO Ordinance, 2000, to make rules, by notification in the official gazette, to carry out the purposes of establishment of his office.







Officers of Ombudsman offices attending Two-Day Workshop on "Challenges of Ombudsmanship" held at Islamabad on 25-26 September, 2013





## Performance 2013

#### Highlights

#### 1898

fresh complaints were received by the FTO office during 2013 up by 12.37% as compared to 1689 fresh complaints received in 2012, 1390 fresh complaints received in 2011, 1446 fresh complaints received in 2010 and 810 fresh complaints received in 2009.

#### 1856

complaints were decided by the FTO Office during 2013:

- 1594 of the decided cases were from fresh complaints; and
- 262 of the decided cases were carried over from 2012.

#### 1438

or 77.48% complaints were decided by the FTO in favour of the taxpayers as compared to 88.54% favorable decisions in 2012, 86.09% favorable decisions in 2011, 83.16% favorable decisions in 2010 and 76.25% favorable decisions in 2009.

#### 235

or 12.66% of the decided complaints were rejected during 2013 as compared to 183 or 11.46% complaints rejected in 2012, 195 or 13.90% complaints rejected in 2011, 242 or 16.84% complaints rejected in 2010 and 200 or 23.75% complaints rejected in 2009.

#### 183

or 9.86% of complaints were withdrawn by the applicants.



#### 86

cases, in addition to 1856 formally investigated cases, were informally settled in 2013 in terms of Section 33 of the Ordinance without docketing complaints for formal investigation, as compared to 67 cases settled in 2012, 11 cases settled in 2011, 02 cases settled in 2010 and 01 case settled in 2009.

#### 1563

or 84.21% percent of the FTO Findings/Decisions were accepted by taxpayers and the FBR in 2013 as compared to 1378 decisions or 86.29% accepted in 2012, 1138 decisions or 81.16% accepted in 2011, 1104 decisions or 76.82% accepted in 2010 and 655 decisions or 77.79% accepted in 2009.

#### 293

or 15.79% of the FTO decisions were challenged during 2013 through review or representation mechanisms as compared to 219 or 13.71% decisions challenged during 2012, 264 or 18.83% decisions challenged in 2011, 333 or 23.17% decisions challenged in 2010 and 187 or 22.21% decisions challenged in 2009.

#### 8.23

billion rupees got refunded to the taxpayers on the FTO recommendations during 2013 as compared to Rs9.787 billion refunded in 2012, Rs7.889 billion refunded in 2011, Rs7.08 billion refunded in 2010 and Rs 0.094 billion refunded in 2009.

#### 178,617

claims of refund and duty drawback were got settled in 2013 as compared to 231,654 claims settled in 2012, 182,457 claims settled in 2011, 196,015 claims settled in 2010 and 231 claims settled in 2009.

#### 178,309

claims of refund and duty drawback out of a total of 178,617 claims involving an amount of Rs7.26 billion were got settled through own motion intervention by the FTO as compared to 231,250 claims involving an amount of Rs8.83 billion



got settled in 2012. In 2011, 181,880 claims involving an amount of Rs6.63 billion of refund and duty drawback were similarly got settled. In 2010, 194,056 claims involving an amount of Rs4.90 billion were got settled. No claims were settled through own motion intervention in 2009.

#### 54

working days were taken on an average for disposal of a complaint by the FTO Office during 2013 as compared to 48 days in 2012, 60 days in 2011, 67 days in 2010 and 117 days in 2009.

#### 1208

cases of the FTO recommendations were implemented in 2013 as compared to 1420 cases implemented in 2012, 1159 cases implemented in 2011, 698 cases implemented in 2010 and 321 cases implemented in 2009.

- -524 grievances redressed by the FBR during investigation phase in 2013 as compared to 493 grievances redressed in 2012, 399 grievances redressed in 2011, 367 grievances redressed in 2010 and 151 grievances redressed in 2009.
- -684 cases containing the FTO recommendations were got implemented in 2013 as compared to 927 cases implemented in 2012, 760 cases in 2011, 331 cases in 2010 and 170 cases in 2009.

#### 809

cases of FTO recommendations were pending implementation by the FBR and its field offices at the end of year 2013. These do not include cases where a representation or a review petition has been filed by the FBR or the taxpayers. Unjustified delay by the FBR in implementing the FTO decisions detracts much from taxpayer confidence in the FTO mechanism for prompt redress of their grievances against tax maladministration.







Hon'ble Justice (R) Federal Ombudsperson and Hon'ble Prof. Dr. Mira Phailbus, Provincial Ombudsperson Punjab Receiving Participation Certificates for Attending Two-day Workshop on "Challenges of Ombudsmanship" held at Islamabad on 25-26 September, 2013



# Performance 2013 (Continued) (Details)

#### Disposal of Complaints

A notable improvement in taxpayers' faith in the service delivery by the FTO is indicated by 12.37% increase in the number of fresh complaints from 1689 in 2012 to 1898 in 2013. Out of a total Out of a total of 2163 of 2163 complaints (1898 fresh and 265 carried complaints (1898 fresh over from 2012), 1856 complaints were decided during 2013. Disposal of a significantly higher number of complaints by the FTO marks another were decided during 2013 milestone in his achievements.

Of the 1856 decided complaints, decisions in 1438 or 77.48% complaints were in favor of taxpayers compared with 88.54% in 2012, 86.09% in 2011, 83.16% in 2010 and 76.25% in 2009 2. Of the 1856 decided complaints, decisions in 1438 or 77.48% complaints were in favor of taxpayers compared with 88.54% in 2012, 86.09% in 2011, 83.16% in 2010 and 76.25% in 2009. The trend indicates that the Advisors have been more careful in investigating complaints due to upgraded

skill-sets for distinguishing the genuine from the frivolous complaints.

Receipt and disposal of complaints during 2013 is reflected in Table-1:

#### TABLE-1

#### RECEIPT AND DISPOSAL OF COMPLAINTS DURING 2013

Carried Forward	Fresh Receipt	Total	Disposal	Pending at
from 2011	During 2012		During 2012	the Year End
265	1898	2163	1856	307



Table-2 provides tax-wise break-up of fresh complaints received during
 2013:

TABLE-2

#### TAX-WISE RECEIPT AND DISPOSAL OF FRESH COMPLAINTS DURING 2013

ŀ	incom	re Tax	Sale	Tax	Cust	oms	Federal	Excise	F	)I	To	tal
R		Disp	Receipt	Disp	Receipt	Disp	Receipt	Disp	Receipt	Disp	Receipt	Disp
ı	886	750	77211	564	281	250	10	10)	0	0	1898	1594

Tax-wise number of fresh complaints received during 2013 and their relative share is shown by Table-3:

TABLE-3

#### TAX-WISE NUMBER AND PERCENTAGE OF FRESH COMPLAINTS DURING 2013

Category	Number of Complaints	Percentage
Income Tax	886	46.68%
Sales Tax	721	38.00%
Customs Duty	281	14.86%
Federal Excise Duty	10	0.50%
FOL		
Total	1898	100%

Region-wise receipt and disposal of fresh complaints received during 2013 is reflected by Table-4:

#### TABLE-4

#### REGION-WISE RECEIPT AND DISPOSAL OF FRESH COMPLAINTS DURING 2013

Station	Receipt	Disposal	Balance
Islamabad	146		29
Karachi	604	547	
Lahore	1028	822	206
Quetta		46	
Peshawar			
Total	1898	1594	304



 Office-wise monthly receipt of fresh complaints during 2013 is reflected in Table-5:

TABLE-5
OFFICE-WISE MONTHLY RECEIPT OF COMPLAINT DURING 2013

FIO Offices	Jan	Feb	Mar	Apr	May	Juni	Jul	Aug	Sep	Oct	Nov	THER	Total
HQ Islamahad		-9									111		
Karachi							46			49	(62)		
Lahore							38	93	84		48		
Peshawar													
Quetta													
	182	1779	180	199	198	141	157	143		140	125	High	1800

#### Acceptance Ratio of FTO Findings / Recommendations

8. Out of 1856 cases decided during 2013, 293 cases were challenged, mostly by the FBR, through representations under Out of 1856 cases decided Section 32 of the FTO Ordinance and during 2013, 293 decisions Section 14 of the FOIRA-2013, review were challenged, mostly by the petitions under Section 14(8) of the FTO FBR, through representations Ordinance, 2000 and Section 13 of the and review petitions
FOIRA-2013. The year-wise number of the FTO decisions challenged during 2013 is reflected by Table-6:

TABLE-6
YEAR-WISE NUMBER OF FINDINGS/RECOMMENDATIONS CHALLENGED

Year	Total Findings	Number of Representations	Number of Review Petitions	Total	% of Challenged Findings
2009	842	128	59	187	22:21
2010	1437	212	121	333	
2011	1402	241		264	18.83
/2012	1597	153	56	219	13.71
2013	1856	237	56	293	15.79
Total	7134	941	355	1296	18.17



- The above Table shows that 293 or 15.79% of the FTO decisions were challenged through representations and review petitions as against a five year average of 18.17%. Although, this reflects a lower percentage of 15.79% compared with the five year average, yet it represents 2.38% age points higher level of challenged decisions in 2013 compared with 2012. This reversal of the declining trend of challenged decisions during the previous four years from 2009-2012 is obviously undesirable especially because many of these review petitions and representations get ultimately rejected.
- It is satisfying to note that 1563 decisions or 84.21% out of a total of 1856 decisions were accepted by the FBR and the taxpayers. The acceptance ratio was 86.29% in 2012, 81.16% in 2011, 76.82% in 2010 and 77.79% in 2009.

#### Representations and Review Petitions

During 2013, out of 1856 complaints decided, 237 decisions were challenged in During 2013, out of 1856 complaints decided, 237 decisions were challenged in representations before the President and 56

decisions were challenged in

review petitions before the FTO

representations before the President in terms of section 32 of the FTO Ordinance, 2000 and Section 14 of FOIRA-2013 and 56 decisions were challenged in review petitions before the FTO under Section 14(8) of the FTO Ordinance read with

Section 13 of the FOIRA . Table-7 reflects the number and break-up by applicant of representations and review petitions:

#### TABLE-7 NUMBER AND BREAK-UP BY APPLICANT OF REPRESENTATIONS AND REVIEW PETITIONS FILED DURING 2013

Applicant	Representations	Review Petitions	Total
FBR	210	38	248
Taxpayers		18	45
Total	237	56	293



#### Representations

Table-8 indicates the number of representations decided during 2013:

#### TABLE-8

#### BREAK-UP BY APPLICANT OF REPRESENTATIONS DECIDED DURING 2013

Representations by	Decided	Accepted	Rejected	Modified	Directive	Observation
FBR	349	184	110	3	4.4	32
Taxpayers	34	0	31	0	3	0
Total	383	181	150	3	17	32

#### Review Petitions

13. Apart from 237 representations made before the President, 56 review petitions were received under section 14(8) of the FTO Ordinance, 2000 read with Section 13 of the FOIRA-2013. Besides, 33 review petitions were carried over from 2012. Out of total 89 review petitions, 73 were decided during 2013. Table-9 reflects receipt and disposal of review petitions:

## TABLE-9 RECEIPT AND DISPOSAL OF REVIEW PETITIONS IN 2013

Applicant	Fresh Review Petition Received in 2013	Carried forward Review Petition From 2012	Disposal	Balance
FBR	38	20	50	3
Taxpayers	18	13		8
Total	56	33	73	16

 Acceptance/rejection ratio of review petitions during 2013 is reflected by Table-10:

#### TABLE-10

#### ACCEPTANCE/REJECTION OF REVIEW PETITIONS DURING 2013

Decided	Accepted	Rejected	Withdrawn	Closed
78	20	34	15	4



15. Tables 8 and 9 show that most of the representations and review petitions were filed by the FBR. As a substantial number of these ends-up in rejection, it indicates that representations and As a substantial number of these ends-up in rejection, it indicates that representations and review petitions are not being carefully filed by the FBR only in strong cases.

indicates that representations and review petitions are not being carefully filed by the FBR only in strong cases.

#### Refund and Duty Drawback

16. The FTO interventions are extremely helpful in expediting settlement of delayed refund and duty draw back claims due as per law and promoting sense of accountability among the tax functionaries. During 2013, an amount of Rs8.23 billion involved in 178,617 claims was paid on intervention of the FTO. During a

period of five years from 2009 to 2013, an amount of Rs33.077 billion was got refunded by the FTO in 788,974 delayed cases of aggrieved taxpayers. Table-11 summarizes the year-wise position:

During a period of five years from 2009 to 2013, an amount of Rs33.077 billion was got refunded by the FTO in 788,974 delayed cases of aggrieved taxpayers

TABLE-11
YEAR-WISE REFUND/DUTY DRAW BACK PAID ON FTO INTERVENTION

Year	No. of claims involved	Amount of Refund (in Billion)
2009	231	0.094
2010	190,015	7.080
(2011)	182,457	7.889
2012	281,054	9.787
2013	178,617	8.227
Total	788,974	33.077

17. In addition, an amount of Rs58.38 million was paid during 2013 as compensation to the taxpayers in 07 cases involving maladministration of serious nature.



#### Average Time Taken for Disposal of Complaints

18. Time taken for disposal of a complaint begins from the date of filing it with the FTO Office. It includes the time taken (i) by the FBR and its field officers for its comments; (ii) by the complainant for filing a rejoinder; (iii) by referring the rejoinder with the FBR; (iv) holding hearing(s); (v) drafting findings by the Advisors and (vi) scrutiny and approval thereof by the The average time taken for FTO. The average time taken for investigation investigation and disposal and disposal of complaints was 54 working days of complaints increased to in 2013 as against 48 days in 2012, 60 days in 54 working days in 2013 as 2011, 67 days in 2010 and 117 days in 2009. It is, against 48 days in 2012 however, less than the directory period of 60 days for disposal of complaints. Table-12 reflects per complaint time taken for disposal in 2013:

TABLE-12
AVERAGE TIME TAKEN PER COMPLAINT DURING 2013

Year	Up-to 30 Days	31 to 60 Days	61 to 90 Days	More than 90 days	Total
2013	56	540	581	400	1594
2012		75	109	96	
Total	58	601	690	507	1856
Total days	1033	20030	36007	42882	100945
Average days per complaint	18			85	

#### Implementation of Recommendations

19. During 2013, decisions in 1208 cases were implemented by the FBR and its field offices as compared to 1420 cases implemented in 2012, 1159 cases implemented in 2011, 698 cases implemented in 2010 and 321 cases implemented in 2009. Out of During 2013 grievances of the 1208 cases implemented during 2013, Complainants were redressed grievances of the Complainants were in 524 cases during the redressed in 524 cases during the investigation phase investigation phase as against 493

complaints redressed during 2012, 399 complaints redressed during investigation



phase in 2011, 367 complaints redressed in 2010 and 151 complaints redressed in 2009. Table-13 reflects year-wise implementation of FTO's findings and redress of grievances in complaints during the investigation phase:

TABLE-13
YEAR-WISE IMPLEMENTATION OF RECOMMENDATIONS

Year	Grievances Redressed at Investigation Phase	Grievances Redressed after FTO Decision	Total Decisions Implemented
2000	151		321
-2(0)1(0)	367	331	698
2011	399	760	1150
30012	493	927	1420
2013		684	1208

#### Stock of FTO Decisions Pending Implementation

20. Despite sustained focus on implementation, a huge stock of FTO decisions accepted by the FBR is still pending implementation. Table-14 reflects the position:

TABLE-14
STOCK OF FTO DECISIONS PENDING IMPLEMENTATION BY THE FBR

Carried over stock of Decisions	decisions added	Decisions on Representations/ Seriew Petitions received during 2013	Total stock during 2013 (1+2+3)	Decisions Implemented during 2013	Stock of Decisions pending at the contractors
(1)	(2)			(5)	(6)
579	1190:	248	2017	1208	809

21. During 2013, the total stock of implementable decisions was 2017. Out of this implementable stock, 1208 (59.89%) decisions were implemented by the FBR during 2013 and 809 (40.11%) decisions were pending implementation at the end of the year. This kind of huge pendency constitutes a serious problem requiring urgent attention of the Revenue Division, the FBR and their field formations.





### Forum of Pakistan Ombudsman

On the initiative of the Federal Tax

Federal Tax Ombudsman a Ombudsman a networking of Pakistan's networking of Pakistan's Federal and Provincial Ombudsmen titled Federal and Provincial The Forum of Pakistan Ombudsman' Ombudsmen titled 'the (FPO), was established on 15 April, 2011

Forum of Pakistan Ombudsman' (FPO), was established on 15 April, 2011 and registered under the Societies Act (Act XXI of 1860) on 4 June, 2011. The FPO comprises the following membership:-

- i. Wafaqi Mohtasib (Ombudsman), Islamabad;
- ii. Federal Tax Ombudsman, Islamabad;
- iii. Federal Insurance Ombudsman, Karachi;
- iv. Banking Mohtasib Pakistan, Karachi;
- Federal Ombudsperson for Protection against Harassment of Women at Workplace, Islamabad;
- vi. Provincial Ombudsman Punjab, Lahore;
- vii. Provincial Ombudsman Sindh, Karachi:
- viii. Provincial Ombudsman Khyber Pakhtunkhwa, Peshawar;
- Provincial Ombudsman Balochistan, Quetta:
- Provincial Ombudsman of Azad Jammu & Kashmir, Muzaffarabad;
- Ombudsperson (Mohtasib) Punjab for Projection of Women against Harassment at Workplace, Lahore; and
- Ombudsman (Mohtasib) Sindh for Protection of Women against Harassment at Workplace, Karachi.



 The FPO was established to provide all federal and provincial Ombudsmen in Pakistan and Azad Jammu and Kashmir (AJK) a permanent platform to design a common The FPO was established to provide all Ombudsmen in Pakistan and AJK a permanent platform to design a common development agenda for capacity building of Ombudsmen offices for improved service delivery

development agenda for capacity building of Ombudsmen offices for improved service delivery, upgradation of investigation skill-sets and strengthening advocacy for public awareness. The key objectives were (i) to upgrade accountability of maladministration by public functionaries; (ii) prompt and inexpensive redressal of citizens' grievances; (iii) reducing citizens' tolerance for maladministration; and (iv) mitigating the citizen's fear of reprisals.

- In the first formal meeting of the FPO on 15 April, 2011, the following office bearers were elected by consensus:
  - i) President: Dr. Muhammad Shoaib Suddle,

Federal Tax Ombudsman

ii) Vice President: Mr. Khalid Mahmood,

Provincial Ombudsman, Punjab

iii) Secretary: Mr. Badshah Gul Wazir,

Provincial Ombudsman, KPK

iv) Treasurer: Mr. Mansur-ur-Rehman Khan,

Banking Mohtasib, Pakistan

- 4. The FPO also took the following consensus-based decisions:
  - Draft by-laws of the FPO approved;
  - (ii) Logo of the FPO selected;
  - (iii) Annual membership fee fixed;
- Honorary life membership of the FPO was conferred on Mr. Javed Sadiq Malik, the outgoing Wafaqi Mohtasib, and Justice (R) S. Ali Aslam Jaffari, former Insurance Ombudsman for their outstanding contribution to Ombudsmanship in Pakistan.



- The following collective reform initiatives were also agreed as organizational priorities in order for achieving the goals set out for the FPO:
  - (i) IT enablement
  - (ii) Outreach expansion
  - (iii) Business process re-engineering
  - Capacity building for skill development (iv)
  - Standardization of terms and conditions of service (v)
- During 2011, two regular meetings of the Forum were held to design common development agenda and strategize its implementation. The progress made on capacity mapping for need assessment of individual Ombudsman offices and collective capacity building through local and

The progress made on capacity mapping for need assessment of individual Ombudsman offices and collective capacity building through local and foreign training was reviewed.

foreign training was reviewed. It was decided to explore funding facilities preferably on grant basis, from international donors for holding capacity building workshops on the following themes:

- i) Principles of Ombudsmanship
- Challenges of Ombudsmanship ii)
- Innovation in Ombudsmanship iii)
- The Art of Fairness in Ombudsmanship iv)
- Investigation for Tangible Justice V)
- During regular meetings of the Forum held on 23.07.2011 at Karachi and on 02.11.2011 at Islamabad, consensual Capacity building of staff by decisions were made on the design of the common development action plan and workable strategy for achieving individual and collective goals. Capacity building of staff by upgrading the

upgrading the investigation skillsets and advocacy for expanding outreach and awareness were focused as common organizational priorities



investigation skill-sets and advocacy for expanding outreach and awareness were focused as common organizational priorities.

9. Encouraged by the innovative institutionalisation of collective capacity building under the umbrella of the FPO, the UNDP, the World Bank and CIDA expressed their willingness to provide financial and technical support for strengthening accountability of public functionaries in Pakistan. Financial/technical assistance was also expected from the European Union and International Ombudsman Institute (IOI) at Vienna. Along with this, preparatory work was initiated to identify issues including the terms and conditions of service by the Ombudsman and their official tenures. It was expected that the legislation and procedural framework of all Ombudsman offices, federal or provincial would be reviewed in order to standardize terms and conditions and strengthen the law to

Upgrading core capacities was a key priority for all Ombudsman Offices under the umbrella of the FPO. make Ombudsmanship more effective in strengthening accountability and promoting good governance. Upgrading core capacities was a key priority for all Ombudsman Offices under the umbrella of the FPO.

of the FPO.

10. Five well-attended regular meetings of the Forum were held during 2012 as the need for collective consultations spectacularly intensified under the umbrella of the Forum. The work done during these meetings is briefly explained below:

- The 3rd regular meeting of the Forum was held on 10.03.2012 at the Office of Ombudsman, Punjab who was also the Vice President of the Forum. In this meeting, implementation status of the decisions taken during 2011 was reviewed. UNDP Representative gave an update on their input in the capacity building agenda of the Forum. Besides, issues relating to Asian Ombudsman Association (AOA) were deliberated.
- The 4<sup>n</sup> regular meeting of the Forum was held at Islamabad on 26.03.2012. During this meeting, action plans of the Forum were reviewed. Briefing was given by the UNDP Representative on the IT equipment earmarked for donation to the deficient offices. Besides,



- election of the Forum for 2012-13 was held. The existing Office Bearers were unanimously elected for a second term.
- ⊙ : The 5th meeting of the Forum during 2012 was held on 23 April, 2012 at Mangla/Mirpur, AJK. Apart from review of implementation status of previous decisions, the financial position of the Forum was reviewed in the context of sustainability of this useful, unique and innovative platform. A study visit of Ombudsmen was also planned with the financial assistance of the World Bank. Draft amendment in the By-Laws of the Asian Ombudsman Association, headquartered in Pakistan was also considered. Approval by the CDWP of the Project titled Ombudsman IDF: Institutional Capacity Building, funded by the World Bank grant for capacity building of the Ombudsmen offices, was appreciated.
- 0 The 6th regular meeting of the Forum was held on 18.06.2012 at Karachi. Among other things, the 'Executive Development Program' offered by the Government and Government and Management Services International (GMSI) of UK was examined with reference to the collective capacity building initiatives of the Forum.

The 'Executive Development Program' offered by the Management Services International (GMSI) of UK was examined with reference to the collective capacity building initiatives of the Forum.

- The 7th regular meeting of the Forum was held on 17 December, 2012 at • Islamabad to consider the following agenda:
  - Reform of Ombudsman legislation for standardization and a. strengthening;
  - b. Need for appointing Grievance Commissioner in major public dealing departments;
  - c. Strengthening role of Ombudsman as Commissioner under the



Freedom of Information Laws in the light of Article 19-A of the Constitution of Pakistan:

- d. Prompt disposal of complaints within the directory period of 60 days;
- Reform of review and representation facilities;
- Delay in implementation of Ombudsman's Findings/Recommendations.
- During the year 2012, 1st meeting of the Steering Committee was also held on 03.12.2012 at Islamabad. The following agenda was deliberated:
  - Consultants Selection Committee (CSC) comprising the Secretary, FTO
     Secretariat as its Chairman, and Advisor (Projects) with Deputy
     Director (Admn) as its Members, was approved by the Committee.
  - The proposal to hold International Conference on Networking of the Ombudsman Offices in OIC Member Countries at Islamabad by the FTO Secretariat was also approved.
- 12. The 8th regular meeting of the Forum was held on 11.01.2013 at Islamabad. In this meeting, a working paper on legal reforms was discussed and various reform measures were reviewed and firmed up. In the 9th meeting, arrangements for

The progress of the Federal Ombudsman Institutional Reforms Act-2013, passed by the National Assembly was received with satisfaction overseas study visit were finalized. In the 10th meeting, the progress of the Federal Ombudsman Institutional Reforms Act-2013, passed by the National Assembly was received with satisfaction. The Senate was expected to consider this law in the session starting 04.03.2013. The

11th regular meeting was held in Karachi on 10.12.2013. Election of Office Bearers for 2013-14 was held and the following were unanimously elected:

(i) Mr. Abdur Rauf Chaudhry Federal Tax Ombudsman President

Vice President

(ii) Justice (R) Yasmin Abbasey Federal Ombudsman for Protection

Against Harassment of Women at Workplace



(iii) Mr. Javed Mehmood Provincial Ombudsman, Punjab Secretary

(iv) Mr. Anisul Hassnain Moosvi Banking Mohtasib Pakistan

Treasurer

- After the election, the regular agenda was taken up:
  - A power point presentation on draft website of the Forum was made by MIS Manager, FTO Secretariat, Islamabad.
  - The Forum was informed that two overseas study visits had been organized during 2013. One of these was for Ombudsmen at London-UK and the other one at Bangkok, Thailand for other senior officials of Ombudsman Offices. The study visits were reviewed with satisfaction.
  - The Forum was also informed that two studies one on "Performance Improvement Interventions in all Ombudsman Offices", and the other on "Independent Service Monitoring Interventions" were being assigned to the shortlisted Consultants under the Project titled Ombudsman IDF: Institutional Capacity Building, funded by the World Bank grant.
- 14. In addition to the above, a number of proposals by Hon'ble Professor Dr. Mira Phailbus, Ombudsman Punjab, Justice (R) Yasmin Abbasey, Federal Ombudsperson for Protection of Women against Harassment at Workplace, Hon'ble Ombudsman of AJK, mooted proposals of fulfilling the specific felt-needs of their offices. The sought for assistance of the Forum was promised to be given at an appropriate time.
- 15. The 12th regular meeting is scheduled for March, 2014 at Islamabad to review the progress of implementation of previous initiatives and develop action plan for the year 2014.

## Achievements of the Forum

16. The greatest asset of the Forum is consensual decision making. Consensus, continuity and keenness are the keys to sustainably of the Forum. Driven by these

The greatest asset of the Forum is consensual decision making. Consensus, continuity and keenness are the keys to sustainably of the Forum



unique assets of this role model national platform, the Forum has to its credit an enviable array of significant achievements as under:

- (i) Reform of Federal Ombudsmen's legislation frameworks through the enactment, the Forum has objectives of achieved the objectives of standardization of standardization of legislative legislative frameworks; frameworks; administrative independence; uniformity of terms and conditions of Ombudsmen's appointment; continuity of an Ombudsman in office till the new Ombudsman takes oath of the office; and exclusivity of Ombudsman's jurisdiction maladministration.
  - Federal Ombudsmen Institutional Reforms Act, 2013 (FOIRA-2013) dated 20.03.2013. Through this the Forum has achieved the administrative independence; uniformity of terms and conditions of Ombudsmen's appointment; continuity of an Ombudsman in office till the new Ombudsman takes oath of the office; and exclusivity of Ombudsman's o n jurisdiction on maladministration.
- Conceiving a networking of Ombudsmen of Islamic countries under (ii) the umbrella of Organization of Islamic Countries (OIC). The OIC readily accepted the concept and thus, the first ever Conference of Ombudsmen of Islamic countries is scheduled to be held in Islamabad on 28-29 April, 2014.
- Grant of Rs40.95 million by the World Bank for capacity building (iii) program of the Forum under the Project titled 'Ombudsman IDF: Institutional Capacity Building'. This project was approved by the CDWP of the Planning Commission of Pakistan on 21 March, 2012.
- (iv) A number of capacity building workshops have been held with the financial assistance and technical support of Canadian International Development Agency (CIDA), the World Bank, Asian Development Bank, UNDP, International Ombudsman Association (IOI) and the



Asian Ombudsman Association (AOA). The Forum prefers holding of capacity building workshops in Pakistan for training a larger number of participants than sending The Forum prefers holding of capacity building workshops in Pakistan for training a larger number of participants than sending trainees abroad in ones and twos. The workshops held by the Forum in Pakistan

trainees abroad in ones and twos. The workshops held by the Forum in Pakistan are as under:

- (a) Two workshops on 'the Art of Fairness in Ombudsmanship' held at Islamabad on 26-27 March 2012 and at Karachi on 29-30 March 2012 with the financial and technical assistance of CIDA. Ombudsman of Saskatchewan, Canada, (Mr. Kevin Fenwick) and his lead trainer (Mr. Jeffrey Franciscan) were the resource persons. Selected investigators from all Ombudsman Offices participated and benefited from these workshops.
- (b) In 2012, UNDP provided IT equipment to various Ombudsmen Offices on felt-need basis.
- (c) A workshop on 'Challenges of Ombudsmanship in Pakistan' was held at Islamabad on 25-26 September, 2013. Senior Officers of all Ombudsmen offices shared the challenges facing their organizations in order to devise a collective strategy to meet these challenges. Besides identifying challenges, the workshop achieved a lot of mutual sharing of expertise and investigative skills of individual Ombudsman offices in Pakistan. 26 proposals were agreed with consensus for consideration by the Forum for preparing action plan to implement these proposals.
- (d) A workshop was held at Islamabad on 18.03.2013 to familiarize the selected senior staff of Federal Ombudsman offices with the implications of the provisions of the FOIRA-2013. The workshop was aimed at uniform implementation of the newly enacted



FOIRA-2013 by clarifying the import of its provisions. IOI HQs at Vienna, Austria and the Word Bank provided financial assistance for the workshop.

- (e) A study visit of Ombudsmen was organized in April 2013 with the technical and financial support of the World Bank and the Government and Management Services International (GMSI) of UK. In this study visit provincial and federal Ombudsmen of Pakistan visited UK to familiarize themselves with 'best practice' in UK in terms of organization, administration, legislative and procedural frameworks, and effectiveness of service delivery. 10 Ombudsmen of Pakistan and Azad Jammu and Kashmir attended the study visit.
- (f) An international seminar and training workshop held in Bangkok, Thailand on 3-6 April, 2013 was attended by senior staff of seven provincial and federal Ombudsmen of Pakistan.
- (g) On 30 October, 2013, the first ever Newsletter of the Forum titled 'Ombudsman' was launched. The Federal Minister for Information, Mr. Pervaiz Rashid, presided the inaugural ceremony. This Newsletter is now being regularly issued on quarterly basis.
- (h) A common website of the Forum is under development. It will be launched shortly.

## A Crowning Achievement

17. A crowning achievement of the Forum is acceptance by the OIC, of the concept of networking of Ombudsmen of Islamic countries on the analogy of similar networking of Ombudsman in Europe, Americas and the Asia-Pacific. The first ever conference of Ombudsmen of Islamic countries is scheduled to be held at Islamabad, on 28-29 April, 2014 in coordination with the OIC General Secretariat at Jeddah, Saudi Arabia.





# **Networking of Ombudsman** Offices of the Islamic Countries

he Ombudsman concept has emerged The Ombudsman concept in the world as a sine qua non of good has emerged in the world governance. Over 129 countries across the globe as a sine qua non of good have adopted the concept, in one form or the

governance

other, for providing speedy and inexpensive justice to the citizens aggrieved by maladministration of public functionaries. Some of these countries have more than one Ombudsman, including single-mandated specialist Ombudsman and generalpurpose Ombudsman.

- Effective and prompt redress of public grievances is deep rooted as a Effective and prompt redress of public grievances is deep rooted as a governance priority in the Islamic history
  - governance priority in the Islamic history. Since its inception by the Holy Prophet, the concept remained the hallmark of Islamic civilization through the Caliphates, the rule
- of the Umayyads (660-750), the Abbasids (750-1258), Ottoman Empire (1299-1923) and the Moghul Empire (1526-1858). The institutions such as Qadi, Qadi-ul-Quddat and Diwan-al-Mazalem were the most respected institutional mechanisms of public grievance redress system. In the present day world, all Islamic countries have established institutional mechanisms for inexpensive and prompt redress of citizens grievances. There are a number of Islamic countries that have established wellfunctioning Ombudsman Offices.
- The modern Ombudsman dates back to 1809 when the Swedish King 3. established this institution in Sweden. It is well known that the Swedish King had adopted this concept from Ottoman It is well known that the Swedish Turkey where he lived in exile during King had adopted this concept from the 18th century. The concept Ottoman Turkey where he lived in introduced by the Islamic civilization, exile during the 18th century



thus, took the Swedish nomenclature 'Ombudsman', meaning 'representative of public interest'. It was, however, not until the second half of the 20th century that the 'Ombudsman' concept really started spreading across the globe. The hallmark of

The hallmark of Ombudsman Office is speedy and inexpensive justice. Experience shows that most beneficiaries being served by Ombudsman Offices are the less influential and underprivileged segments of society Ombudsman Office is speedy and inexpensive justice. Experience shows that most beneficiaries being served by Ombudsman Offices are the less influential and

underprivileged segments of society.

4. In Pakistan, the Office of general-purpose Wafaqi Mohtasib (Federal Ombudsman) was established in January, 1983. It was followed by the single-mandate Banking Ombudsman, and the Insurance Ombudsman. The Office of Federal Tax Ombudsman was established in 2000 for focused redress of taxpayers' grievances. There are five general-purpose Provincial Ombudsmen, one in each Province and Azad Jammu and Kashmir. In addition, there are three gender-specific Ombudsman in the country for Protection of Women against Harassment at Workplace. In all, there are 12 Federal and Provincial Ombudsman in Pakistan.

A networking of Pakistan's Federal and Provincial Ombudsman was established under the title 'Forum of Pakistan Ombudsman (FPO)' in April, 2011

5. A networking of Pakistan's Federal and Provincial Ombudsman was established under the title 'Forum of Pakistan Ombudsman (FPO)' in April, 2011. The FPO was like similar Ombudsman associations existing elsewhere in the world, including

International Ombudsman Institute, International Ombudsman Association, Asian Ombudsman Association, British and Irish Ombudsman Association, African Ombudsman Association, United States Ombudsman Association, EU Ombudsman Association and the Forum of Canadian Ombudsman. The primary purpose of such umbrella organizations is capacity building of member institutions through improved coordination, enhanced sharing of expertise and transfer of best practices in complaint handling skills.

6.



The networking of all Federal and Provincial Ombudsmen including Azad

Jammu and Kashmir at the platform of the Forum of Pakistan Ombudsman in April 2011 became an immediate success as all Ombudsmen keenly participated and took decisions with consensus. This encouraged the founder President of the Forum and the then Federal Tax Ombudsman, Dr. Muhammad Shoaib Suddle, to conceive similar networking of Ombudsmen and like offices of the Islamic countries. In June, Paper and shared it with the Foreign Office of Pakistan. The networking concept was approved by the Government of Pakistan, and Pakistan's

Minister of State for Foreign

2011, he prepared a Concept The networking concept was approved by the Government of Pakistan, and Pakistan's Minister of State for Foreign Affairs presented the proposal at the 38th Session of the OIC Council of Foreign Ministers (CFM) held at Astana, Kazakhstan on 28-30 June, 2011

Affairs presented the proposal at the 38th Session of the OIC Council of Foreign Ministers (CFM) held at Astana, Kazakhstan on 28-30 June, 2011. The proposal received appreciation of the CFM. Thereafter, a detailed Concept Paper was sent to the OIC General Secretariat at Jeddah for circulation to the Member Countries. A Resolution No. 4/39-ORG was approved at the 39th Session of OIC Foreign Ministers held at Djibouti on 15-17 November, 2012. Pakistan's proposal to hold the first Conference of Ombudsman Offices of the Islamic countries on Networking of OIC Ombudsman Offices was also approved in the Djibouti Session. Resolution No.4/39-ORG is reproduced below:

## "Resolution No. 4/39-ORG on the Networking of Ombudsaman Offices in the OIC Member States

The Thirty-Ninth Session of the Council of Foreign Ministers (Session of Solidarity for Sustainable Development) held in Djibouti, Republic of Djibouti, from 1 to 3 Muharram 1434 (15-17 November 2012).

Guided by the resolve of the OIC Member States as enshrined in the OIC Charter to promote human rights and fundamental freedoms, good governance, rule of law, democracy and accountability in Member States in accordance with their constitutional and legal system;



Recalling the provision in the Ten-Year Programme of Action adopted at the 3rd Extraordinary Session of the Islamic Summit Conference 7-8 December 2005) emphasizing the need to seriously endeavour to enlarge the scope of political participation, ensure equality, civil liberties and social justice and to promote transparency and accountability, and eliminate corruption in the OIC Member States;

Further recalling the final communiqué adopted by the 4th Extraordinary Session of the Islamic Summit Conference (Promotion of Islamic Solidarity)

sound governance based on justice members of the Islamic Ummah

held at Makkah Al Mukarramah on Reform and development 14-15 August 2012, stressing that should be in keeping with the the reform and development sound governance based on should be in keeping with the justice and equality among the

and equality among the members of the Islamic Ummah, the respect of the law and regulations and that citizens should also participate in the management of the affairs of the Ummah and pave the way for the establishment of social society institutions to help rulers achieve the objectives of the reform and development of Islamic society;

Recognizing the role of Ombudsman Offices in various OIC Member States which are providing speedy and inexpensive justice to the less influential and under privileged segments of society;

- Decides to establish Networking of Ombudsman Offices in the OIC 1. Member States to promote sharing of expertise and best practices in complaint handling skills, speedy handling of public grievances, capacity building of Ombudsman institutions in the Islamic world.
- Welcomes the offer by the Islamic Republic of Pakistan to host the first 2. meeting of the Member countries on Networking of OIC Ombudsman Offices.
- Requests the Secretary General to follow-up the implementation of this 3. resolution and submit a report thereon to the next session of the Council of Foreign Ministers."



7. In the backdrop of its roots being in the Islamic civilization, establishment of a sustainable network of Ombudsman Offices of Islamic countries at the platform of OIC, for sharing of expertise and best practices in complaint handling skills would go a long way in strengthening accountability of public functionaries and ensure prompt and inexpensive redress of citizens grievances. Such a networking will also assist the Islamic countries that have yet to set up Ombudsman Offices for effective,

In the backdrop of its roots being in the Islamic civilization, establishment of a sustainable network of Ombudsman Offices of Islamic countries at the platform of OIC, for sharing of expertise and best practices in complaint handling skills would go a long way in strengthening accountability of public functionaries

inexpensive, just and speedy handling of public grievances against the government

Thus the dream of networking of Ombudsman Offices of Islamic countries is going to be realized through the first ever Conference of Ombudsmen of Islamic countries which is scheduled to be held at Islamabad on 28-29 April, 2014 functionaries. Thus the dream of networking of Ombudsman Offices of Islamic countries is going to be realized through the first ever Conference of Ombudsmen of Islamic countries which is scheduled to be held at Islamabad

on 28-29 April, 2014.



Members of Advisory Committee at Work









**Members of Advisory Committee at Work** 





# **Advisory Committee**

The FTO conceptualized 'Making a Difference' by restructuring the organizational framework, reforming the administrative set-up and simplifying the business processes of the FTO Office. The vision included strengthening internal and external mechanisms for evaluating performance effectiveness of the FTO Office. Automation for e-enablement of FTO Office was prioritized for penultimately achieving paperless environment. Advocacy for enhancing taxpayers awareness about the FTO mechanism also constituted a coveted priority.

- 2. In the backdrop of these considerations, a wider engagement of public and private partnership was an essential step required to resolve tax disputes on sustainable basis. The need for institutionalization of this partnership at the platform of the FTO was fulfilled by establishing an Advisory Committee in 2011 as provided under Section 18 of the FTO Ordinance, 2000. For constituting this Committee the professional landscape of the civil society was searched. Top individuals known for their earnestness, competence, initiative and drive backed by academic qualifications and professional expertise in relevant fields were identified from all provinces. The inaugural session of the Advisory Committee was held on 20 June, 2011 which was also addressed by the Finance Minister Mr. Abdul Hafeez Sheikh. The Advisory Committee was meant to be eyes and ears of the FTO on the performance effectiveness of both the FTO officials and FBR functionaries posted across Pakistan. It was also meant to constitute the FTO's formal and regular link with the civil society, the taxpayer community and the tax professionals.
- The Advisory Committee was divided into four sub-committees comprising seven members each including the Convener. The following tasks were assigned to these sub-committees.



### Sub-Committee No.1:

Diagnosing the systemic issues of tax maladministration and suggesting sustainable remedies

- i). Mr. Saqib Masood (Convenor)
- ii). Engineer M.A. Jabbar
- iii). Mr. Khawar Anwar Khawaja
- iv). Mr. Dawood Usman Jakhura
- v). Dr. Gulfaraz Ahmed
- vi). Mr. Bashir Ali Muhammad
- vii). Mr. Nazim F. Haji

## Sub-Committee No.2:

Expanding FTO's outreach for public awareness and suggesting ways and means for their improvement/ sustainability

- i). Mr. Tariq Husain, Ph.D. (Convenor)
- ii). Major Ashraf Nasir (R)
- iii). Ms. Shaista Asif
- iv). Wazirzada Muhammad Idris
- v). Mr. Imran Ghaznavi
- vi). Mr. Muhammad Adnan Jalil
- vii). Mr. Zulfegar Khan

## Sub-Committee No.3:

Proposals for widening the tax base in the context of a fair, just and transparent tax system

- i). Mr. Abdullah Yousaf (Convenor)
- ii). Dr. Ashfaque Hassan Khan
- iii). Mr. Khalid Aziz Mirza
- iv). Mr. Farhan Bokhari
- v). Ms. Mahreen Khan
- vi). Ms. Samina Fazil
- vii). Mr. Ali Jameel

## Sub-Committee No.4:

Preparing a code of conduct/rules of procedure, and Taxpayers Bill of Rights

- i). Dr. Tariq Hassan (Convenor)
- ii). Mr. Sakib Sherani
- iii). Dr. Ikramul Haq
- iv). Mr. Haroon Khawaja
- v). Mr. Amman Ullah Kanrani
- vi). Mr. Mukhtar Ahmad Ali
- vii), Mr. Yasin Tahir



The sub-committees have completed their Draft Taxpayers Bill of 4. assignments and prepared the drafts, which have Right is a significant been circulated as agenda for the next meeting of the contribution by the Advisory Committee scheduled for 25 March, 2014. Advisory Committee

Draft Taxpayers Bill of Right is a significant contribution by the Advisory Committee. The proposals of sub-committees will be finalized in the meeting and referred to the Government, the Revenue Division and the FBR for consideration and implimention.



Minister for Information and Broadcasting during the Launching Ceremony of the Newsletter 'Ombudsman' of the Forum of Pakistan Ombudsman (FPO) at Islamabad on 30 October, 2013





Hon'ble FTO presenting copies of the Newsletter
'Ombudsman' to the Hon'ble Minister for Information and
Broadcasting on the launching Ceremony of the
FPO's Newsletter on 30 October 2013





# **Capacity Building Projects**

systematic and well-coordinated approach has been adopted for capacity building of the FTO Office as well as other Federal and Provincial Ombudsman Offices in the country including AJK under the umbrella of the Forum of Pakistan Ombudsman. Presently, three projects are under implementation:

- i. Enhancing Countrywide Outreach, Upgradation and Computerization of Federal Tax Ombudsman Office
- ii. Ombudsman IDF: Institutional Capacity Building (Forum specific)
- iii. Project Preparation Facility (PPF) for Revenue Mobilization Project (RMP) (FTO specific)
- Brief summary and current status of the aforesaid projects are as under: 2.

# Enhancing Countrywide Outreach, Upgradation and Computerization Of Federal Tax Ombudsman Office

This flagship project of the FTO Secretariat was approved by CDWP of the Planning Commission of Pakistan on 18th by CDWP of the Planning March 2010. The total cost of the Budget is Commission of Pakistan on Rs133.190 million which is funded from the 18th March 2010

This flagship project of the FTO Secretariat was approved

Access to Justice Program (AJP) being implemented by Ministry of Law, Justice and Human Rights, Government of Pakistan. The objectives and scope of the project are in line with the justice sector policies/strategies under Mid Term Development Framework (MTBF) and introduction of e-governance in Pakistan to enhance efficiency, transparency, speed, quality and effectiveness of tax justice in Pakistan. Component-wise amounts earmarked under the project are as under:

i. Software

7,000,000



ii.	Hardware & Network Expenditure	31,856,000
iii.	Human Resource	42,950,000
iv.	Vehicles Expenditure	10,935,000
v.	Rent of Office Building	7,440,000
vi.	Annual Recurring Cost	29,760,000
vii.	Contingencies	3,248,525

4. An amount of Rs24.87 million has been spent on procurement of hardware and networking infrastructure. Another amount of Rs9.58 million has been spent on human resource development. A sum of Rs10.86 million has been spent against purchase of vehicles provided in the PC-1. No expenditure has so far been incurred against the development of Software as Pakistan Revenue Automation Limited (PRAL) has developed the software free of cost.

During the current financial year (2013-14) a sum of Rs.14 million has been released against the allocation of Rs.70 million which has been planned to utilize against the opening of at least two Regional Offices, one at Faisalabad and the other one at Sukkur or Multan

5. During the current financial year (2013-14) a sum of Rs.14 million has been released against the allocation of Rs.70 million which has been planned to utilize against the opening of at least two Regional Offices, one at Faisalabad and the other one at Sukkur or Multan. The pace of opening of the Regional Offices remained slow due to

the budgetary constraints as the releases could not be timely received as per schedule. An amount of Rs3.33 million has been paid as rent against the office building in Islamabad. A detailed procurement plan has also been prepared which will be processed once the funds are available according to the requirement of the project. So far, an expenditure of Rs55.28 million has been incurred on various activities of the project.

## Ombudsman IDF: Institutional Capacity Building

6. The project was approved by the CDWP of the Planning Commission of



Pakistan on 21.03.2012 with the total cost 
The project was approved by of Rs40.95 million provided by the World Bank through grant. The objective of the project is to conduct a review service delivery of all ombudsman offices to assess the current status of performance and the the World Bank through grant

the CDWP of the Planning Commission of Pakistan on 21.03.2012 with the total cost of Rs40.95 million provided by

potential for improvement in terms of coverage, processing time and citizens' satisfaction. Based on this review their procedures and business processes will be improved. Another objective of the project is to identify successful interventions implemented by the Ombudsman offices that have the potential to significantly improve their performance by improving business processes. A stock taking will be done of successful interventions to enhance capacity, accountability and responsiveness to assess replication in other Ombudsman offices based on needs. Legal framework of various Ombudsman offices will be reviewed and recommendations for improvement framed including enforcement mechanism of Ombudsman decisions. Component-wise amounts earmarked in the project are as under:

1.	Capacity Building	Rs.31,395,000
ii.	Performance Improvement Interventions in Ombudsman Offices	Rs.2,730,000
iii.	Independent Service Monitoring Interventions	Rs.2,730,000
iv.	Communication and Outreach Strategy (Quarterly Magazine/Newsletter "Ombudsman")	Rs.2,275,000
v.	Steering Committee Meetings	Rs.1,820,000

A capacity building workshop has been held in Islamabad on 18th March, 2013 to familiarize the senior staff of Federal Ombudsmen Offices with the provisions of the newly enacted law titled "Federal Ombudsman Institutional Reforms Act, 2013"

A capacity building workshop has been held in Islamabad on 18th March, 2013 to familiarize the senior staff of Federal



Ombudsmen Offices with the provisions of the newly enacted law titled "Federal Ombudsman Institutional Reforms Act, 2013". Senior officers of all federal Ombudsman Offices participated in the workshop. The participants were briefed on the objectives of the new legislation. They were also initiated into the provisions of the new law regarding powers to grant temporary injunction, punishment for contempt, implementation of decisions; administrative and financial autonomy. During question answer session, the participants' queries were responded further explaining the background of such provisions for uniform implementation.

A Two-Day Workshop comprising six sessions, separately chaired by different dignitaries was held on 25-26 September, 2013 at Islamabad on "The Challenges of Ombudsmanship 8. A Two-Day Workshop comprising six sessions, separately chaired by different dignitaries was held on 25-26 September, 2013 at Islamabad on "The Challenges of Ombudsmanship." Senior officers of all Ombudsman Offices made

presentations. All such presentations were duly recorded. Finally, twenty six recommendations were agreed for further consideration by the Ombudsmen. A report was published to document the proceedings of the workshop. The report could be very useful for the authorities concerned to proceed further in strengthening the working of the of Ombudsman Offices.

9. In the 39th session of the Foreign Ministers of the OIC Member States held in Djibuti, Republic of Djibuti, it was decided to establish networking of Ombudsman offices in the OIC member states to promote sharing of expertise and best practices in complaint handling skills, speedy redressal of public grievances and capacity building of ombudsman in the Ombudsman offices in the OIC member states to Islamic countries. Promote sharing of expertise and best practices in complaint handling skills, speedy redressal of the Islamic Republic public grievances and capacity building of ombudsman institutions in the Islamic countries

the first ever conference of the Member Countries was welcomed. Accordingly the arrangements are being made to hold this Conference in April 2014 at Islamabad. The



Forum, in this regard, is in touch with OIC Secretariat, Jeddah through the Ministry of Foreign Affairs, Government of Pakistan. The concept paper prepared in consultation with the Foreign Office has been furnished to the OIC Secretariat, Jeddah for circulation among the OIC Member Countries. The final date of the conference has been confirmed by the OIC Secretariat, Jeddah, though our Foreign Office, as 28-29 April 2014.

10. Two study visits were organized for the Ombudsmen and senior officials of the Ombudsmen Offices. One of these study visits was held in London, UK while the other one was held at Bangkok, Thailand. Another

Two study visits were organized for the Ombudsmen and senior officials of the Ombudsmen Offices

study visit was arranged in coordination with the Ontario Ombudsman, Toronto, Canada. It could not materialize due to visa problems.

11. Carefully selected consulting firms have been assigned two studies on "Performance Improvement Interventions in Ombudsman Offices" and "Independent Service Monitoring Systems". The Quarterly Newsletter of the Forum titled "Ombudsman" was launched on 30 October, 2013. The second issue has also been published.

## Project Preparation Facility for Revenue Mobilization of Project

12. The project was approved by the CDWP of the Planning Commission of Pakistan on 05.10.2012. The cost of the project is Rs25,590,530/- which is fully funded by the World Bank. The

The project was approved by the CDWP of the Planning Commission of Pakistan on 05.10.2012. The cost of the project is Rs25,590,530/- which is fully funded by the World Bank

objectives of this project are to enhance accountability and transparency of the tax administration including strengthening of the office of Federal Tax Ombudsman. Component-wise details of the project are as under:

 Training to Middle and Senior Management (Capacity Building of Middle/Senior



Management and Staff) Rs.9,773,505

Fee of Advisor who can assist FTO office to become a ii. Centre of Excellence

Rs.7,554,400

iii. Study tours to visit 2 overseas best practice Ombudsman Offices (Studying best practices for application in FTO Office)

Rs.3,777,200

- iv. Study on exploring synergy between FTO and FBR Practices for effectively addressing tax maladministration and implementation of FTO's recommendations Rs.2,832,900
- Incremental operational & administrative costs v. Rs.1,652,525

The training program for middle and senior management of FTO Secretariat is being finalized against the training component of this project

The training program for middle and senior management of FTO Secretariat is being finalized against the training component of this project. Wellknown training institutions for imparting

such kind of trainings have been contacted to know about the availability of off-shelf training programs suitable with reference to the requirement of FTO Secretariat. Various areas of capacity building interest have been identified and conveyed to the training institutions, asking for their capabilities to tailor the program if not readily available to suit the FTO's requirements.

14. The amounts available against the aforesaid component 2 and 3 of the project have been reallocated for the conference on Networking of Ombudsman in OIC Member States. A study has been assigned A study has been assigned on on "Exploring Synergy between FTO and FBR Practices" against component 4 of the project. A partial report in this behalf

"Exploring Synergy between FTO and FBR Practices" against component 4 of the project

has been received which is being examined by the experts for comments.

Another Conference will be held to invite all stakeholders for their input for strengthening the Ombudsman mechanism. Experts from various international Ombudsmen's Associations like IOI, AOA, Canadian Ombudsman Association etc.





# Smuggled Vehicles Amnesty Scheme-2013

n o5 March 2013, the Revenue Division notified amnesty for smuggled vehicles vide SRO 172(I)/2013. Considerably more generous tax and tariff concessions were granted to smuggled Considerably more generous vehicles as compared to old and used vehicles tax and tariff concessions imported by overseas Pakistanis. Instead of were granted to smuggled packaging guidelines for orderly vehicles as compared to old implementation simultaneously while and used vehicles imported notifying the amnesty, the FBR haphazardly by overseas Pakistanis

issued piecemeal instructions on different occasions during the amnesty period. This caused a lot of mismanagement in implementation of the amnesty.

- Failure of the FBR to package the requisite guidelines for orderly 2. implementation of amnesty across the country prompted mismanagement and abuse of the amnesty and triggered a lot of public criticism. The overseas Pakistanis decried discrimination. The media highlighted the ravages of smuggling. The Competition Commission of Pakistan (CCP) sent a scathing Policy Note to the Revenue Division/FBR on the adverse implications of amnesty for local auto-industry. The FIA raided Faisalabad Dryport on complaints of corruption. The FTO took own motion notice of allegations of corruption and maladministration. A Writ Petition No.1476 of 2013 was also filed in the High Court of Islamabad by Khawaja Saad Saleem, President of Defence of Human Rights of Public Services Trust, challenging the legality of the amnesty scheme.
- Taking own motion notice under Section 9(1) of the FTO Ordinance, 2000 of 3. the allegations of maladministration involved in conceiving and implementing the amnesty, the FTO constituted Joint inspection teams of senior officers of the FTO Secretariat and Federal Investigation Agency. These teams visited the Customs Stations of their assignment and discovered that most of the Collectorates had



observed FBR's guidelines more in violation than in compliance. Most of these teams confirmed allegations of mismanagement and corruption in regularizing the smuggled vehicles. Hardly any Collectorate, visited by the FTO's inspection teams,

Most of the Collectorates had observed FBR's guidelines in violation than in compliance

had duly recorded amnesty data in real time and properly maintained its record. Most of the Collectorates had observed FBR's guidelines in violation than in compliance.

As identification of tampering was left by the FBR to the discretion of the 4. Collectors who did not provide any guidelines in the matter, the implementing staff misused the threat of forensic test to extort bribe from the applicants. The requirement of forensic test was compromised on payment of illegal gratification in many Collectorates which did not refer any vehicle Many Collectorates did for forensic lab test for tampering. Besides, no filter not refer any vehicle for was applied by any Collectorate for identifying forensic lab test for stolen vehicles. Thus tampered and stolen vehicles tampering appear to have been granted amnesty in violation of the scheme.

FTO Secretariat indicating grant of amnesty to vehicles which were still in the Auction Houses of Japan

Evidence was received by the 5. Evidence was received by the FTO Secretariat indicating grant of amnesty to vehicles which were still in the Auction Houses of Japan. It was also observed that applicants belonging to far off places in Khyber

Pakhtunkhwa and Balochistan provinces got vehicles regularized at Customs Stations Karachi, Faisalabad, and Sambrial (Sialkot) and applicants of the Punjab province got amnesty at Collectorates of Peshawar, Quetta and Karachi. A number of cases have been identified where the same identity card was used to regularize vehicles at more than one Customs Collectorates and even at different Customs Stations within the same Collectorate. The amnesty data is riddled with examples of applicants getting amnesty of more than 10 vehicles on one CNIC in far off Collectorates. In some cases, 10 to 53 smuggled vehicles were regularized against one CNIC.

These facts clearly lend credence to the public outcry that a significant number 6.



of vehicles granted amnesty by many Collectorates were not physically presented to the Customs staff as required under the Inside information from the amnesty scheme. Inside information from the Customs Department itself Customs Department itself confirmed that, confirmed that, actually, only actually, only one third of the vehicles were one third of the vehicles were physically presented at some Customs physically presented at some Stations like Karachi, Faisalabad and Customs Stations Sambrial (Sialkot).

As compelling evidence of mismanagement and abuse is available particularly 7. in respect of unlawful grant of amnesty to Ghost Vehicles, the Customs staff responsible for these irregularities needs to be taken to task. A common allegation

A common allegation during implementation of the amnesty was payment of illegal gratification by way of 'speed money' by many applicants

during implementation of the amnesty was payment of illegal gratification by way of 'speed money' by many applicants. Owners of smuggled vehicles came to the Customs Stations with a guilty conscience

and willingly parted with the speed money to ensure that there were no untoward hitches in the regularization process. Although some Customs officers became more notorious for corruption in the process of amnesty, their names have not been mentioned as incriminating evidence is required to be obtained through further investigation. The allegations of corruption, however, need to be investigated on scientific lines. Evidence would come by if an extensive survey of the applicants is conducted with a reliable assurance that amounts of bribe extorted from them by the Customs staff shall be returned to the applicants if they come forward to identify the culprits. Chapter-5 contains the Conclusion and Recommendations.

8. The FTO Secretariat made an earnest attempt to highlight the extent and magnitude of mismanagement and abuse of Amnesty to smuggled the smuggled vehicles amnesty scheme-vehicles cannot be justified as 2013. The upshot of the FTO's investigation it causes more harm than is that amnesty to smuggled vehicles cannot good to the national economy be justified as it causes more harm than in ways more than one



good to the national economy in ways more than one. The Revenue Division needs to get the identified areas of alleged maladministration and corruption investigated for reconfirmation and fixation of responsibility. If this opportunity is missed to effectively handle the mismanagement, misuse and corruption involved in the smuggled vehicles amnesty scheme-2013, the possibility of remodeling the mindset of revenue collection machinery on the basis of efficiency and integrity would be lost irretrievably.



Hon'ble Ombudsmen Receiving Power Point Presentation on FPO Website (Under Development) During the FPO Meting at Karachi on 10 December, 2013





# **Confronting Maladministration**

## Resume of Sample Findings

#### Income Tax

Case No.1

Rev.12/2012 in C.No.577/2011

fter amendment of Section 153 of the Income Tax Ordinance 2001 through Finance Act 2009, minimum tax @ 6% was applicable on service providing companies of the corporate sector. This fact was explained and clarified by the FBR through circular No. 03/2009 and many subsequent circulars also. However, the FBR had issued Circular No.6/2009 stating abruptly that service providing companies were not required to pay minimum tax @ 6%. After receiving complaint

against this Circular, the After receiving complaint against this Hon'ble FTO, in a decision Circular, the Hon'ble FTO, in a decision dated 16.12.2011, held Circular dated 16.12.2011, held Circular No. No. 6/2009 as malafide and 6/2009 as malafide and unlawful and unlawful and recommended recommended action against the officers action against the officers of of the FBR who were responsible for the FBR who were responsible issuing the impugned Circular

for issuing the impugned Circular. The Circular (No. 6 of 2009) was withdrawn by the FBR on the intervention of the FTO Secretariat. Repeated circulars were issued (almost 13 in number) by the FBR, explaining that corporate sector, including service providing companies, was required to pay minimum tax @ 6% under the provisions of Section 153 of the Income Tax Ordinance 2001. The provisions of Section 153 were realigned to provide clarity through Finance Act 2011 "without changing the taxation regime" or without amendment in law. However, the FBR again inserted Clause 79 in the Second Schedule of the Income Tax Ordinance through SRO No. 1003 dated 31.10.2011, without the approval of the legislature for amending Section 153. This was



done for improper motives to provide relief of billion of rupees to the service providing companies. The Hon'ble Supreme Court, in a judgment cited 1993 SCMR 1232, had declared insertion of such a Clause in the Second Schedule (without amendment of the statute by the parliament) as unlawful and ab-initio void. The Hon'ble FTO

through a decision in Review Application No.12/2012, declared SRO No.1003 functionaries have resorted to unlawful and malafide. It is obvious that misuse their power by issuing senior FBR functionaries have resorted to unlawful Circulars/SROs even misuse their power by issuing unlawful Circulars/SROs even contradicting their own clarifications / explanations for malafide and improper motives.

It is obvious that senior FBR contradicting their own clarifications / explanations for malafide and improper motives

#### Case No.II

### Rev.42/2013 in C.No.42/2010

n a case of M/s Ghazi Bhrotha Contractors, RTO Peshawar had been collecting substantial deduction of tax from contract receipts. After completion of the project, the foreign contractors declared huge losses in their returns of income and consequently claimed refund of Rs784 million for assessment years 1996-97 to 2002-03. Instead of processing their refund claim,

Instead of processing their refund claim, the concerned tax officers created huge demand to cover up refund claim by treating the taxpayers as Association of Persons (AOP)

the concerned tax officers created huge demand to cover up refund claim by treating the taxpayers as Association of Persons (AOP). This assessment was annulled by the Income Tax Appellate Tribunal on the

ground that assessment was unlawful and arbitrary. The High Court also endorsed the decision of the Tribunal dismissing the Deptt'l reference. Consequently, the taxpayers again applied for refund. However, RTO Peshawar transferred the case to RTO Abbottabad to avoid the liability of payment of refund. RTO Abbottabad transferred the case to LTU Islamabad for the same reason, where the Chief Commissioner refused to issue refund despite taxpayers' repeated visits to his



office and his meeting with Chairman and Member FBR. Instead, unlawful sales tax demand was created by LTU Islamabad which was exceeded the refund claim. This demand was also remitted by the Appellate Tribunal.

M/s Ghazi Brotha Contractors filed a complaint against this maladministration in terms of the FTO Ordinance, 2000. After investigation and hearing of the parties, the FTO directed the Deptt After investigation and to issue lawful refund to the Complainant. hearing of the parties, the Opposing this decision, the FBR filed a FTO directed the Deptt to representation to the President of Pakistan in issue lawful refund to the

terms of Section 32 of the aforesaid Ordinance. Complainant

The representation was rejected. Instead of issuing refund, LTU Islamabad again raised income tax demand against the Complainant as high as Rs3.7 billion on the pretext that the taxpayers did not deduct tax on the interest of foreign banks. This was done by the Deptt'l officers after almost 13 years just to cover up the refund amount and to harass the foreign investors. Once again, the third cycle of appeals started and the Appellate Tribunal annulled the orders of the Deptt being unlawful and tax demand was quashed. The Deptt filed reference in the High Court just to delay the claim of refund. In the mean-time, LTU Islamabad transferred the case to RTO Rawalpindi, which transferred it further to RTO Peshawar and RTO Peshawar once again transferred it back to LTU Islamabad which was the fifth transfer of the case.

On Review Petition No.49/2013 filed by the Complainants, the FTO took serious notice of the highhandedness involved in this case of maladministration of a very serious nature, and directed the FBR to take disciplinary action against officers concerned and to issue refund with compensation without delay. In this case, the

foreign investors were not only entangled in three cycles of arbitrary and unnecessary litigation upto the High Court, but their case was also arbitrarily and unlawfully transferred five times to different jurisdictions to block genuine refund claim, right under the nose of the FBR.

Their case was arbitrarily and unlawfully transferred five times to different jurisdictions to block genuine refund claim, right under the nose of the FBR



#### Case No.III

#### Complaint No.161/2013

complaint was filed against (Appeals)' order No.144 dated 22.10.2012 for Tax Year 2008. Briefly stated, the Deptt dated 22.10.2012 initiated proceedings to probe the investment

naladministration in CIR A complaint was filed against maladministration in CIR (Appeals)' order No.144

in the vehicle and asked the Complainant to file wealth statement u/s 116 of the Income Tax Ordinance, 2001. In response, the Complainant submitted that the vehicle was purchased out of lifelong savings and sale of golden ornaments. Rejecting the explanation, the Deptt made assessment u/s 122(1) of the Income Tax Ordinance and the investment was assessed to tax. Feeling aggrieved, the taxpayer filed an appeal before the CIR (Appeals) who, vide order dated 22.10.2012 rejected the same with the observation that addition on account of unexplained investment u/s 111(b) was made after considering the facts of the case, and was, therefore, justified.

2. The taxpayer contested the assessment as unlawful and arbitrary in a complaint under the FTO Ordinance, 2000. It was observed during investigation that the law with regard to unexplained income or assets, as per Section 111 of the Ordinance, was amended through Finance Act, 2010. The amendment being substantive in nature adversely affecting the rights of the Complainant was not applicable retrospectively. Furthermore, a reasonable opportunity of hearing was not provided by the CIR. The addition was made u/s 111(b) as unexplained investment, whereas under the law the addition could be made, if at all, u/s 111(c) in the category of an unexplained expenditure. This had been contested through grounds of appeal, but the CIR (Appeals) had ignored the same and also did not pass a speaking order.

The CIR (Appeals) and the Chief Commissioner, RTO, Gujranwala contended that the FTO had no jurisdiction to entertain the complaint

Responding to the complaint, the CIR (Appeals) and the Chief Commissioner, RTO, Gujranwala contended that the FTO had no jurisdiction to entertain the complaint against the order of appeal, and also the order



involving examination of statutory provisions governing assessment of tax.

Both the parties were heard and record perused. As the FTO had jurisdiction 4. to entertain complaints of maladministration at any level of the hierarchy, constituted under Section 207 of the Ordinance, the jurisdiction related objection was rejected as misconceived. A question that had arisen in this case was whether or not all the grounds of appeal were adjudicated and a speaking order passed. The record showed that initially, nine grounds of appeal were submitted to the CIR (Appeals). Additional grounds and revised grounds were also submitted. Though, the CIR (Appeals) briefly referred to the grounds, but he did not adjudicate the issue with regard to the application of provisions of section 111(b) or 111(c). Moreover, no speaking order was passed with regard to the retrospective application of the amendment made vide Finance Act, 2010. The passing of a non speaking order by the Commissioner (Appeals) Passing of a non speaking ignoring the grounds of appeal was considered order by the Commissioner maladministration under Section 2(3) of the (Appeals) ignoring the FTO Ordinance and the Commissioner was grounds of appeal was directed to pass a speaking order, as per law, considered invoking jurisdiction u/s 221 of the Income Tax

maladministration

On receipt of the Recommendations, the Commissioner IR (Appeals) passed rectification order u/s 122 of the Ordinance on 18.06.2013. The Complainant expressed satisfaction on the redress of his grievance.

#### Sales Tax

Ordinance, 2001.

#### Complaint No.1481/2013

A complaint was filed against non Rs539,083,271/- for the tax periods from July 2000 to March 2012. The refunds arose on account of excess input tax over output tax and as a result of relief allowed in appeal by the

A complaint was filed against non issuance of refund of Rs539,083,271/for the tax periods from July 2000 to March 2012



Appellate Tribunal IR vide STA 1332/LB/09 dated 19.11.2010 and order No.102-110 dated 22.02.2012 by Commissioner IR (Appeals). The Complainant requested the Department time and again, and sent reminders on 24.01.2011, 23.09.2011, 20.10.2011, 01.02.2012, 30.04.2012, 08.12.2012, 23.08.2012 and 12.10.2012, but to no avail.

- The Deptt, contended that while processing the claim for the period Nov-2008 2. to March 2009, it was observed that the Complainant received payments from WAPDA against the supply of electricity under the head Energy Purchase Price (EPP). Capacity Purchase Price (CPP) and Supplementary Bonus Income (SBI), but paid sales tax only on the amount received under EPP. He was required to apportion the input tax to the extent of supply that was non taxable, as per law. However, he claimed the entire amount of input tax regardless of its use in taxable and non taxable supplies. According to the Deptt., the Appellate Tribunal IR (ATIR), in a judgment STA No.132/IB of 2010 dated 03.03.2011 cited as 2011PTD(Trib.)1306 in the parallel case of IPP namely Fauji Kabirwala Power Company Ltd, had discussed the issue in detail and held that sales tax paid at input stage was required to be apportioned between EPP and CPP. This judgment was later rectified by the ATIR through order dated 15.10.2012 (MA (R) STA No.27/IB of 2009), wherein it was held that no apportionment of input tax between EPP and CPP was required. The Deptt challenged the rectification order dated 15.10.2012, and the Islamabad High Court (IHC) suspended the operation of the rectification order vide interim order dated 05.11.2012. According to the Deptt, IHC passed an interim order which was enforceable between Fauji Kabirwala and the Deptt and not to any other company.
- Both parties were heard and the record perused. It was held that the interim
  judgment of the IHC in the case of Fauji Kabirwala did not apply to all other cases of

The Deptt's failure to dispose of the Complainant's pending refund claims despite lapse of significant time was considered maladministration as the delay was found unjustified

IPPs. The Deptt's failure to dispose of the Complainant's pending refund claims despite lapse of significant time was considered maladministration as the delay was found unjustified. Even the Deptt's contention that delay in disposal



of the pending refund claims was also due to the objections raised by STARR system was not found convincing. The Deptt ought to have informed the Complainant of any deficiencies or discrepancies pointed out by the system, for remedial action by the Complainant.

4. The FBR was directed by the FTO to issue refund/compensation due, as per law. In compliance, the Deptt sanctioned refund due on 29.06.2013, 09.09.2013 and 22.10.2013. The AR expressed gratitude and appreciation for the valuable support of the Hon'ble FTO in resolving the Complainant's grievance.

#### Customs

#### Case No.1

### Complaint No.458/2013

Mr. Layer Khan R/o North Waziristan, a trader of pine-nuts (chalghoza), purchased 16445kg of chalghoza from Azad Mandi, Bannu (settled

area). While transporting this consignment from Bannu to Lahore by road, the Customs staff posted at Darra Tang check post intercepted the consignment and seized it alleging its foreign origin. The case was adjudicated vide O-in-O No.18-21/2012 dated 23.01.2012 releasing the truck against redemption fine of 20% but confiscating

The case was adjudicated vide O-in-O No.18-21/2012 dated 23.01.2012 releasing the truck against redemption fine of 20% but confiscating the consignment of chalghoza without giving any option to redeem it under Section 181 of the Customs Act, 1969

the consignment of chalghoza without giving any option to redeem it under Section 181 of the Customs Act, 1969. In addition, personal penalty of 10% was also imposed. The Complainant filed an appeal before Collector of Customs (Appeals) who ordered redemption of the goods against payment of 30% fine vide Order-in-Appeal (O-in-A) dated 14.02.2012. The trader challenged the O-in-A before the Customs Appellate Tribunal which decided that the seizure and confiscation of consignment was unlawful in view of the Chief Collector of Customs directive dated 16.01.2010 to Collector of Customs, Peshawar as under:



"Traders/exporters of Pine Nuts have agitated against the unethical attitude of the Customs staff posted in D.I. Khan and Bannu region. Pine nut is one of the items which Pakistan exports in sufficient quantities earning the much required foreign exchange. It is a fact that pine nuts are grown both in Pakistan and Afghanistan. The Afghan pine nuts along with the locally produced stuff find their way in to the markets located in the border areas known as 'mandies' for trading/export. This is also a fact that the origin of the Afghan pine nuts cannot be determined. They are stocked/mixed up with Pakistani stuff and then sold in the market. Perhaps there are some decisions by the superior courts regarding the inability of Customs to determine/prove the origin of these imported/smuggled pine nuts from Afghanistan. The exporters of pine nuts have complained time and again about the illegal stoppage/detention of their stuff by the Customs which is transported from the areas around D.I. Khan and Bannu to the settled areas for local consumption and export. The trucks of pine nuts are usually detained by the Customs staff at various points, knowing fully well that this is a perishable item which cannot bear the brunt of long detention, and then release the goods 'on their own terms' which are very obvious. As they are As the Customs are legally not capable legally not capable of of proving/determining the origin of the proving/determining said stuff so they have no legal standing the origin of the said to make a seizure unless and until the stuff so they have no stuff is apprehended while entering legal standing to make a Pakistan at the Pak Afghan border seizure unless and until the stuff is apprehended while entering Pakistan at the Pak Afghan border. This exercise in futility causes harassment to the genuine exporters and also brings bad names to the department by promoting corruption.

At this point of time, it is imperative that a viable solution be chalked out to overcome this kind of hardship of the exporters and put a stop to the corrupt practices of the Customs staff which in reality yields no dividends. I would like to have a comprehensive practice made by the MCC Peshawar to improve this



scandalous situation. This may please be sent to this office on or before 26.11.2010."

- In pursuance of Chief Collector's directive, the Collector also issued an Office Order directing non-invention of consignments during transport in the settled area as it was not possible to distinguish chalghoza of foreign origin from that of the indigenous chalghoza.
- Inspite of the general directive of Chief Collector of Customs', Office Order of the Collector, and the Tribunal in this case, the Customs authorities at Peshawar were reluctant to refund the amount of duty taxes and fine paid by the trader while the goods

Inspite of the general directive of Chief specific Judgment of Collector of Customs', Office Order of the Customs Appellate Collector, and the specific Judgment of Customs Appellate Tribunal in this case, the Customs authorities at Peshawar were reluctant to refund the amount of duty taxes and fine paid by the trader while the goods released on the basis of O-in-A by Collector of Customs

released on the basis of O-in-A by Collector of Customs. Under the circumstances, the trader filed a complaint in terms of Section 10(1) of the FTO Ordinance, 2000. On investigation of the complaint, the acts of omission and commission by the Customs authorities at Darra Tang and Custom House Peshawar were found to be willful, arbitrary, unjust, unlawful and in blatant violation of Chief Collector's directive on the subject. The FTO recommended to the FBR to direct the Collector of Customs, Peshawar to refund the amounts as remitted by the Customs Appellate Tribunal and take disciplinary action against the staff for their unjustified and willful action of seizure and confiscation. Instead of implementing these fair and just recommendations, the Customs authorities have filed a representation against the FTO's recommendations in terms of Section 33 of the FTO Ordinance, 2000, mainly to protect their staff from disciplinary action. As representations are filed through FBR, it becomes an abiding responsibility of FBR to forward only those representations to the President's Secretariat which are genuine and based on sound grounds.



#### Case No.II

### Complaint Nos.92-93/2013

/s Agha Jan Mia khail Ltd and M/s Payenda Khail Ltd, importers of Afghanistan filed a complaint of eight months delay by the Customs at Peshawar in allowing amendment in the names of consignees. The delay had resulted in accumulation of delay and detention charges. The Complainants applied for waiver of delay detention charges and issuance of delay and detention certificates but no response was received from the Department. Consequently, they filed complaints No.34-35/Khi/Cus(17-18)/92-93/2013.

2. After investigation, the FTO decided in favour of the Complainant observing responsibility for delay in

that the Department delayed the After investigation, the FTO decided in amendment despite the fact that favour of the Complainant observing no illegality or irregularity was that the Department delayed the detected about the detained amendment despite the fact that no consignments. The illegality or irregularity was detected about the detained consignments

allowing correction of a mistake fed in the computer system was on the part of the Department. The FTO recommended to the FBR to direct the Collector Customs to issue delay and detention certificate in terms of SRO 82(1)/2008 in favour of the Complainants for the period the amendment was unduly delayed.

#### Case No.III

### Complaint No. 21/2013

s Quaid-e-Azam Medical College BV Hospital complained that bed--lifts imported for the hospital despite being allowed duty-free import under PCT 9914 were wrongly taxed under PCT 8428.1010. The Complainant's representation to FBR was rejected. The Department also resisted the complaint under the FTO Ordinance on law points as well as on merits pleading that passenger lifts fell under PCT 8428.1010 and not under PCT 9914.

On investigation of complaint No.09/KHI/Cus(07)/21/2013, the FTO found the plea of the Complainant maintainable observing that passenger lifts imported by



the Institute of Cardiology, Rawalpindi were cleared vide GD No.1 DRY-HS-3058 dated 03.05.2012 allowing exemption under PCT 9914 whereas the lifts of the Complainant were specified as bed-lifts as these were for the use of patients. The FTO held that the case of the Complainant was thus on a better footing but this aspect was not considered, resulting in a discriminatory treatment tantamount to maladministration. The FBR was directed to reconsider the issue as per law.

#### Case No.IV

# Complaint No. 786/2013

M/s Ali Business Machines (Pvt) Ltd. filed a complaint against recovery action initiated by the Customs authorities of Model Customs

Collectorate, Karachi, administering Pakistan Customs Computerized System (MCC PaCCS). The grievance was that the recovery action was unjustified as the valuation dispute was claimed to have been decided in favour of the Complainant.

The grievance was that the recovery action was unjustified as the valuation dispute was claimed to have been decided in favour of the Complainant

- 2. During the hearing, the parties reiterated the averments of their written pleadings. The Complainant contented that the valuation dispute pertaining to the year 2007, had been decided by the Valuation Directorate of Customs House, Karachi in his favour. He further stated that his representatives had been visiting the concerned Customs authorities of MCC PaCCS for release of Post-dated Cheques furnished as security for the differential amount of duty/taxes involved in provisional assessment of the impugned consignments. He alleged that the Customs authorities had informed that the valuation dispute had been decided in favour of the Complainant and that securities would be released as soon as the relevant case file was traceable. He, however, could not produce any documentary evidence in terms of print out of any message or decision by the Valuation Directorate or MCC PaCCS to substantiate his contentions.
- The Deptt contended that the valuation dispute had not been decided in favour



of the Complainant. Rather, the Valuation Directorate had accepted the value determined provisionally by MCC PaCCS. In support of this contention, the Deptt produced computer print out showing the dates of finalization of value as 10 June 2008 and 12 June 2008. Recoverable amount was shown as Rs.252,229/- in case of GD No.1-HC-299032 dated 16 June 2007 and Rs.29,837/- in case of GD No.1-HC-305044 dated 22 June 2007.

The submissions made by the parties were considered in the light of documents available on record and the relevant provisions of the Customs Act and the Rules made thereunder 4. The submissions made by the parties were considered in the light of documents available on record and the relevant provisions of the Customs Act and the Rules made thereunder. As

the Complainant did not produce any evidence to substantiate his contention that the valuation dispute was decided in his favour and as the Deptt provided reliable evidence in terms of computer generated statement showing the outstanding amounts of duty and taxes, the complaint was not found maintainable.

- 5. The Complainant had also no case to say that his representatives had been meeting the Customs officials as the Complainant had chosen to file GD's in a system which was fully computerized from end to end with the purpose to avoid personal contact between the Customs staff and the taxpayers. Under the Customs Computerized Clearance System acronymed PaCCS, the taxpayer was required to communicate electronically instead of through personal contact.
- In such view of the facts, initiation of recovery action by the Customs did not tantamount to maladministration in terms of Section 2(3) of the FTO Ordinance, 2000. The complaint, being without merit, was closed.

In such view of the facts, initiation of recovery action by the Customs did not tantamount to maladministration in terms of Section 2(3) of the FTO Ordinance, 2000





# **Public Feedback**

# The FTO Office receives letters and e-mails of appreciation and thanks from taxpayers, whose grievances are redressed. Following are excerpts from some of these letters and e-mails:

"Thank you very much for showing quick response and action, and we pray that all the departments of our country perform like your department, Ameen."

#### Haji Momin Khan

Chief Executive City Polytex (Pvt Ltd.

"We are extremely thankful to you that we have received the Sales Tax Refunds in respect of above cited subject. It is to inform you that with the kind help of worthy Federal Tax Ombudsman Office, the respondent has issued due sales tax refund. This clearly reflects the justice you are providing to taxpayers."

#### Nasir Morai Buriro

M/s Rauf Textile & Printing Mills (Pvt) Ltd, Karachi

"I would like to thank the FTO team for resolving my tax refund issue with FBR. I really appreciate your efforts and work sincerity. It gives an immense boost in my confidence that many of our institutions like FTO are working hard for the rights and justice at root level in Pakistan."

### Sherzada Khan

Officer Grade-1 NBP, Abbtotabad

"With reference to our complaint made against FBR Rawalpindi, our clearance certificate has been issued and our matter has been resolved. As a regular taxpayer, our company is thankful to your department and appreciate prompt response shown by your office."

### Qamar Farooqui

Manager Asian Tour Services (Pvt) Ltd Rawalpindi



"With due respect it is stated that applied refund in above mentioned case has been received by the unit. I am really thankful for your great cooperation and kindness."

#### Abid Mahmood

AR-Meezan Filling Station GT Road, Ternol, Islamabad

"This is with regard to my complaint lodged date 26.06.2012 for tax refund. I gratefully want to inform that the FBR authorities have settled the case to my satisfisfaction. I am thankful to you for all the help and request you to close this case."

#### Salman Khurshid

H. No.29, St. 5 Sector-D, DHA-1, Islamabad

"It is to bring to your kind notice that I have received my refund calculated by RTO Peshawar. I am really thankful to your kind office for such a quick response. Being a salaried person it was hard for me to peruse such processes due to my job responsibilities. Once again I am really thankful to you for your response, which enabled me to have my refund over deducted during the past years."

#### Naveed AKhtar

IT Officer NBP, Abbottabad.

"As the proper implementation has been done and amended Sales Tax Registration also reprinted and dispatched accordingly and grievances of the taxpayer resolved and complaint has been settled. The undersigned highly appreciates the efforts made by FTO. Special thanks to the Hon'ble FTO, the learned Advisor and related staff for their cooperation to implement the findings with further request that complaint may be treated as disposed of as grievance of the taxpayer stands resolved and nothing remain for redress."

## M/s Azhar & Company

Pakistan Handicraft Building, Abdullah Haroon Road, Karachi





# Organization

# Inception

The Government of Pakistan promulgated Ordinance No.XXXV of 2000, to establish the Office of the Federal Tax Ombudsman on August 11, 2000. The FTO Office started functioning on September 19, 2000 when the first Federal Tax Ombudsman took oath of the Office. The FTO Secretariat originally

comprised its Headquarters at Islamabad and The FTO Secretariat two Regional Offices at Karachi and Lahore. Another Regional Office started working at Headquarters at Islamabad Quetta in November, 2009. The Regional and two Regional Offices at Office at Peshawar was operationalised in

originally comprised its Karachi and Lahore

2012 by camp office mechanism. Under the arrangement, the Advisors at Islamabad HQ used to periodically hold hearing at Peshawar. In 2013, however, a dedicated Advisor has been appointed. Regional Office Peshawar is thus fully operationalized since October 2013. In addition, a number of Facilitation Centers have been planned for the main commercial cities like Hyderabad, Sukkur, Sialkot, Gujranwala, Multan, Faisalabad and Abbotabad. In keeping with the work load of complaints, the taxpayers have been facilitated by holding hearings at Faisalabad A regular Regional Office will and Multan by the FTO's Advisors of be fully operationalized at Regional Office, Lahore. A regular Regional

Faisalabad by March, 2014

Office will be fully operationalized at with an independent Advisor Faisalabad by March, 2014 with an

independent Advisor. Similar facilitation is terms of camp office mechanism has been initiated for Hyderabad and Sukkur where the FTO's Advisors at Regional Office, Karachi periodically hold camp offices for hearing of complaints of taxpayers belonging to these regions. As the volume of complaints increases, full fledged Regional Offices will also be established at Hyderabad, Sukkur and Multan wherever the threshold of complaints is attained first.



# Legal Framework

- The legal framework of the FTO Office includes: 2.
  - (i) The Establishment of the Office Ombudsman Ordinance, 2000;
  - (ii) The Federal Tax Ombudsman Investigation and Disposal of Complaints Regulations, 2001;
  - (iii) The Federal Tax Ombudsman Office Staff Service Rules, 2006;
  - (iv) The Ministry of Law Justice and Human Rights Office Memorandum No 36/2001-Law (FTO) dated December 10, 2001; and
  - The Federal Ombudsmen Institutional Reforms Act, 2013 dated 20 (v) March, 2013.

# Organisational Set up

The Organisational set-up of the FTO Secretariat including the Regional 3. Offices is small and simple as can be seen in the organogram below:



It will be observed that the FTO Office is small and compact and its administrative set up in lean and flat. It will be observed that the These are the two main pre-requisites for Organisation is small and effective command and control system of compact and its administrative an organization. No wonder the FTO Office set up in lean and flat



it earned a glowing tribute from the stakeholders in a Citizen Report Card Survey conducted in 2011 by Transparency International-Pakistan. The stakeholders

The stakeholders contacted in the survey conducted by Transparency International in 2011 adjudged the FTO Office as a most user-friendly and the cleanest public sector organisation of Pakistan in terms of efficiency and integrity

contacted in the survey adjudged the FTO Office as a most user-friendly and the cleanest public sector organisation of Pakistan in terms of efficiency and

integrity. The aggrieved taxpayers consider the FTO Office to be a 'blessing' for them as their grievances are redressed promptly, inexpressively and effectively.

# Administrative Set-Up

Initially, the FTO Office had the sanctioned strength of 243 posts. During a subsequent rightsizing drive, as many as 100 posts were slashed. Later, 48 posts were added keeping in view the increased workload. In 2010, an MIS section was added with an initial strength of an MIS Manager and 6 staff members. The FTO's Federal Secretary or Additional

investigation staff includes a Senior The FTO's investigation staffs Advisor, Advisors In-charge of include Senior Advisor, Advisors In-Regional Offices and the subject charge of Regional Offices and the specialist Advisors who are well- subject specialist Advisors who are reputed retired senior officers of mostly well-reputed retired senior officers of the FBR and the Judiciary

Secretary level of the FBR and the judiciary. At the advisory level, it is a lean and flat administrative setup as can be seen from the diagram below:





6. As the workload is increasing quantitatively and qualitatively, the organization is being reinvented. A kind of its capacity audit has been initiated to identify gaps in the architecture of its organizational and administrative set-up for upgrading service delivery and improving quality of investigations. Quality staff in terms of advance skills in information technology is gradually replacing the staff lacking computer skills. The ultimate aim is to achieve an IT-enabled and paperless operating environment.





Hon'ble Ombudsmen attending a Meeting of the Forum of Pakistan Ombudsman at Karachi on 10 December, 2013





# **How to File a Complaint**

complaint may be filed in accordance with the provisions contained in Section 10(1) of the FTO Ordinance, 2000 read with Regulation No. 3 of the FTO's Regulations 2001 preferably on FTO-Form "A" available free of cost at the Head Office and Regional Offices. Form 'A' can Complaints can be filed at be downloaded from FTO's website: the relevant Regional Offices at Karachi, Lahore, www.fto.gov.pk. Complaints can be filed at the

relevant Regional Offices at Karachi, Lahore, Quetta, Peshawar or HQ office at Islamabad.

Quetta, Peshawar or HQ office at Islamabad

- It is required to be stated in a solemn affirmation in term of the Affidavit attached with the complaint that-
  - (i) previously no complaint on the subject was filed with the FTO Office;
  - (ii) a representation to a senior officer of the Revenue Division or any of its departments in respect of the allegations contained in the complaint was made, but either no reply thereto was given within a reasonable time or representation had unjustly been turned down, or no representation was made.
- The territorial jurisdiction of the Head Office and Regional Offices is specified in the Schedule to FTO's Regulations, 2001 which may be modified by the Ombudsman by an order in writing from time to time provided that the Ombudsman may direct

The territorial jurisdiction of the Head Office and Regional Offices is specified in the Schedule to FTO's Regulations, 2001

that a complaint falling within the territorial jurisdiction of one Regional Office may be investigated at any other Regional Office or the Head Office. For hearing of complaints, venue largely depends on the choice of the Complainant for his convenience.



- 4. On receipt of a complaint, the concerned official in the Registry enters particulars of the complaint in a daily register giving it a diary number and issue a receipt thereof, if the complaint is present personally, and forward it to the Registrar.
- The official receiving the complaint can assists the complainant in filling out the FTO-Form "A", if such assistance is requested.

# Online Filing of Complaints

- A complaint may be filed and tracked on line as per following procedure:
  - Open FTO's website www.fto.gov.pk
  - Click on Online Complaint System
  - Click on File a New Complaint or Track Already Filed Complaint
  - Fill in the required fields/data and click on Save button

In order to ensure transparency of complaint management by the FTO Office, a proactive SMS-and-e-mail-based alert system has been put in place 7. In order to ensure transparency of complaint management by the FTO Office, a proactive SMS-and-e-mailbased alert system has been put in place. The complainants and their representatives are being automatically

given SMS and e-mail alerts by the FTO's Computerized Complaint Management System (FCCMS) on the progress of their complaints.

# Who can File a Complaint?

- Any person aggrieved by an action (decision, process, recommendation, omission or commission etc.) of any functionary of the Revenue Division / FBR 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; or
  - is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or
  - is based on irrelevant grounds; or



- 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; and
- neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities.
- repeated notices, unnecessary attendance or prolonged hearings while deciding cases involving:
  - (i) assessment of income or wealth;
  - (ii) determination of liability of tax or duty;
  - (iii) classification or valuation of goods;
  - (iv) settlement of claims of refund, rebate or duty drawbacks; or
  - (v) determination of fiscal and tax concessions or exemptions;
- g) willful errors in the determination of refunds, rebates or duty drawbacks;
- deliberate withholding or non-payment of refunds, rebates or duty drawbacks already determined by the competent authority;
- i) coercive methods of tax recovery in cases where default in payment of tax or duty is not apparent from record; and
- 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.

# Geographical Locations for Hearing of Complaints

9. The FTO HQ at Islamabad, FTO's Regional Offices at Karachi, Lahore, Quetta, Peshawar and make shift arrangements at Hyderabad, Sukkur, Faisalabad and Multan are the 9 geographical locations where complaints are heard by the Advisors. The Advisors are either Federal Secretary or Additional Secretary level well-reputed retired officers of the FBR or retired judges of the High Court.





The FTO Headquarters at 5-A Constitution Avenue Islamabad





# **How to Contact Us**



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5-A, Constitution Avenue Islamabad.

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Fax: 051-9205553

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# (iv) Regional Office, Peshawar

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# (v) Regional Office, Faisalabad

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# Highlights of CRC STUDY on the FTO Performance

Transparency International-Pakistan got a Citizen Report Card Study (CRC Study) conducted in 2011 on the performance of the Federal Tax Ombudsman Office through an independent research firm 'Islamic Countries Society of Statistical Sciences (ISOSS)'. After completing the survey of taxpayers, tax consultants and federal tax departments, the CRC Study reported that the Federal Tax Ombudsman was the most clean public sector organization and a role model for other public sector organizations. Highlights of the CRC Study on the FTO performance were as under:

- √ 93.5% of taxpayers rate FTO response quality as good or excellent
- ✓ 90.6% of taxpayers are satisfied with FTO office staff behavior
- √ 87% taxpayers are satisfied with time taken by FTO to dispose of complaints
- ✓ 83.5% taxpayers consider FTO officials have high integrity by not asking any favor from the taxpayers.
- ✓ 51.4% complaints were filed by small businesses

# Federal Tax Ombudsman Secretariat

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