

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT No. 0043/OM/2023

Dated: 31.07.2023*RO, Lahore

Subject: **INVESTIGATION INTO TAX AFFAIRS OF CENTRAL PARK
MEDICAL COLLEGE LAHORE CONTROLLING ENTITY;
HEALTH AND EDUCATION FOUNDATION.**

Dealing Officer : Mr. Khalid Javed, Advisor
Appraised by : Mr. Muhammad Tanvir Akhtar, Advisor
Departmental Representative : Ms. Sonia Anwar, ADCIR, Zone-I CTO
Lahore

FINDINGS/RECOMMENDATIONS

Based on the multiple news items and reports published in print and social media FTO Secretariat initiated Own Motion Investigation into tax affairs of **Central Park Medical College Lahore/Controlling Entity; Health and Education Foundation**, Vide OM No.0043/OM/2023.

Background of Own Motion Investigation:

The background of above referred OM is detailed as below.

2. Currently, in addition to Public Sector Medical & Dental Colleges there are around 75 PMDC approved Medical and 43 Dental Colleges in Pakistan. Though PMDC maintains a structured regulatory mechanism yet tax matters of these private colleges have not been appropriately attended by FBR. During the past few years there has been regular reporting in the national press (details attached) as well in various medical related websites about the irregularities and violation of tax laws committed by Private Medical Colleges in Pakistan. Most recently, a report has been published in the '**Business Recorder**' dated 25.07.2023.

3. The above referred report contains a detailed account of the maladministration with reference to irregularities committed by Trusts controlling the medical colleges, especially improper compliance of withholding taxes, non-conformity with stipulations attached to NPO status, irregularities committed while issuing approvals under section 2(36) of the Income Tax Ordinance 2001 and lack of well-structured audit of withholding taxes. The main issues involved in the above referred report are briefly summarized as below;

- i. The trusts controlling medical colleges get approval u/s 2(36) of the Income Tax Ordinance, 2001, however, thereafter misuse the same i.e. are running commercially for profit.
- ii. The Trusts/Private Medical Colleges do not get the approval u/s 2(36) of the Ordinance 2001, renewed periodically, thus keep on flouting law.
- iii. Private Medical Colleges are not discharging their tax withholding obligations properly.
- iv. There is no proper withholding tax audit conducted by FBR field offices.
- v. Fees charged from overseas students are not reflected in accounts for taxation
- vi. Allegedly, the Private Medical Colleges siphon off receipts from overseas students, to unknown accounts, thus depriving the Tax Deptt from due withholding on the same.
- vii. The controlling Tursts & Medical Colleges also do not conform to the rules and regulations of PMDC as regards to charitable functions; the very basis for claiming exemption.
- viii. The Private Medical Colleges suppress their receipts as declared before the Tax Deptt.
- ix. The Private Medical Colleges get heavy donations from affluent parents in the range of 14 Lacs to 40 Lacs but do not declare in accounts subject to audit.
- x. Mostly controlling Trusts are being run as family enterprises on commercial basis

4. The contents of the above referred press report exhibit serious threats to proper taxation, especially withholding tax regime. Prima facie, the above given malpractices and violations occur because of

lack of stringent and well-defined periodic audit of tax withholding approval regime u/s 2(36) of the Income Tax Ordinance, 2001.

5. According to the data available, in city of Lahore alone there are approximately 26 such private medical colleges/Trusts operating on extensive basis. The above-mentioned account necessitates that an Own Motion Investigation may be carried out into the tax affairs of Private Medical Colleges and Trusts.

6. In view of above given account, Own Motion Investigation into tax affairs vide No.0043/OM/2023 was initiated in the case of **CENTRAL PARK MEDICAL COLLEGE LAHORE/CONTROLLING ENTITY; HEALTH AND EDUCATION FOUNDATION.**


7. FBR was asked to furnish parawise comments, especially explaining the following queries;

- (i) **CENTRAL PARK MEDICAL COLLEGE LAHORE/CONTROLLING ENTITY; HEALTH AND EDUCATION FOUNDATION** avails exemption u/s 2(36) or it is taxable entity?
- (ii) Statutory Withholding Statements for the last 05 years have been timely filed by the **CENTRAL PARK MEDICAL COLLEGE LAHORE/CONTROLLING ENTITY; HEALTH AND EDUCATION FOUNDATION** or enforced by CTO Lahore.
- (iii) When was conducted the last Withholding Audit in respect of **CENTRAL PARK MEDICAL COLLEGE LAHORE/CONTROLLING ENTITY; HEALTH AND EDUCATION FOUNDATION**
- (iv) When was conducted review of exemption u/s 2(36) in respect of **CENTRAL PARK MEDICAL COLLEGE LAHORE/CONTROLLING ENTITY; HEALTH AND EDUCATION FOUNDATION**
- (v) is the controlling entity; Health and Education Foundation abiding by all rules and regulations pertaining to the admissibility of status as NPO.
- (vi) Any communication by CTO to concerned IR field formations sharing the details of hired professionals for the purposes of Broadening of Tax Base.
- (vii) Agreement between Central Park Medical College and Punjab Social Security Health Management Company has ever been examined by CTO or not?

8. In response to above referred notice, the Deptt submitted parawise comments vide letter No.2217 dated 07.10.2023 contending that approval u/s 2(36) as an NPO for tax year 2018 and onwards is in process/pending. Further stated the Foundation has withheld taxes and deposited in Govt. treasury and withholding audit for tax years 2018 to 2021 has been finalized and show cause notice has been issued for tax year 2022. Also stated that audit has been initiated for selection of case under section 177 for tax year 2022.

9. The hearings in this case were conducted on 18.10.2023 and 25.10.2023. During hearing the DR stated that audit in this case has been initiated and status as NPO is under review. The DR further clarified that the initiated audit would be a comprehensive one covering all aspects of taxability. The DR stated WHT audit up to the tax year 2021 has been completed, however audit for the tax year 2022 is pending. The case has been thoroughly discussed with DR and important findings are as under.

10. **FINDINGS:**

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- i. M/s Central Park Medical Lahore is owned and controlled by Health and Education Foundation claiming NPO status.
 - ii. The CTO, after receiving of notices from this forum have initiated a comprehensive Audit u/s 177 dated 18.10.2023 for ascertainment of status as NPO u/s 2(36) of the Ordinance along with other risk areas.
 - iii. Admittedly, the review of status of NPO u/s 2(36) for the tax year 2018 to 2022 in respect of the Foundation is pending.
 - iv. Withholding tax audit has been conducted up to tax year 2022
 - v. The controlling Foundation is filing the returns regularly.
 - vi. The Foundation is also filing audited accounts (for last three years available on record).
 - vii. The accounts for tax year 2022 contain following risk areas;
 - a. As per audited accounts, prima facie, salaries declared at Rs.662,565,241/- has not been subjected to deduction of WHT u/s 149 of the Ordinance 2001.

- b. IR field formation holding jurisdiction over the instant case has not shared the details of employees/professionals with the concerned IR formation for the purpose of broadening of tax base.
- c. The Foundation is also involved in export of services, as **other revenue** under this head shown in the tax year 2022 at Rs.86.192m. Nature of this activity and applicable withholding provisions are yet to be ascertained.
- d. Audited accounts reflect an amount of Rs.112.053(m) as receivable from patients which appears to be a dubious affair. Apparently, money due from Organizations availing medical facilities is involved. Applicable withholding provisions need to be invoked.
- e. As per accounts, Discount to patients at Rs.54.743(m) for tax year 2022 needs to be corroborated with the documentary evidence
- f. The loan from Directors declared at Rs.624(m) needs to be proved through cash flow statements for tax year 2022
- viii. No information was provided or requisitioned regarding visiting faculty members.
- ix. No independent information was obtained regarding teaching faculty and Doctors providing professional services.

MALADMINISTRATION:

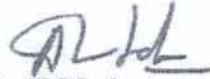
11. Delay and inaction, in addressing the discrepancies, highlighted above in respect of Health and Education Foundation constitutes maladministration in terms of Section 2(3)(ii) of the FTO Ordinance, 2000.

RECOMMENDATIONS:

12. FBR to direct:

- i. to the Commissioner-IR, Zone-I, CTO Lahore to conduct a complete case review so as to address the loopholes/ risk areas identified above, as per law and after affording proper hearing.
- ii. To requisition and analyze segregated lists of employees of Health & Education Foundation so as to verify;
 - a. Whether all the faculty members, reflecting at college website are being regularly subjected to withholding taxes at source;

- b. All employees receiving taxable salaries are borne on Tax Roll and in cases of default details be shared with the concerned RTO for BTB purposes.
- c. How the share from practice at college teaching Hospital is being paid to specialists and what is the mechanism for tax deduction at source.
- iii. obtain information of foreign students whose fees are paid from abroad and ascertain whether such amounts are declared in receipts as per audited accounts; and
- iv. report compliance within 60 days.


(Dr. Asif Mahmood Jah)
(Hilal-i-Imtiaz)(Sitara-i-Imtiaz)
Federal Tax Ombudsman

Dated: 22.11.2023

AKF

Approved for reporting


Director
FTO Secretariat
Islamabad