THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

COMPLAINT NO.0148/0M/2023
Dated: 14.12.2023* R/o, Quetta

Subject: **INVESTIGATION INTO TAX AFFAIRS OF QUETTA INSTITUTE OF MEDICAL SCIENCES (QIMS), QUETTA.**

The Secretary,
Revenue Division,
Islamabad. ... Respondent

Dealing Officer	:	Mr. Tausif Ahmad Qureshi, Advisor
Appraisement Officer	:	Mr. Muhammad Tanvir Akhtar, Advisor
Departmental Representative	:	(i) Mr. Atta Muhammad Nasar, ADCIR, RTO, Quetta (ii) Mr. Ahsan Bukhari, IRAO, RTO, Quetta

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 **Quetta Institute of Medical Sciences (QIMS), Quetta** vide OM No.0148/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

---
*Date of registration with FTO Secretariat

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 under Section 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 under Section 2(36) of the Income Tax 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. Fee charged from overseas students is 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 Department from due withholding on the same.

vii. The controlling Trusts & Medical Colleges also do not conform to the rules and regulations of PMDC as regards to their enrollments and charitable functions; the very basis for claiming exemptions.

viii. The Private Medical Colleges suppress their receipts as declared before the Tax Department.

ix. The Private Medical Colleges get heavy donations from affluent parents, but do not declare in accounts subject to audit.

x. Mostly controlling Trusts are 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 oflack of stringent and well-defined periodic audit of tax withholding approval regime under Section 2(36) of the Income Tax Ordinance, 2001.

5. According to the data available, in city of Quetta, alone there is only one such private medical college. The above-mentioned account necessitates that an Own Motion investigation may be carried out into the tax affairs of this Private Medical College.

6. In view of above given account, Own Motion investigation into tax affairs vide No.0148/OM/2023 was initiated in the case of Quetta Institute of Medical Sciences (QIMS), Quetta.

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

i. Quetta Institute of Medical Sciences (QIMS), Quetta avails exemption under Section 2(36) or it is taxable entity?

ii. Statutory Withholding Statements for the last 05 years have been timely filed by the Quetta Institute of Medical Sciences (QIMS), Quetta or enforced by RTO, Quetta?

iii. When was the last Withholding Audit conducted in respect of Quetta Institute of Medical Sciences (QIMS), Quetta?

iv. When was the review of exemption conducted under Section 2(36) in respect of Quetta Institute of Medical Sciences (QIMS), Quetta?

v. Any communication by RTO to the concerned IR field formations sharing the details of hired professionals for the purposes of Broadening of Tax Base?

vi. Any agreement between Quetta Institute of Medical Sciences (QIMS), Quetta and Balochistan Health Department/Health Social Security has ever been examined by RTO or not?

8. In response to above referred notice, the Deptt. submitted parawise comments vide letter No.CIR/Zone-I/RTO/QTA/2023-24/1509 dated 04.01.2024 giving therein profile of Quetta Institute of Medical Sciences (QIMS):

Tax Payer Profile

CNIC/NTN	4231474
Name of Taxpayer	Quetta Institute of Medical Sciences
Status	Company
Registration Date	01.07.2013

Further stated that the available record indicates that the taxpayer has unilaterally described itself as NPO/NGO without seeking approval from the competent authority, i.e., the Commissioner-IR, as per Section 2(36) of the ITO, 2001. Therefore, the taxpayer is not exempt, unless exemption certificate is issued by the Commissioner-IR. Quetta Institute of Medical Sciences (QIMS) is only registered with the Federal Board of Revenue (FBR) and has not submitted any tax returns. Nevertheless, prescribed penalty has been imposed under section 182(2) of the ITO, 2001 due to failure to file returns for the past five years. In this regard, the details of penalty proceedings are as under:

Tax Year	Date
2018	27 Feb, 2018
2019	21 Dec, 2023
2020	30 May, 2023
2021	21 Dec, 2023
2022	21 Dec, 2023

Further added that the Income Tax and Withholding Tax matters associated with the said taxpayer could be audited, if the taxpayer had submitted tax returns and withholding statements. So, legal action is being taken as per law to enforce the submission of prescribed returns/withholding statements. As soon as prescribed returns are filed, a detailed scrutiny and audit will be carried out as per the relevant provisions of the law.

9. The hearings in this case were conducted on 02.02.2024 and 22.02.2024. During hearing proceedings, DR was told that the reply

of the Deptt. was very sketchy and insufficient. He was directed to comprehensively respond to the queries sought in the notice.

10. In the aftermath of hearing, the Commissioner-IR RTO, Quetta submitted reply vide letter No.CIR/Zone-I/RTO/QTA/2023-24/2006 dated 22.02.2024 stating therein that as per the available record on Iris e-portal,

- the taxpayer is a non-filer of the income tax return from tax year 2014 to 2023.
- RTO has initiated proceedings to enforce filing of income tax return. Notices under Section 114(4) of the Income Tax Ordinance, 2001 have been issued for non-filing of income tax return for tax years 2014 and 2023.
- Orders under Section 182 (2) of the Income Tax Ordinance, 2001 have been passed for tax year 2015, 2016, 2017, 2018, 2019, 2020 and 2022 levying penalty in aggregate at Rs. 160,000/. Subsequently, recovery notices under Section 138 of the Income Tax Ordinance, 2001 have also been issued dated 22 Feb, 2024 for compliance on 07 Mar, 2024. Show cause notice under Section 182 (2) of the Income Tax Ordinance, 2001 for tax year 2021 has been issued dated 22 Feb, 2024 for compliance on 29 Feb, 2024.
- Since the subject person has not complied with the relevant provisions of law as stipulated by Section 114(4), despite the penalty orders, the next course of action in light of the Income Tax Ordinance, 2001 is to frame an order within the meaning and scope of Section of 121. In this regard, bank statements in respect of the taxpayer have been sought under Section 176 of the Income Tax Ordinance, 2001 vide letter No.33 dated 23.02.24 to examine the taxable activity being carried out by the taxpayer and therefore frame a fair assessment order.
- Further added that Show Cause Notices under Section 121 of the Income Tax Ordinance, 2001 shall be issued after the receipts of the bank statements and the case from tax year 2014 to 2023 shall be finalized under Section 121 of the Income Tax Ordinance, 2001 accordingly. Notices under Section 165 and 149 of the Income Tax Ordinance, 2001 have also been issued to ensure filing of the withholding statements.

FINDINGS:

11. The following instances of blatant and glaring violation of laws are visible in this case:

i. The taxpayer has unilaterally described itself as NPO/NGO without seeking approval from the competent authority, i.e., the Commissioner-IR, as per Section 2(36) of the ITO, 2001. Therefore, the taxpayer is not exempt, unless exemption certificate is issued by the Commissioner-IR.

ii. Quetta Institute of Medical Sciences (QIMS) is only registered with the Federal Board of Revenue (FBR) and has thus far not submitted any tax returns.

iii. The prescribed penalty has been imposed under section 182(2) of the ITO, 2001 due to failure to file returns for the past five years.

iv. The Income Tax and Withholding Tax matters associated with the said taxpayer could not be audited in the absence of tax returns and withholding statements.

v. Notices under Section 165 and 149 of the Income Tax Ordinance, 2001 have also been issued to ensure filing of the withholding statements.

vi. Claiming of illegal exemptions from income tax by profit-earning educational institutions in the garb of NPOs is a chronic and alarming issue. In this regard, the following facts are well-established:

vii. Private Medical Colleges are part of a well-organized and streamlined sector wherein the regulator PMDC/PMC exercises strong controls over **authorized number of seats, annual enrolment, fee structures and admission criterion**. Verifiable fee structures, available on college website, can be cross checked from banks as well because all fee receipts compulsorily route through Banking channels. Thus, in **Five Year Medical programme**, for each tax year the department can easily & accurately quantify the annual fee received from students enrolled from 1st year to 5th year. <u>If the annual fee charged from each student, as displayed at college website is multiplied with the number of students from 1st year to 5th year, during each TY the resulting turnover can be worked out without any hassle</u>. Similar calculations for dental and other programmes offered by the college can be easily made so as to ascertain the actual quantum of receipts.

MALADMINISTRATION:

12. This OM has awakened the RTO, Quetta from deep slumber. The above acts of omissions and commissions as well as delay and inaction on part of the Deptt. in addressing the serious irregularities and flagrant violation of laws highlighted above in respect of Quetta Institute of Medical Sciences constitute gross maladministration in terms of Section 2(3)(i)(ii) of the FTO Ordinance, 2000.

C.No.0148/OM/2023

RECOMMENDATIONS:

13. In view of above, FBR to direct:

    i. The concerned Commissioner-IR, RTO, Quetta 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 QIMS so as to verify;

        a. Whether all the faculty members, 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 section of 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. Report Compliance within 60 days

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

Dated: 2.4.2024
Akif

Approved for reporting

03/04/24
Nisho Anwar
Deputy Director
Federal Tax Ombudsman Secretariat
Islamabad