THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

COMPLAINT NO.00722/MLN/IT/2026

Dated: 08.01.2026* R.O. Multan

Mian Karim Buksh,
Manager National Bank of Pakistan,
Quboola Sharif, Arifwala. ... Complainant

Versus

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

Dealing Officer	:	Dr. Khalil Ahmad, Advisor
Appraisement Officer	:	Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representatives	:	(i) Mr. Mahboob Ahmed Sheikh (ii) Mr. Imran Hussain
Departmental Representative	:	Mr. Raashid Mehmood Bhettani, Addl. CIR, RTO, Sahiwal
Date of Hearing	:	**04.02.2026**

FINDINGS / RECOMMENDATIONS

The complaint has been filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) for withdrawal and cancellation of penalties imposed under Section 182(1) of the Income Tax Ordinance, 2001 (the Ordinance).

2. The relevant paras of the complaint as stated by the Complainant are hereunder:

"(1) That the Complainant is a Branch Manager of National Bank of Pakistan, a third party to the tax proceedings of Al-Qadir Seed Corporation (Private) Limited, having no personal tax liability, benefit, or interest in the said matter.

(2) That the Respondent issued recovery notices under section 140 of the Ordinance on 17.09.2025, which were served upon the Complainant on 18.09.2025 at 11:37 AM, seeking recovery of alleged outstanding tax demand of the taxpayer.

(3) That upon receipt of the notices, the Complainant immediately referred the matter to the Bank's Legal Department, which is a mandatory internal compliance requirement for statutory recovery actions.

(4) That the legal opinion was received with instructions to proceed as per law; however, before any recovery could be effected, the taxpayer obtained a stay order at 02:25 PM, which was duly communicated to the bank.

(5) That the Complainant never refused compliance nor obstructed the

* Date of registration in FTO Sectt.

recovery proceedings. Any alleged delay was procedural, bona fide, unavoidable, and legally justified.

(6) That despite these facts, the Respondent initiated penalty proceedings and ultimately passed an order dated 05.12.2025, imposing: Rs.25,000 under section 182(1)(13); and Rs.211,490 (10% of alleged tax) under section 182(1)(15).

(7) That subsequent to the issuance of recovery notices, the very tax demand on the basis of which section 140 proceedings were initiated has been deleted by the Worthy Commissioner Inland Revenue (Appeals) in the case of Al-Qadir Seed Corporation (Private) Limited.

(8) That Section 182(1)(13) applies only in cases of willful and deliberate obstruction. The Complainant acted in good faith and strictly followed mandatory banking procedures, which cannot be construed as obstruction. B. ILLEGAL APPLICATION OF SECTION 182(1)(15).

(9) That section 182(1)(15) applies only to persons required to collect or deduct tax under sections 160–163 of the Ordinance.

(10) That the Complainant is neither a withholding agent nor responsible for deduction or collection of tax. Imposition of a 10% penalty on a third-party bank official is ultra vires, unlawful, and without jurisdiction.

(11) That section 140 is a recovery mechanism, not a penal provision creating automatic personal liability.

(12) That the Honourable Supreme Court of Pakistan in CPLAs No. 3578 of 2024 and 4598 of 2024 has categorically held that: Section 140 of the Ordinance does not permit immediate coercive recovery in the absence of a due date set in the notice, and third parties holding money on behalf of a taxpayer must be afforded reasonable time and due process. Notices seeking immediate recovery are illegal and contrary to the statutory framework. The departmental appeals were dismissed, and the impugned recovery actions were held to be illegal.

(13) That the impugned actions constitute maladministration as defined under section 2(3) of the FTO Ordinance, including: arbitrary exercise of authority, disregard of binding law and facts, harassment of a public servant performing official duties, and continuation of proceedings despite deletion of the underlying demand.

PRAYER In view of the above, it is respectfully prayed that the Honourable Federal Tax Ombudsman may be pleased to:

a. Declare the penalty order dated 05.12.2025 illegal, void ab initio, and without lawful authority;

b. Direct immediate withdrawal and cancellation of penalties imposed under section 182(1);

c. Hold that no personal liability can be imposed upon the Complainant under sections 140 or 182, particularly when the underlying demand stands deleted by the Worthy CIR (Appeals);

d. Grant any other relief deemed just and proper, including protection from coercive or penal action."

3. The complaint was referred to the Secretary Revenue Division, for comments, in terms of Section 10(4) of the FTO Ordinance read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. In response thereto, the Chief Commissioner-IR, RTO, Sahiwal forwarded Para-wise comments of the Commissioner-IR, Okara Zone dated 20.01.2026 vide letter dated 22.01.2026. At the outset Preliminary objection has been raised on the issue of jurisdiction. It has been contended that the matter is beyond the jurisdiction of FTO because it pertains to finalization of penalty proceedings in the light of obstruction by the concerned Branch Manager in performance of official duties which is appealable matter before the CIR(Appeals) in terms of Section 129 of the Ordinance. Thus, the Hon'ble FTO does not have jurisdiction in the instant case in terms of Section 9(2)(b) of the FTO Ordinance.

4. In parawise comments the Deptt has contended that penalty proceedings were initiated after due process of law by giving complainant an opportunity of hearing and keeping in view the evidence submitted. Penalty was imposed as maladministration was witnessed on the part of Bank Manager by delaying the due tax recovery to the department. Relevant paras of the Dept'l reply are reproduced hereunder:

"(i) As per email correspondence shared by the Complainant during proceedings, legal opinion was accorded to the Complainant at 01:09 PM well before receipt of stay order. Moreover, as per email correspondence Manager has communicated stay to legal branch at 03:08 PM.

(ii) The delay was evident and intentional as legal branch communicated approval to the undersigned telephonically to which complainant also acknowledged. However, pay order was not prepared and handed over to the team waiting in branch and in the end stay was received. Demand was annulled by the CIR (Appeals) dated 30.09.2025.

(iii) Penalty proceedings initiated in this case were independent. The penalties imposed on the complainant are not related to assessment order rather delay on complainant part to realize the government revenue. Even after deletion of tax demand, delay was on part of Bank Manager which was even acknowledged during penalty proceedings. Applicability of Section 182(1)(13) in cases of willful and deliberate default which was the case.

(iv) Penalty under Section 182(1)(15) was imposed in the light of Section 140(5) of the Ordinance which states that Section 140(5) is mentioned as follows. "The provisions of Sections 160, 161, 162 and 163, so far as may be, shall apply to an amount due under this section as if the amount were required to be deducted from a payment under Division III of Part V of this Chapter." As per Provisions of Section 182 of the Ordinance, failure to comply with a notice under Section 140 made him liable to penalty. Section 140 is a recovery mechanism however Section 140(5) also make the personal liability in case of failure to pay in a lawful manner. Bank manager in his hearing also gave e-mail correspondence according to which charge was established against him.

(v) Facts of the case were different as enforcement team was personally present at the branch and legal opinion was already granted by the legal department timely as mentioned above. After that it was delay on Branch manger part not to issue pay order in the favor of the department. It is pertinent to mention that show cause notice was issued to the Branch Manger then and there to immediately compliance with the notice(s) issued under Section 140 of Ordinance vide No.101 dated 18.09. 2025, however, no pay order was issued and deliberately time was wasted to entertain stay for the party.

(vi) The Complainant's contention that stay and CIR Appeals order was ignored was totally baseless as demand was annulled by the CIR (Appeals), hundred percent recovery was not made from the Complainant rather penalty was charged from the Complainant.

(vii) This complaint is beyond scope of honorable FTO as also dilated upon in legal and preliminary objections. Proper hearing was provided to the complainant and during course of proceedings, complainant did not raise any objections regarding the legality of penalty provisions. Penalties were imposed after due process. And no harassment was involved."

5. Both the parties have been heard and record produced has been examined.

6. The Deptt has raised preliminary objection with regard to bar of jurisdiction in terms of Section 9(2)(b) of the FTO Ordinance, on the following grounds:

(i) The penalty imposed on the bank manager under Section 182(1)(13) & 182(1)(15) is an appealable order.

(ii) The penalty has been imposed on the Complainant after providing adequate opportunity of hearing.

7. The Complainant has, however, come up to this forum on the grounds that:

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- The Deptt has exercised its authority arbitrarily and caused harassment to the Complainant in performing his duties as a bank employee.
- The penalty has been imposed under Section 182(1)(13) at Rs.25,000 and under Section 182(1)(15) at Rs.210,490/- (10% of alleged tax demand) on 05.12.2025 i.e. at a point of time when the tax demand stood annulled by the CIR (Appeals) vide order dated 30.09.2025.

8. The Complainant (a bank employee) has agitated against imposition of penalty by the Deptt as an act of administrative excess. The penalty has been charged for the alleged delay of a couple of hours in complying to the notice under Section 140 of the Ordinance. The element of maladministration is attracted in terms of Section 3(i)(d) of the FTO Ordinance which caters for administrative excess committed by the tax functionaries.

9. The background and sequence of events which culminated in imposition of penalty are as under:

Name of the defaulter Taxpayer	**M/s AL Qadir Seed Corporation (Private) Limited**
Assessment section & Date	122(5A), 28.02.2025 & 26.06.2025
Tax Years	2019 & 2022
Demand Created	Rs.4,409,747/- & Rs.3,218,517/-
Notice u/s 138 service date	26.08.2025
Approval u/s 140 By CCIR	17.09.2025
Service of notice u/s 140 to Bank Manager NBP Qaboola	18.09.2025 at 11.37(A.M)
NBP Head office approval received through Email to the Manager NBP Qaboola	18.09.2025 at 1.09 (P.M)
Stay granted by CIR(Appeals) communicated	1st Stay : 28.08.2025 to 11.09.25 2nd Stay : 18.09.2025 at 3.08 (PM)
Penalty show cause notice issued to Manager NBP	18.09.2025
1st Adj. received	18.09.2025 for 17.10.2025
Adjournment application received and granted till 14.11.2025	31.10.2025
Reminder issued	20.11.2025

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Penalty order u/s 182(1) issued	05.12.2025
Amount of penalty	Rs. 236,490/- (25000 + 211490)

10. It is obvious from aforementioned detail that the notice under Section 140 of the Ordinance was served upon the bank manager on 18.09.20225 and the stay was granted by the CIR(Appeals) on the same date within working office hours which has been confirmed by CIR (Appeals) vide letter No. 103 dated 17.02.2026 in his written reply / statement. In view of the aforementioned facts the penalty imposed on the bank employee under Section 182(1)(13) & (15) is an arbitrary act and constitutes an administrative excess committed by the Deptt.

11. It is observed that Section 140 of the Ordinance provides mechanism of recovery to the Deptt from the persons holding money on behalf of a taxpayer. The relevant provision of law is as under:

> ***140. Recovery of tax from persons holding money on behalf of a taxpayer.–***
>
> *(1) For the purpose of recovering any tax due by a taxpayer, the Commissioner may, by notice, in writing, require any person –*
>
> *(a) owing or who may owe money to the taxpayer; or*
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> *(b) holding or who may hold money for, or on account of the taxpayer;*
>
> *(c) holding or who may hold money on account of some other person for payment to the taxpayer; or*
>
> *(d) having authority of some other person to pay money to the taxpayer, to pay to the Commissioner so much of the money as set out in the notice by the date set out in the notice.*

12. During the course of proceedings, the AR also cited the pronouncements of Hon'ble apex court in CPLAs No. 3578 and 4598 of 2024 wherein the Hon'ble court has held that:

> *"Section 140 of the Ordinance does not permit immediate coercive recovery in the absence of a due date set in the notice, and third parties holding money on behalf of a taxpayer must be afforded reasonable time and due process. Notices seeking immediate recovery are illegal and contrary to the statutory framework. The departmental appeals were dismissed, and the impugned recovery actions were held to be illegal."*

13. The objection regarding bar of jurisdiction is therefore not sustainable in view of substantive provision of Income Tax Ordinance, 2001 and the case law of the apex court. The penalties imposed on the Complainant is therefore an act of maladministration.

14. The AR of the Complainant has also agitated that both the penalty orders have not been issued through IRIS software. Appeal cannot be filed against manually issued order with the CIR (Appeals) against unbar coded order which according to him is a double jeopardy. The stance taken by the AR carries weigh to the extent of this procedural glitch.

FINDINGS:

15. The act of the Deptt is a classic example of **administrative excesses** wherein the Department is not willing to extend even a single day to its taxpayer to avail a legal remedy available under the law and pressing the Bank for an immediate recovery on the same day in glaring contrast to the decision of the Hon'ble Supreme Court of Pakistan in CPLAs referred at para 12 above. This administrative excess tantamounts to maladministration, in terms of Section 2(3)(i)(d) of the FTO Ordinance.

RECOMMENDATIONS:

16. FBR to -

(i) direct the Commissioner-IR, concerned to recall the penalty orders passed under Section 182 Chapter X, serial No. 13 & 15 of the Ordinance; and

(ii) report compliance within 30 days.

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

Dated: 03 JUN 2026

Approved for reporting.