THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

COMPLAINT NO.10041/KHI/ST/2026
Dated 01.06.2026[1] R.O Karachi

M/s Horizon Alloys (Pvt) Ltd, STRN 1700404843217
Plot # E 27/D,
SITE,
Karachi ...Complainant

Versus

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

Dealing Officer	: Mr. Badruddin Ahmad Quraishi Advisor
Appraising Officer	: Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representatives	: Dr. Ashfaq Ahmed Tunio, ITP
Departmental Representatives	: Mr. Muhammad Ali Baig, OIR, CTO Khi
Date(s) of hearing	**: 17.06.2026 & 23.06.2026**

FINDINGS/RECOMMENDATIONS

The complaint was filed in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against the alleged illegal recovery through bank attachment, delay in concluding appeal effect proceedings, and failure to detach bank accounts despite the CIR (Appeals -VII) set aside order dated 21.05.2025.

Federal Tax Ombudsman Secretariat HQs Islamabad FTO

2. Briefly, the Complainant is a Private Limited Company engaged in the manufacture of basic and other non-ferrous metals, registered for sales tax under STRN No. 1700404843217. As per the complaint, the DCIR Unit-01, Zone-III, CTO Karachi passed an ex-parte Assessment Order dated 21.05.2025 u/s 11E of the Sales Tax Act, 1990 (""the Act"), raising demand of Rs. 21,293,356/- along with penalty of Rs. 21,293,356/- and recovered an amount of Rs. 24,512,999/- through bank attachment. The sole basis of the Order

[1] Date of registration in FTO Secretariat

was that one of the suppliers, M/s. Three Star Oil Traders (Reg. No. 4230161581309), had been suspended/blacklisted (although purchases were made while it was Active/Operative). Meanwhile, even before the recovery action, the department itself had already restored three Star Oil Traders to Active status vide Restoration Order dated 26.06.2025, and they remain fully Active/Operative on the FBR portal as of today. Despite its restoration, the recovery was unlawfully made. On appeal, the CIR (Appeals) passed an Appellate Order dated 25.03.2026, setting aside the impugned Assessment Order with directions to the DCIR for de novo proceedings after providing a reasonable opportunity of hearing. The complainant filed an application for expeditious disposal of remand back proceedings and a refund of the illegally recovered amount filed u/s 66 of the Act, but failed to get any response; hence this complaint.

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, the CIR, Zone-III, CTO Karachi submitted comments on 23.06.2026, raising a preliminary objection of jurisdiction u/s 9(2) of the FTO Ordinance as the matter pertains to assessment (Appeal effect proceedings).

4. On merit, it was stated that the learned Commissioner IR (Appeals VII), Karachi, already granted relief on the point of opportunity of being heard by remanding the case for re-adjudication by investigating the following aspect:

> "i. *Verify the existence of banking transaction between the bank account of the suppliers and the appellant against the invoices involved in terms of the provisions of section 73 of the Act,*
>
> *ii. Verify all the relevant invoices issued by such blacklisted/suspended suppliers,*

iii. *Examine as to whether compliance with the provision of Section 153 of the Ordinance was made in respect of the supplies or exemption was availed by such suppliers, as the case may be,*

iv. *Obtain any other relevant evidence, including carriage transportation of the relevant goods.*"

To give effect to the Appellate order, the notice under 11B of the Act was issued on 03-06-2026. The appeal proceedings for investigating the directed areas of the case are underway. Furthermore, as per Section 11B of the Sales Tax Act, 1990, the statutory time available to culminate these appeal effect proceedings is till 30-06-2028. The taxpayer's request to complete the proceedings in a hasty manner without proper investigation is illogical and illegal.

5. The AR of the complainant submitted a rebuttal on 24.06.2026 stating that the Complainant is NOT challenging any assessment proceedings, but against the following acts of maladministration:

(a) *Illegal recovery without service of an Assessment Order or any recovery notice;*

(b) *Inordinate and unjustified delay on the part of the DCIR in complying with the directions contained in the Appellate Order dated 25.03.2026;*

(c) *Failure to refund the illegally recovered amount despite the Assessment Order having been set aside and the supplier having been restored; and*

(d) *Arbitrary and high-handed conduct of the Department.*

The Department's contention that due process was followed is factually incorrect. The Complainant has already stated that no show cause notice, reminder notice, or Assessment Order was ever served upon the Complainant. The Department has failed to produce any evidence of service. The contention that the CIR (Appeals) did not direct de novo proceedings is a distinction without a difference. The appellate authority set aside the Assessment Order and directed the Assessing Officer to re-examine the issue and conclude the proceedings, based on facts, after providing reasonable opportunities of being heard. This is, in substance, a direction for de novo adjudication. The effect is the same: the impugned Assessment Order stands set aside, so the amount recovered under it must be refunded. The Department's reliance on the statutory time limit of 30.06.2028 is a deliberate attempt to delay the matter. The Complainant is not asking for the proceedings to be completed hurriedly but only seeking expeditious disposal of the remanded proceedings. Further, in terms of the Doctrine of Restitution, i.e., where an order set aside by a higher forum, the Department is legally obligated to restore the status quo ante. The doctrine is based on the principle that no one should be unjustly enriched at the expense of another. The Department has been unjustly enriched by Rs. 24,512,999/- at the expense of the Complainant. It must, therefore, refund the said amount immediately. In addition, the Department's retention of the recovered amount is without the authority of law and a violation of Article 24 of the Constitution, 1973.

6. Argument heard, and record perused. The preliminary objection regarding the bar of jurisdiction due to appeal effect assessment proceedings raised under Section 9(2) of the FTO Ordinance, is misconceived as the Complainant was aggrieved because once the CIR (Appeals VII) set aside the assessment order directing re-adjudication, the original assessment order ceased to exist in the eyes of the law and attachment of the bank account & nonpayment of recovered amount attract maladministration u/s 2(3) of the FTO Ordinance. The honourable Supreme Court of Pakistan while deciding the civil petition for special leave to Appeal no. 788 of 1984 dated 07.11.1988 states:

> "*One of the conditions for grant of relief in writ jurisdiction of the High Court is that petitioner before it should not have any alternate adequate remedy. In this*

case, a remedy by way of appeal, as mentioned in the impugned order, was such remedy. Therefore, it is correct that no relief could be granted to the petitioner under article 199 of the Constitution. But that does not mean that the petitioner has not been allowed any relief by the departmental authorities (despite the observation of the supreme Court) the petitioner would have no immediate remedy at all against the highhandedness of the department. Amongst others he can file a complaint and grievance application before the Federal Ombudsman, who can provide effective redress, in a case like the present one. That forum has several attributes of a Court in many aspects of its powers. It can also move in a matter promptly whenever so needed. At the same time, it does not suffer from some of the handicaps, due to technicalities of procedural nature, which operates as impediment or thwart such like action by the Courts. For example the limitation of non-availability of alternate remedy in this case for the High Court under Article 199 of the Constitution, is not applicable to the said forum. Besides, the same being quasi-judicial it is also headed by a judge of the Supreme Court, with similar powers to punish for contempt. In this context therefore, it can be safely concluded, that it can provide the alternate effective and adequate remedy to the petitioner also. With the foregoing observations and remarks, leave to appeal is refused in the circumstance of this case, due to the technical hurdle faced by the petitioner in High Court. He may file a complaint before the Ombudsman."

The preliminary objection regarding the bar of jurisdiction being misconceived is overruled.

FINDINGS

7. Since an Appellate Order is in the field, the allegation of maladministration (if any) against the ex-parte Assessment Order dated 21.05.2025 cannot be entertained at this stage. Perusal of the CIR (Appeals VII) order dated 25.03.2026 reveals that the learned CIR (Appeals VII) directed re-adjudication of the case on various facts after providing a proper opportunity of being heard, as the impugned order is not sustainable as per law. Once the CIR (Appeals VII) set aside the assessment order vide Appellate Order on March 25, 2026, directing re-adjudication, the original assessment order ceased to exist in the eyes of the law. Consequently, the legal basis and authority for the recovery vanished. The tax department cannot retain recovered money on the pretext that a fresh liability might emerge upon the conclusion of the reassessment up to the 30.06.2028 deadline. Therefore, the amount of Rs. 24,512,999 recovered through bank attachment

stands refundable in terms of Section 66 of the Act within a period not exceeding ninety days from the date of filing of such application or claim. As per the complainant, the application for refund u/s 66 of the Act has already been filed vide letter dated 17.04.2026. Moreover, the issuance of the refund will not prejudice or bar the department's statutory right to independently conduct and conclude the re-adjudication proceedings on merits, in accordance with the law, on or before June 30, 2028. Nevertheless, there is no harm in concluding the reassessment proceedings as well as the disposal of the refund application on merit in accordance with the law, simultaneously, much before 30.06.2028.

RECOMMENDATIONS

8. FBR to direct:-

    i) the Commissioner–IR, Zone-III, CTO Karachi, to detach the bank account immediately and issue an appeal effect order in compliance with the CIR (Appeals VII) Order dated 25.03.2026;

    ii) the Commissioner, Refund CTO Karachi, to dispose of the refund application dated 17.04.2026 filed u/s 66 of the Act on merit in accordance with the law; and

    iii) report compliance within 45 days.

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

Dated: 07 JUL 2026

Approved for reporting.