

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT NO. 0115 TO 0129/INFRML/2023

Dated: 26.05.2023* R.O. Multan

1. Ms. Nimra Saqib
 2. Ms. Aqsa Ashiq
 3. Ms. Shabiha Anjum
 4. Ms. Ifra Shadab
 5. Ms. Ammara Balqees
 6. Ms. Faiza Komal
 7. Ms. Sofia Iqbal
 8. Ms. Shazia Afzal
 9. Ms. Maryam Zahra
 10. Ms. Asma Javaid
 11. Ms. Zakia Saleem
 12. Ms. Shaila Perveen
 13. Dr. Javeria Malik
 14. Ms. Rabia Kausar
 15. Dr. Faiza Rao
- University of Education Lahore,
Multan Campus, Multan.

... Complainants

V e r s u s

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer
Appraisalment Officer

: Dr. Khalil Ahmad, Advisor
: Mr. Muhammad Tanvir Akhtar, Advisor

INFORMAL RESOLUTION OF DISPUTES
(SECTION-33)

This order caters to extend relief in tax deduction in terms of Section 153(1)(b) of the Income Tax Ordinance, 2001 (the Ordinance) of low paid employees allowed on the strength of decisions in C. No.2538/ISB/IT/2021, 0032 to 0043, 0045, 0047, 0048 & 0052 to 0069/ Infrml/2022, 1631, 1633 to 1636, 1654, 2419-

* Date of registration in FTO Sectt.

2421, 2423, 2428 & 2430/PWR/IT/2022 which have been upheld by the Hon'ble President of Islamic Republic of Pakistan vide orders dated 15.08.2022 on identical issue.

2. The alleged Departmental practice to subject the remuneration of low paid adhoc / temporary employees has been examined in these orders in the light of relevant legal provisions i.e. Sections 12 and 149 of the Ordinance as under:

Section 12. Salary- (2) Salary means any amount received by an employee from any employment, whether of a revenue or capital nature, including—

(a) any pay, wages or other remuneration provided to an employee, including leave pay, payment in lieu of leave, overtime payment, bonus, commission, fees, gratuity or work condition supplements (such as for unpleasant or dangerous working conditions).

Section 149. Salary. — (1) Every [person responsible for] paying salary to an employee shall, at the time of payment, deduct tax from the amount paid at the employee's average rate of tax computed at the rates specified in Division I of Part I of the First Schedule on the estimated income of the employee chargeable under the head "Salary".

3. The above Legal provisions govern "Salary Taxation" Section 12 and withholding of tax thereupon under Section 149 of Ordinance only the equation of **employer-employee** based on "**Master-Servant Relationship**" is material. This **criterion** forms the basic parameter for any employment: Regular/Adhoc/Temporary/ Hired / Daily Wages which are different shades & forms of employment and law doesn't create any distinction among all the above forms.

4. These decisions attracted attention of identical stakeholders and some of the employees engaged in teaching on part time basis as visiting faculty members in University of Education Lahore, Multan Campus, Multan(UEL) approached this office and claimed that they are also entitled to benefit from these decisions because they meet the criteria of being low paid employees working with any

organization and are being subjected to monetary hardship through deductions @ 10-20% at source in terms of Section 153(1)(b) of the Ordinance. It is an anomaly that regular employees earning salary up to Rs.600,000/annum pay no tax whereas they are taxed heavily.

5. In order to examine the bonafides of their claim, the Principle, UEL, Multan Campus, Multan vide letter No.140/2023/UE/MUL dated 27.01.2023 was asked to provide a list of adhoc/temporary teachers engaged in teaching on semester basis. He has responded by providing a list of teachers alongwith their annual receipts and tax deducted thereon during tax year 2020-2021. Proceeding further, a 'Questionnaire' was circulated to these employees in order to ensure their eligibility for the said benefit on the same analogy.


6. The following teachers from the UEL, Multan Campus, Multan have responded to the Questionnaire, affirming that they are exclusively engaged in the teaching activity on semester basis with the University as temporary / visiting faculty and their annual receipts did not exceed Rs.600,000 in Tax Year 2021. Besides, their receipts are not likely to exceed this threshold during 2022-23 as well.


S. No.	Name	CNIC
1	Ms. Nimra Saqib	3630253017238
2	Ms. Aqsa Ashiq	3610158159392
3	Ms. Shabiha Anjum	3630202625818
4	Ms. Ifra Shadab	3660369306420
5	Ms. Ammara Balqees	3310227310232
6	Ms. Faiza Komal	3630280727856
7	Ms. Sofia Iqbal	3630414979042
8	Ms. Shazia Afzal	3620204116116
9	Ms. Maryam Zahra	3630235301418
10	Ms. Asma Javaid	3630225493838
11	Ms. Zakia Saleem	3630264398394
12	Ms. Shaila Perveen	3230497145480
13	Dr. Javeria Malik	3130391703632
14	Ms. Rabia Kausar	3630283121088
15	Dr. Faiza Rao	3630254809898

7. As discussed in para (1) the employees listed above fully meet the criteria of being low paid employees working on temporary/adhoc basis having a relationship of an employee with institution in terms of Section 12 of the Ordinance and their aggregate remuneration received per annum from this profession are below the tax exempt threshold of Rs.600,000 for salary income. Petitioners' cases, when compared with the regular faculty members of the institute in question, the deductions being made from regular faculty vis-à-vis the petitioners there is a visible incidence of discrimination despite the fact that nature of job remains the same in both categories. Persons falling in the former category are getting more but paying less taxes u/s 149 of the Ordinance, whereas the later category is subject to higher tax deductions (@ 10/20 percent) in terms of Section 153(1)(b) of the Ordinance.

RECOMMENDATIONS:

8. It is recommended that:
- (i) the CCIR, RTO, Multan is directed to ensure that tax shall be deducted on these low paid employees working on temporary / adhoc u/s 149, as has been ordained by the Hon'ble President of Islamic Republic of Pakistan vide orders dated 15.08.2022 in similar cases of teaching community;
 - (ii) the Treasure University of Education Lahore (Multan Campus) Multan to ensure that from now onwards tax withholding on the payments made to these temporary / visiting faculty teachers are subjected to section 149 of the Ordinance in future; and
 - (iii) report compliance within 45 days.


Director
FTO Secretariat
Islamabad


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

Dated: 19:6:2023

Approved for reporting