

**BEFORE  
THE FEDERAL TAX OMBUDSMAN  
ISLAMABAD**

**COMPLAINT NO.1442/LHR/IT/2022**

Dated:14.04.2022\*RO Lahore

**Mr. Naseer Ali, Director,**  
M/s Adeel Packrite (Pvt) Ltd,  
668-F, Gulshan-e-Ravi,  
Lahore.

... Complainant

**Versus**

The Secretary,  
Revenue Division,  
Islamabad.

... Respondent

Dealing Officer  
Appraisal by  
Authorized Representative  
Departmental Representative

: Mr. Abdur Rehman Dogar, Advisor  
: Mr. Muhammad Tanvir Akhtar, Advisor  
: Syed Ali Imran Rizvi, Advocate  
: Mr. Ahmad Mujtaba, DCIR CTO Lahore

**FINDINGS**

The above mentioned complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), against non-issuance of refund for Tax Year 2015.

2. According to the Complainant, brief facts of the case are that Complainant requested for refund amounting to Rs.3.248 million for Tax Year 2015. After long chain of litigation before Hon'ble FTO, CIR (Appeals) and Appellate Tribunal Inland Revenue (ATIR) refund was not issued rather illegal order u/s 170(4) of the Ordinance was passed on 30.12.2021 adjusting the refund claim against tax demand outstanding in Tax Year 2017, hence this complaint.

3. The complaint was sent for comments to the Secretary, Revenue Division, 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, Commissioner-IR, Enforcement-I, CTO Lahore submitted Para-wise comments vide letter dated 19.05.2022. At the outset, preliminary objection regarding bar of jurisdiction was raised under Section 9(2)(b) of the FTO Ordinance.

4. On merits, it was mainly contended that refund amounting to Rs.3.248 million for Tax Year 2015 was claimed out of which an amount of Rs.3.118 million was issued vide refund order u/s 170(4) of the Ordinance dated 20.03.2018 and the remaining amount of Rs.0.130 million was rejected. The refund amount of Rs.3.999 million in respect of Tax Year 2015 was given effect in Tax Year 2017 vide rectification order dated 08.04.2022. Further it was also contended that no refund exists in Tax Year 2015 as the same has been adjusted against the tax demand outstanding in Tax Year 2017 vide order dated 30.12.2021 passed u/s 170(4) of the Ordinance.

5. AR of the Complainant filed verbose rejoinder rebutting Dept'l comments and reiterating his earlier stance taken in the complaint.

6. During hearing, AR and DR reiterated their respective stance taken in the complaint and parawise comments. AR also provided certain case law in support of his stance taken in the complaint.

7. Both sides heard and available record perused.

#### **FINDINGS:**

8. Perusal of the record indicates that refund order u/s 170(4) of the Ordinance for Tax Year 2015 has already been passed on 30<sup>th</sup> December, 2021 wherein bulk of refund claim was adjusted against outstanding tax demand in Tax Year 2017 and remaining was

rejected being unverified, hence no refund is pending for Tax Year 2015. Departmental treatment is self-contradictory, whimsical and arbitrary because if the claim is unverifiable then how bulk of the claim has been adjusted against an outstanding demand and if it is verifiable then why the remaining claim has been rejected being unverifiable.

**This treatment tantamount to maladministration in terms of section 2(3) (i)(b) of FTO Ordinance, 2000.**

**RECOMMENDATIONS:**

9. In view supra, FBR is directed to ensure;
  - i. Commissioner concerned revisits refund rejection order dated 30<sup>th</sup> December, 2021;
  - ii. Refund claim of remaining amount is disposed of as per law and after affording proper opportunity of being heard; and
  - iii. Report compliance within 45 days.

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

Dated: 20/7/2022

*Approved for reporting*