

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

Complaint No.1597/KHI/ST/2023

Dated: 24.03.2023* R.O. Karachi

Mr. Muhammad Jawed Bilwani Patron,
M/s Pakistan Hosiery Manufacturers & Exporters Associations, PHMA House No. 37-H,
Block No.6, P.E.C.H.S,
Karachi

... *Complainant*

Versus

The Secretary,
Revenue Division,
Islamabad.

... *Respondent*

Dealing Officer	:Mr. Badruddin Ahmad Quraishi, Advisor
Appraising Officer	:Mr. Muhammad Nazim Saleem, Advisor
Authorized Representative	:The complainant in person
Departmental Representative	:Nemo

FINDINGS/RECOMMENDATIONS

The above-mentioned complaint was filed in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) for inordinate delays in refund claims of sales tax on services by textile exporters in Sindh Revenue Board (SRB) due to lack of integration of sales tax filing system of FBR & SRB.

2. Briefly, the complainant on behalf of Pakistan Hosiery Manufacturers & Exporters Associations (PHMA) lodged this complaint against non-payment of sales tax refund on services due to lack of automated integration of online return filing system between FBR & SRB. As per complaint, these refund claims on services are being deferred since 2011 in contravention of relevant rule & regulations resulting to severe liquidity hardship to exporters. It was claimed by the FBR that a single return for cross adjustment will resolve this issue, however nothing has been done to release these pending refunds against services. The complainant

* Date of registration in FTO Sectt

submitted a list of twenty exporters of textile industry wherein deferred sale tax refund on services amounting to Rs. 580 million remained pending for payment and prayed for necessary directives to FBR & SRB to take immediate steps to streamline and upgrade/integrate their online systems for 100% reconciliation and swift release of sales tax refund on services.

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 Second Secretary (ST-L&P) vide letter dated 27.04.2023 submitted that the basic issue related to lack of integration / synchronization between the online filing system of FBR and SRB which has not been upgraded / updated despite FBR's commitments for the Single Return to resolve the said issue.

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4. On the other hand, when the issue was confronted to SRB, SRB vide letter dated 06.06.2023 & 13.06.2023 submitted that SRB tax returns were being e-filed on a fully automated system (e.srb.gos.pk) designed, developed and operationalized by PRAL, a subsidiary of FBR. SRB has authorized FBR to full access through PRAL to the SRB tax returns data relating to Sindh sales tax on services. As regards Single Return, the matter of designing and operationalization of Single Return is being done by FBR and PRAL who have not yet rolled out the same to SRB despite SRB's willingness and consent conveyed to FBR and PRAL. Thus, the FBR and it's field formations, themselves need to review and justify why the exporters' refund claims in relation to Provincial sales tax i.e; Sindh sales tax are still pending despite the SRB Authorization dated 26.10.2011 and FBR's Circular No. 01/ 2020 (IR Operations)

dated 04.08.2020 read with FBR's amending order dated 11.05.2023.

5. Arguments heard and record perused.
6. It is an undeniable fact that the exporters are entitled to claim sales tax refund against input tax paid on services in terms of Section 10 read with Section 2(14) of the Sales Tax Act 1990 (the Act) which states:

10. Refund of input tax.– (1) If the input tax paid by a registered person on taxable purchases made during a tax period exceeds the output tax on account of zero rated local supplies or export made during that tax period, the excess amount of input tax shall be refunded to the registered person not later than forty-five days of filing of refund claim in such manner and subject to such conditions as the Board may, by notification in the official Gazette specify.”

“2(14) “input tax”, in relation to a registered person, means –

- (a) tax levied under this Act on supply of goods to the person;*
- (b) tax levied under this Act on the import of goods by the person;*
- (c) in relation to goods or services acquired by the person, tax levied under the Federal Excise Act, 2005 in sales tax mode as a duty of excise on the manufacture or production of the goods, or the rendering or providing of the services;*
- (d) Provincial Sales Tax levied on services rendered or provided to the person; and*
- (e) levied under the Sales Tax Act, 1990 as adapted in the State of Azad Jammu and Kashmir, on the supply of goods received by the person;”*

However, despite presence of above provisions for entitlement of sales tax refund on services to exporters; the input tax against payment of services are deferred by the FASTER of FBR webportal.

7. Presently, Sales Tax registered persons are required to file their monthly Sales Tax returns separately to every tax jurisdiction where they conducted business, such as FBR, Sindh Revenue Board, Punjab Revenue Authority, Khyber Pakhtunkhwa Revenue Authority and Balochistan Revenue

Authority, Azad Jammu & Kashmir and Gilgit-Baltistan Revenue Authority. This is a cumbersome task, which often led to complications and disputes over jurisdiction. FBR on its ongoing drive for digitization and automation of various processes involved in revenue collection after negotiations between FBR and the provincial revenue authorities; developed "Single Sales Tax Portal" to facilitate the taxpayers and ensure the ease of doing business. The system will automatically apportion input tax adjustment as well as tax payments across the sales tax authorities. Federal Board of Revenue and all the four Provincial Revenue Authorities signed a Memorandum of Understanding (MOU) for a single sales tax return and single web portal. Accordingly, an Office memorandum for 'Launching of single sales tax return" was issued on 24.12.2021 by the Second Secretary (BDT-IT-II) , FBR for filing single sales tax return for December 2011 to be filed in January 2022. However, till date the concept of single sales tax return did not materialize.

8. Moreover, these deferred refund claims on services are pending at field offices for processing in terms of FBR's Circular No. 01/ 2020 (IR Operations) dated 04.08.2020 read with FBR's amending order dated 11.05.2023. FBR vide circular No.01/2020 dated 04.08.2020 has issued SOP for over ruling of objections raised by FASTER / STARR in deferred claim. The overruling of objection on adjustment of input tax on provincial services was previously allowed on production of invoices, return & proof of payment subject to verification from Provincial authorities. Lately, vide letter dated 11.05.2023, FBR has relaxed this condition and now verification is not required from the provincial authorities.


FINDINGS:

9. The delay in payment of sales tax refund on services to exporters within the time limit stipulated under Section 10 of Sales Tax Act 1990 read with Rule 39F of Sale Tax Rules 2006 tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance.

RECOMMENDATIONS:

10. FBR to direct :

- i) the Member (IT), Member Tax Policy and Member (Ops) to expedite the process of integration / synchronization between the online filing system of FBR and Provincial Revenue Authorities including Azad Jammu & Kashmir & Gilgit-Baltistan Revenue Authority for a single sales tax return and single web portal as per commitment made through Office memorandum for 'Launching of single sales tax return' on 24.12.2021 expeditiously without further delay
- ii) Meanwhile, the field formations be directed to process the pending deferred refund claims on services in terms of FBR's Circular No. 01/ 2020 (IR Operations) dated 04.08.2020 read with FBR's amending order dated 11.05.2023 on merit and in accordance with law.


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

Dated: 27:7: /2023

Approved for reporting


Director
Secretariat
FTO
Islamabad