

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

Complaint No.1793/MLN/IT/2022

Dated: 27.04.2022^{*} R.O. Multan

Mr. Zahoor Ahmad S/o Shoukat Hussain,
House No.1/1153 Garden Town,
near ANF Office, Multan.

... Complainant

V e r s u s

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer	:	Dr. Khalil Ahmad, Advisor
Appraised by	:	Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representative	:	Complainant in person
Departmental Representative	:	None

FINDINGS/RECOMMENDATIONS

The complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against non-provision of withholding tax deduction certificate against PTCL number 061-6536262 for the period March 2000 to June 2011 by the PTCL as withholding agent.

2. The complaint was referred to the CEO, PTCL, HQ, Islamabad 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. The Senior Manager (Income Tax) PTCL, Islamabad submitted Para-wise comments vide letter dated 30.05.2022. He has at the outset raised a preliminary objection that the Hon'ble FTO has no jurisdiction as in cases of maladministration at Federally controlled bodies the jurisdiction lies only with the Federal Ombudsman.

^{*} Date of registration in FTO Sectt.

4. Fact of the matter is that the Complainant has already availed the forum of the Federal Ombudsman on the same subject matter as that of the instant complaint and the Federal Ombudsman closed the matter in favour of PTCL vide order dated 07.04.2021. In para 5 & 6 of the comments, the PTCL has argued that:

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- (a) Jurisdiction in the present matter lies only with the Federal Ombudsman;
 - (b) The Complainant not only accepts the above legal position but has also availed the jurisdiction of the Federal ombudsman; and
 - (c) The Complainant has approached the office of the FTO in full knowledge of the jurisdictional position after having availed the forum of the Federal Ombudsman, while deliberately hiding this fact before the FTO, with malafide intent to drag PTCL in unnecessary proceedings and cause harassment by abusing the process of the FTO after having been thwarted by the Federal Ombudsman.
6. Taking into account the above jurisdictional position and malafide conduct of the Complainant it is prayed that the subject complaint be dismissed being not maintainable; and the Complainant be punished for contempt under Section 16(1)(a) of the FTO Ordinance for blatantly abusing the process of the FTO.”

FINDINGS:

5. The reply furnished by the agency i.e. PTCL has been carefully considered and it is observed that the agency is not justified to question the jurisdiction of the FTO in terms of Section 9(2)(b) of the FTO Ordinance. It is because the Complainant has requested the PTCL to issue tax deduction certificate for the period March 2000 to June 2011 for which he intends to lodge a claim of refund with the FBR. **He had availed arbitration of this forum for issuance of refund on account of tax deduction under Section 236(1)(a) in Complaint Nos.0873 to 0876/MLN/IT/2019 dated 23.05.2019 and the same was issued by the FBR to the Complainant.** Now the Complainant is seeking a tax deduction

certificate from the PTCL authorities on the same analogy. The issue falls within the jurisdiction of this office.

6. The PTCL is bound to facilitate the Complainant/taxpayer by issuing the required deduction certificate being under consumers/customers facilitation. Moreover tax is deducted by PTCL on behalf of FBR and issuance of tax withholding statements/Certificates is also mandatory for withholding agents under tax laws. This office being custodian of taxpayer's rights cannot sit idle in a situation where on one hand FBR denies the claim of tax deduction filed by the complainant quoting non submission of withholding certificate and on the other hand PTCL is neither issuing the certificate nor denying the complainant's claim. Sanctity of the Rights of citizens as guaranteed by the Constitution rules supreme over all other laws and it is too serious an affair to be diluted on technical grounds.

RECOMMENDATIONS:

7. FBR is directed to ensure that;
- i. *IR field formation (LTO Islamabad) holding jurisdiction over PTCL must resolve the instant issue through coordination with PTCL;*
 - ii. *The PTCL authorities are required u/s 23(1) of FTO Ordinance, 2000 to provide assistance, facilitating the issuance of tax deduction certificate for the period March 2000 to June 2011 against PTCL number 061-6536262 to the Complainant enabling him to lodge his claim of refund with the FBR authorities.*
 - iii. *Report compliance within 30 days.*

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

Dated: 24-6-2022

Reported Approved for reporting