FEDERAL TAX OMBUDSMAN
ISLAMABAD

Review Petition

30.12.2025 R.O Lahore*[1]

In

COMPLAINT NOS.20328 & 20329/LHR/IT/2025

02.09.2025

Mr. Shakeel Ahmad,
Near PSO Pump, Multan Road,
Pattoki. .....Applicant/Petitioner

Versus

Secretary
Revenue Division,
Islamabad.

The Commissioner-IR, Zone-I,
RTO, Lahore .... Respondent

Federal Tax Ombudsman Secretariat HQs Islamabad FTO

Dealing Officer	:	Mr. Ahmad Shuja Khan, Advisor
Appraised by	:	Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representatives	:	Qazi Ghulam Murtaza, Advocate Rana Ijaz Ahmad Toor, Advocate
Departmental Representative	:	Mr. Imran Hayee Khan, CIR,Zone-I, RTO, Lahore

ORDER-in-REVIEW

This Review Petition was filed by the Petitioner/Complainant against the following Findings of this forum dated 01.12.2025:

> **"Para-7:** Perusal of record reveals that the Complainant filed repeated applications for revision of returns for Tax Years 2018 and 2019, but prior to said filing proceedings under Section 122(5A) stood initiated and finalized on 05.03 2020, resulting in the creation of tax demand for both Tax Years. As the said order was neither challenged nor revised or rectified therefore it had already gained finality. Any subsequent filing of revised returns warrants no action by the department. No act of maladministration is evident. Investigation is closed and case files are consigned to record"

[1] Date of Registration in FTO Sectt.

2. The Petitioner seeks review of the said order on the ground that against the orders of Amended Assessment under Section 122(5A) of the Ordinance finalized on 05.03.2020, the Petitioner sought first revision of returns on 06.03.2020 which were duly granted by the system and accepted by the Department. However, due to certain errors and omissions, the Petitioner sought second revision on 17.04.2024 which could not be uploaded due to some systemic errors. The error message has duly been attached with the para-wise comments.

3. Since the Department did not decide the second application for revision filed on 17.04.2024, after expiry of sixty days limitation on 17.06.2024, as per proviso of Section 114(6) of the Ordinance, the Commissioner's approval was deemed to be granted and systemic glitch in IRIS system cannot negate Taxpayer's right of filing of revised income tax returns under the law.

4. The Petitioner respectfully prayed that the Review Petition be accepted and the order of Hon'ble FTO dated 01.12.2025 be modified by passing Findings/Recommendations against the Respondent in favour of the Petitioner/Complainant for removal of system error and enable the online task to file the revised income tax returns for both Tax Years 2018 and 2019 under the law and oblige.

5. Review Application filed by the Petitioner received on 30/12/2025 and the departmental response vide No. 11653 dated 29/1/2026 have been perused. The Department, on the other hand, is of view that the Petitioner failed to furnish supporting documentary evidence to justify any bona fide omission or wrong statement therein being essential criteria for revision. Given the lapse of time limitation, no legal action could be warranted. The huge change in the figures of declared income and tax in the revised returns would have impacted the reconciliation of assets and liabilities which demanded revision under Section 116(3) of the Ordinance for which the limitation had expired. It was contended by the Department that no further action was required to be taken on such belated stance adopted by the Petitioner through filing of this instant Review Petition.

6. A detailed hearing for review was conducted online on 13.02.2026 in the presence of Commissioner-IR, Zone-I, RTO, Lahore and the AR of the Complainant. Main observations including facts of the case on both sides, were discussed as under:

(i) Petitioner is operating business of a dining car in Pakistan Railways (Kitchen Portion 45UP/46DN Pakistan Express RWP-KC).

(ii) Main issue involved in the case is revision of returns for Tax year 2018 and 2019 which were filed u/s 114(1) on 18/12/2018 and 14/12/2019 declaring income of **Rs. 700,000/-** and **Rs. 3,000,000/-** respectively. For Tax year 2019, adjustable tax credit was sought at **Rs. 444,000/-** u/s 236A and **Rs. 1,819/-** u/s 236(1)(a) of Income Tax Ordinance, 2001. Both the returns were deemed to be accessed u/s 120(1) of the Ordinance.

(iii) Upon filing of returns the department observed that the complainant/ petitioner has not properly charged minimum tax u/s 113 of the Ordinance. The deemed assessments were considered erroneous in so far prejudicial to the interest of revenue and were amended u/s 122(5A) on 5/3/2020. Tax demand of **Rs. 476,125/-** for tax year 2018 and **Rs. 755,362/-** for Tax Year 2019 were adjudicated in the case of the Petitioner.

(iv) Thereafter on 6/3/2020, the taxpayers revised returns for the same tax years i.e. 2018 and 2019 declaring income **Rs. 1,300,000/-** and **3,250,000/-** claiming adjustable tax credit u/s 236A, at **Rs. 4,527,412/-** and **Rs. 1,109,391/-** for the both the years respectively. Both these revised returns are deemed to be assessed u/s 122(3) of the Ordinance.

(v) Subsequently, the taxpayer submitted another application for revision on 17/04/2024 along with draft returns declaring income at Rs. **4,610,000/-** (previously declared at **Rs. 1,300,000/-**) and tax chargeable at **Rs. 902,500/-** for tax year 2018 and income of **Rs. 6,530,513/-** (previously declared at **Rs. 4,527,412/-**) for tax year 2019. The Petitioner mentioned while uploading the revised returns, the system is showing an error **"MSG. IRIS-12-054 UPWARD RETURN REVISION, COMISSIONER APPROVAL IS REQURED 114(6A). DOWNWARD AND EQUAL REVISION IS NOT ALLOWED".** It is further contended that due to this error/reason, the petition/complainant is unable to file revised return for tax year 2018 through the system.

(vi) The position of original returns, amended assessment and subsequent revision is summarised in the shape of a table:

	Tax Year 2018 /section/date	Tax Year 2019 /section/ date	Remarks
Income declared	Rs. 700,000/- 18/12/2018	Rs. 3,000,000/- 18/12/2019	Returns filed deemed to be assessed u/s 114(1)
Tax credits	Rs.1,333,000 236A	Rs. 444,000/- 236A Rs. 1,891/- 236(1)(a)	As per facts
Tax levied u/s 122(5A)	Rs. 476,125/-	Rs. 755,362/-	Deemed assessment

	5/3/2020	5/3/2020	amended u/s 122(5A) for non-levy of minimum tax u/s 113
1st revision Income declared	Rs. 1,300,000/- 6/3/2020	Rs. 3,250,000/- 6/3/2020	Declared income enhanced considerably but supporting evidence for approval of Commissioner u/s 114(6)(ba) not provided
Tax credits	Rs. 4,527,412/- 236A	Rs. 1,109,391 236A	As per facts
2nd revision Income declared	Rs. 4,610,000/-	Rs. 6,530,513/- 28/2/2024	Pending
Total Credit	Rs.4,527,412	Rs.1,629,299	

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(vii) It is not out of place to mention here that the deeming provisions with reference to filing and processing of revised returns cater for the cases which involve honest omissions and unintentional errors/wrong declarations. In the instant case when the taxpayer got this railway carriage, contract of supply of confectionary items, in the first instance, he was fully aware of the ***principal contract amount*** as well as the ***Withholding Tax thereon u/s 236A*** of the Ordinance. Reasons for the suppression of facts & figures and piecemeal declarations were never explained, as mandated u/s 114(6)(b) of Income Tax Ordinance, 2001.

(viii) The taxpayer kept on changing its stance in its original return, first revision and especially the subsequent revision application under consideration filed on 17.04.2024. There is a huge upward shift in the declared version in terms of income, gross receipts and even withholding tax u/s 236A. The petitioner must have been aware that claiming the belated credit of adjustable withholding tax in such an engineered and malafide manner would guise his fraudulent activity under the garb of limitation period as provided in the Ordinance.

(ix) The revised returns filed for the first time on 6.03.2020 were within the limitation of 60 days from the date of order u/s 122(5A) passed on 05.03.2020 and therefore the system allowed the taxpayer to file such a revision. Even at that point in time the department would have proceeded to take cognizance of a huge increase in the declared version in terms of income, gross receipts and Withholding tax u/s 236A of the Ordinance. There was no estoppel under the Ordinance as regards taking further action on revised returns filed u/s 122(3) which were deemed to be assessed u/s 122(4) of the Ordinance. The revised returns were further required to be amended u/s 122(5A) but the department failed to take any action.

(x) Another important aspect to be taken into cognizance was when the taxpayer was resorting to such huge changes in its declared results, the department was supposed to cross-match the same with the corresponding wealth statements filed for the relevant tax years. If at all any concealment would have been detected, the department was supposed to initiate separate proceedings for the same as provided in the Ordinance but on the contrary department did nothing nor attempted to carry out further investigation on the issue.

(xi) Scrutiny of section 114(6)(b) explaining the process of revision of return mentions that the reasons for revisions, in writing, duly signed by the taxpayer, have to be filed with the revised returns. The application for revision dated 17.04.2024 available in the system simply refers to "**some errors and some omissions**" and the same expression is frequently used in the para-wise comments and even the e-mails addressed to Member IR in FBR head quarter after belated intervals. However, available record shows that taxpayer failed to provide any reasons in writing duly signed by him, as provided in law and the most plausible course of action for the department was to render the revised returns as invalid. Thus, if the taxpayer failed to provide any proof of filing such an important primary evidence in the first instance, then he could not take any benefit of treating it as a secondary evidence in any subsequent stage of the proceedings especially through filing of another application for revision.

Thus, this entire scheme of things shows that the taxpayer did not join the proceedings with clean hands and had a clear intent of claiming huge credits leading to refunds without being probed and enquired.

7. FINDINGS

I. The complainant's principal contention is that since the Commissioner did not dispose of his application seeking approval for filing a second revised return within sixty days, the same has become "deemed approved", thereby creating an accrued right in his favour, and consequently the Department is bound to accept the revised return and process the refund claimed therein. The factual record, however, reveals that the complainant had initially mis-declared his income and withholding tax. Upon detection, the assessing authority amended the return under section 122(5A) of the Income Tax Ordinance, 2001 to the limited extent. Thereafter, the complainant filed a revised return only marginally enhancing the declared figures, apparently to align with the demand created through the amendment.

II. After a lapse of nearly four years, the complainant sought approval to revise the return once again, this time substantially enhancing withholding tax deductions and portraying a large refundable position. The timing, magnitude, and nature of the claim prima facie raise serious doubt regarding its bona fides and indicate an attempt to reopen a settled position through an engineered refund mechanism.

III. In this background, the complainant's reliance on the concept of "deemed approval" cannot be accepted as an automatic entitlement to refund. Even where statutory timelines exist, deeming provisions cannot be interpreted mechanically so as to validate claims which are prima facie suspicious, require verification, or appear designed to achieve unjust enrichment. Refund is not an automatic consequence of filing a revised return; it can only arise upon lawful determination and admissibility of withholding credits and deductions after due scrutiny. No deeming clause can override the settled principle that fraud, misrepresentation, or abuse of process vitiates all proceedings.

IV. At the same time, the conduct of the Department is equally disturbing. The Commissioner's failure to dispose of the complainant's application within the prescribed statutory period constitutes clear maladministration. Such administrative inertia not only violates the law but also undermines the integrity of the tax system. When statutory applications are kept pending indefinitely without passing a speaking order, the Department itself creates the very procedural vacuum that taxpayers attempt to exploit through technical pleas of "deemed approval".

V. This Office considers it necessary to observe that this is not merely an individual lapse but reflects a wider and unacceptable culture of non-decision-making within the tax administration. Statutory powers are coupled with statutory duties, and failure to decide matters within prescribed timelines erodes public confidence, encourages frivolous litigation, and exposes revenue to avoidable risk.

VI. Therefore, while the complainant is not entitled to automatic acceptance of the second revised return or creation of refund merely on account of lapse of sixty days, the Department is guilty of serious maladministration warranting strict institutional corrective measures. Thus, Complainant's request for automatic acceptance of the second revised return and immediate processing of refund on the plea of deemed approval, is declined, as such relief would amount to permitting benefit from a highly questionable and engineered claim without statutory verification.

8. RECOMMENDATIONS:

In view of the above discussions, FBR is directed to ensure that;

(i) The Commissioner concerned decides the pending application through a well-reasoned speaking order strictly in accordance with law, after proper scrutiny and verification of withholding tax claims, so that no unlawful refund is generated and no one is allowed to exploit departmental inertia.

(ii) The appropriate instructions are issued to all field formations emphasizing that statutory applications requiring approval or disposal must be decided within prescribed timelines through speaking orders.

(iii) Continued administrative silence and non-decision-making cannot be tolerated, as it weakens enforcement, invites abuse of procedural provisions, and damages the credibility of the tax system. Responsibility for such lapses should be fixed administratively to ensure that statutory duties are performed diligently across the Department.

Federal Tax Ombudsman Secretariat HQs
FTO
Islamabad

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

Dated: 19 FEB 2026

Approved for reporting