

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT NOS. 2140, 2142, 2145, 2152 to 2160/KHI/IT/2022

Dated: 01.06.2022 R.O. Karachi

Mr. Zeeshan Qureshi, Tax Manager

... *Complainant*

M/s. Sapphire Textile Mills Ltd,
Room No. 212, Cotton Exchange Building,
I.I. Chundrigar Road,
Karachi.

Versus

The Secretary,
Revenue Division,
Islamabad.

... *Respondent*

Dealing Officer

: Ms. Seema Shakil, Advisor

Appraisal by

: Mr. Muhammad Tanvir Akhtar, Advisor

Authorized Representative

: Mr. Muhammad Siddiq Jamsa

Departmental Representative

: Mr. Amjad Hussain Janvri, DCIR, Enf-II LTO,
Karachi

FINDINGS / RECOMMENDATIONS

The above mentioned complaints were filed against the Commissioner-IR, Enforcement-II, LTO, Karachi in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance). As the issue involved in all complaints is the same, all complaints are disposed of through a single consolidated order.

2. The Complainant is a public limited company engaged in the manufacturing of textile. Returns of income were e-filed with refund claim on account of tax deducted in excess of liability. Partial refund was either issued or adjusted. Whereas the balance refund is not issued in spite of repeated requests, hence this complaint. The year-wise position of balance refund claim is given hereunder;

Tax Years	Pending Refund
2003	584,729/-
2004	1,930,771/-

¹ Date of registration in FTO sect.

2006	488,451/-
2007	719,277/-
2009	639,829/-
2010	19,393,822/-
2011	60,585,003/-
2012	24,761,081/-
2013	106,381,816/-
2014	67,311,797/-
2015	213,257,607/-
2016	76,473,155/-
Total	572,527,275

The outstanding refund also include claim of W.W.F paid for four years as detailed below;

Tax Years	W.W.F
2010	17,582,642
2011	36,204,796
2013	42,766,815
2014	25,922,613
Total	122,476,866

The W.W.F paid by the complainant became refundable on the basis of Hon'ble Supreme Court of Pakistan's judgment dated Oct 10, 2016 in Civil Appeal No. 1049 to 1055/2011 and complainant's Civil Appeal No. 930/2013. Complaint's application for rectification on this account is also pending with the department.

3. The complaint was referred to the Secretary, Revenue Division for comments in terms of the FTO Ordinance read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. In response, the Chief Commissioner-IR, LTO, Karachi submitted reply of CIR Enforcement-II, Karachi vide letter dated 23.06.2022. The allegations of maladministration are denied on the plea that partial refund has already been issued. It is contended that the refund can only be issued after verification of tax withheld & the onus is on the complainant to provide such proof. To the contrary, complainant produced copy of reminders dated 10.10.2019 & 27.05.2021 for issuance of balance refunds on which no action has been taken. Neither the department responded to

rectification request for all the four years. The concerned officer appeared & sought time to verify the balance claim & agreed to liquidate the balance refund after verification.

4. Both the parties were heard & record perused.

FINDINGS:

5. The balance refund has not been issued and rectification applications are pending for more than three years with the department. Inordinate delay in passing rectification order under Section 221 & processing balance refund tantamounts to maladministration in terms of Section 2(3)(i)(a)(b)&(ii) of the FTO Ordinance.

RECOMMENDATIONS:

6. FBR to-

- (i) direct Commissioner-IR, Enforcement-II LTO, Karachi to dispose of complainant's rectification application after providing opportunity of hearing,
- (ii) dispose of balance tax refund claims as per law and after providing opportunity of hearing;
- (iii) dispose of claim of refund under head WWF, through a separate regime i.e. adjustment with Ministry of Labour; and
- (iv) report compliance within 45 days.

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

Dated: 07:07.2022

Approved for reporting