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**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT NO.2461/LHR/IT/2022

Dated:15.06.2022*RO Lahore

Ms. Sidra Khalid,
House No.315-P,
Johar Town, Lahore.

... Complainant

Versus

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer	: Dr. Tariq Mahmood Khan, Advisor
Appraisal by	: Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representative	: None
Departmental Representative	: Mr. Ali Khalid, DCIR RTO Lahore

FINDINGS/RECOMMENDATIONS

The above-mentioned complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against high rate of withholding tax by tax authorities.

2. Brief facts of the case are that the Complainant being a teacher, complains that their withholding tax @ 10% is deducted on the services provided by them in the shape of marking of examination papers and that this rate is excessive and causes economic sufferings. Further Sales Tax is also charged on the services provided @ 16% by Punjab Revenue Authority.

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, the Deptt submitted comments vide letter dated 18.07.2022 stating that withholding tax on services is fixed @ 10% by the Parliament of Pakistan. Further withholding tax @ 16 % on

services is charged by Punjab Revenue Authority (PRA) and FBR has no jurisdiction over it.

4. During hearing, DR reiterated his stance taken in the comments.
5. DR heard and available record perused.

FINDINGS:

6. Perusal of the record reveals that there are two issues which need detailed deliberations:

- (i) Marking of examination papers constitutes an additional source of income in the hands of teaching community. Though the amount so received is generally meager yet the payers (Education Boards/Universities) being 3rd party, other than employer, the receipt cannot be held as Salary Income.
- (ii) FBR's withholding rates on services u/s 153(1)(b) of Income Tax Ordinance, 2001 create distinction between certain specified services and other services with tax rates ranging from 1.5 % to 10%. The following summary illustrates this statement.

<p>i. In case of transport services, freight forwarding services, air cargo services, courier services, manpower outsourcing services, hotel services, security guard services, software development services, IT services and IT enabled services as defined in section 2, tracking services, advertising services (other than by print or electronic media), share registrar services, engineering services including architectural services, warehousing services, services rendered by asset management companies, data services provided under license issued by the Pakistan Telecommunication Authority, telecommunication infrastructure (tower) services, car rental services, building maintenance services, services rendered by Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited, inspection, certification, testing and training services, oilfield services, telecommunication services, collateral management services, travel and tour services</p>	<ul style="list-style-type: none"> • <u>3% of the gross amount.</u> • Persons not appearing in the Active Taxpayers' List: The applicable tax rate is to be increased by 100% (Rule-1 of Tenth Schedule to the Ordinance),
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<p>ii. In case of rendering or providing of services other than as mentioned at (i) above;</p> <p>a. In case of company</p> <p>b. In any other case</p> <p>b) In respect of persons making payment to electronic & print media for advertising services</p>	<ul style="list-style-type: none"> • 8% of the gross amount. • 10% of the gross amount • 1.5% of the gross amount <p>❖ Persons not appearing in the Active Taxpayers' List: The applicable tax rate is to be increased by 100% (Rule-1 of Tenth Schedule to the Ordinance),</p> <p>❖ No deduction of tax where payment is less than Rs. 30,000/- in aggregate during a financial year [S.153(1)(b)]</p>
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- (iii) While FBR provides at least threshold of Rs. 30000, PRA and other provincial tax authorities do not provide such a limit, meaning thereby an unjust taxation prevails on ground.
- (iv) Due to its peculiar nature of job and role in nation building the Teaching Community as a whole deserves kind and compassionate tax treatment; at least nondiscriminatory.
- (v) In view of above current tax withholding rates on Marking Services is discriminatory and needs to be reviewed by FBR.

RECOMMENDATIONS:

7. FBR is directed to review the current tax withholding on Marking Services and the same may be rationalized in the following manner:

- i. By making Marking Services part of specified services having 3% tax rate;
- ii. By increasing the existing basic threshold of Rs 30000 to Rs. 100000/200000 per annum;
- iii. By making Marking Services as "**Income Tax from Other Sources**" u/s 39(1) of Income Tax Ordinance, 2001.

8. Punjab Revenue Authority is requested to rationalize the current tax regime on services, by providing some basic annual threshold so as to provide some cushion to the low paid teaching community.

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

Dated: 18/8/2022

Approved for reporting

Certified to be True Copy

Registrar
FTO Secretariat
Islamabad