

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT NO. 2589/ISB/IT/2022

Dated: 20.06.2022* HQ, Islamabad

Mr. Waqas Shabbir Ahmed, ... Complainant
Office No. 404, Gulberg Business Centre,
Executive Block, Gulberg Greens,
Islamabad.

Versus

The Secretary, ... Respondent
Revenue Division,
Islamabad.

Dealing Officer : Mr. Muhammad Majid Qureshi, Advisor
Appraisal Officer : Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representative : None
Departmental Representative : None

FINDINGS/RECOMMENDATIONS

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This complaint has been filed under Section 10(1) of the Federal Tax Ombudsman Ordinance 2000 which was referred 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 Ombudsman Institutional Reforms Act, 2013.

2. Precisely, the complainant is a tax practitioner who is agitating against FBR's inaction in changing the status of NGOs/NPOs from 'AOP to Company'. Erstwhile such entities were being registered as 'Association of Persons' under the Income Tax Ordinance, 2001 but after amendment in Section 80(2)(b)(v) and (va) through Finance Act 2013, such organizations would fall under the definition of "Company". FBR is however still categorizing such entities as AOPs under online systems including IRIS, which is causing several obstacles in assessments/adjudications and processing various

exemptions for NPOs. He has further stated that currently the officers who have been assigned jurisdiction of AOPs are illegally processing such cases which are actually companies as per law and should be processed by officers who have been assigned jurisdiction of company cases.

3. The complainant approached FBR for making necessary corrections in the system to change the status of such NPOs from AOP to company however they require specific NOC from tax officers in individual cases. If NOCs are issued by field officers, the FBR officers raise objections on the contents of such certificates, addressee or its author. Even otherwise it is not understandable why FBR has to seek NOC from its subordinate offices to implement law passed by the parliament.

4. FBR has submitted its response vide IR-Operations wing's letter dated 06.07.2022 to inform that FBR's I.T wing has been asked to change the status of all NPOs registered as AOP to company vide letter dated 17.12.2021. In case of delay in processing of any particular case, same may be forwarded to FBR so that reasons for delay could be ascertained.

5. Hearing notice under section 9(2) of the FOIR Act was issued for compliance on 26.07.2022 but no one from FBR attended. The complainant however informed that the status of his client taxpayers has still not changed. FBR's response has been examined and found deficient as under;

- a) IR Operation wing has asked IT wing to change status of all NPOs, registered as AOPs, to company vide letter dated 17.12.2021. FBR has however not informed as to what action has been taken by IT wing during the past eight months.
- b) It is not understood as to why FBR or any of its wings needs to be told to enforce the law promulgated by Parliament about ten years ago.

- c) Why FBR cannot remove systemic flaws so as to avoid delays in processing of cases and there should be no need of indulgence by the FBR. This is exactly the grouse of the complainant that seeking NOC, waiting for FBR's action and facing their various objections enhances the cost and concerns of the taxpayers.

FINDINGS:

6. FBR's inaction and delay in improving its systems according to law tantamount to maladministration in terms of Section 2 (3) (ii) of the FTO Ordinance, 2000.

RECOMMENDATIONS:

7. FBR to: -
- (i) direct Member Information Technology (IT) to change status of all NPOs registered as AOP to company, including the companies mentioned in this complaint, in the light of amendment in Section 80(2)(b)(v) and (va) of the Ordinance and letter IR Operations dated 17.12.2021; and
 - (ii) report compliance within 40 days.

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

Dated: 29:7:2022

Approved for reporting

Certified to be True Copy

Registrar
FTO Secretariat
Islamabad