

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT NO.4093/KHI/ST/2022

Dated: 16.09.2022* R.O. Karachi

M/s Sanabil Waxes Co.,

Plot No.C-85-91, Sector-C, H.I.T.E,
Hub, Lasbella

...*Complainant*

V e r s u s

The Secretary,
Revenue Division,
Islamabad

...*Respondent*

Dealing Officer	:	Mr. Manzoor Hussain Memon, Advisor
Appraising Officer	:	Dr. Sarfraz Ahmad Warraich, Advisor
Authorized Representative	:	Mr. Ghulam Abbas, Advocate
Departmental Representative	:	Mr. S.M. Javed, IRAO RTO, Quetta (Hub)

FINDINGS / RECOMMENDATIONS

This Complaint was filed against Commissioner-IR, Zone-II, RTO, Quetta, in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), for not forwarding application to FBR for condonation of delay in filing refund claims relating to the period July, 2015 and April, 2016, with total amount of Rs.419,182/-.

2. Precisely, M/s Sanabil Waxes Co., Hub District Lasbella, bearing NTN 1426743-8, are engaged in manufacturing and export as well as local supplies of slac waxes. According to them, they could not submit sales tax refund claims for the months of July, 2015 and April, 2016 in due time due to unavoidable circumstances. The main reasons for not filing claims were death of wife, severe accident of the son and when son got well, Complainant himself was hospitalized for chest pain and underwent heart surgery due to cardiac issues. After getting well,

* Date of registration in FTO Secretariat

whenever they approached Department, they always promised to send his case to Board but never did so, hence, instant Complaint with prayer to direct Commissioner-IR Zone-II, RTO, Quetta to forward his case to FBR for condonation of delay in time on humanitarian grounds and process claims after receipt of condonation from Board.

3. The Complaint was referred to Secretary, Revenue Division, 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. In response thereto, Commissioner-IR, Zone-II, RTO, Quetta, vide letter dated 05.10.2022, averred that Complainant had never approached them for issue. He simply wrote a letter in the month of January, 2022 without providing any supporting documents justifying condonation for delay in filing refund claims.

4. Hearing was held on 18.10.2022. AR averred that due to medical issues with family i.e. death of wife in 2015, accident of son causing fracture of leg, the Complainant himself was hospitalized for chest pain and underwent heart surgery due to cardiac issues e.t.c. Claimant could not file impugned refund claims. Secondly, he was not much aware of updated computerized System of claiming refunds of FBR, therefore, delay of 5-6 years occurred in filing refund claims. Since January, 2022, followed by reminders, they have been requesting officers of RTO, Quetta to process their case for condonation of delay in filing refund claims, under Section 74 of the Sales Tax Act, 1990 and forwarding the same to FBR for sympathetic consideration but they have not yet done so. DR averred that claimant never approached them in last 5-6 years for forwarding their request to FBR for condonation in time in filing refund claims. He admitted

that he had written letters since January, 2022 but had not provided any supporting documents justifying the delay in filing refund claims.

5. Averments of both sides heard and record examined. Hon'ble Supreme Court of Pakistan, in 1998 in PTCL 354 filed by M/s Pfizer Laboratories Ltd. against Federation of Pakistan and Others, held that appellants' claim would not be declined on the grounds of limitation of time as Article 24(1) of the Constitution of Islamic Republic of Pakistan states that no person shall be deprived of his property save in accordance with the law and the appeal was allowed.

RECOMMENDATIONS:

6. FBR to direct-
- i) Commissioner-IR, Zone-II, RTO, Quetta to forward request of Complainant to FBR for condonation of delay in time in submission of claims on humanitarian and companionate grounds as well as in the light of Hon'ble Supreme Court of Pakistan's judgment referred above;
 - ii) Commissioner-IR, Zone-II, RTO, Quetta to process and dispose of claims on merit and as per law, after receipt of condonation of delay in time from FBR; and
 - iii) report compliance within 45 days.

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

Dated: 4/11/ 2022
U.f/Satti