

**THE FEDERAL TAX OMBUDSMAN  
ISLAMABAD**

**COMPLAINT NO.4400/LHR/IT/2022**

Dated:10.10.2022\*RO, Lahore

**Mr. Aftab Mahmud Khan,**  
D-212, DHA-XII, EME Sector,  
Multan Road, Lahore.

...Complainant

**Versus**

The Secretary,  
Revenue Division,  
Islamabad.

...Respondent

Dealing Officer : Dr. Tariq Mahmood Khan, Advisor  
Appraised by : Mr. Muhammad Tanvir Akhtar, Advisor  
Authorized Representative : Mr. Aftab Mahmud Khan, Complainant  
Departmental Representative : Mr. Husnain A. Hali, Addl CIR RTO Lahore

**FINDINGS/RECOMMENDATIONS**

The above-mentioned complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against alleged illegal orders dated 29.09.2021 passed u/s 122(1) of the Income Tax Ordinance, 2001 (the Ordinance) and dated 11.06.2022 passed u/s 122(5A) of the Ordinance, for Tax Year 2016.

2. Brief facts of the case are that the Complainant, an expatriate had served in Saudi Arabia and returned in 2016 after retirement. The Complainant e-filed return of income along with wealth statement on 30.12.2016 for Tax Year 2016. The Deptt initiated proceedings on the basis of definite information that Complainant had purchased a property in DHA Lahore valuing of Rs.3.235 million, and the same has not been declared in the wealth statement, hence issued notices u/s 122(9) of the Ordinance, but no response was made by the Complainant, therefore, Deptt passed order u/s 122(1) of the Ordinance dated 29.09.2021 creating tax

demand amounting to Rs.0.528 million for Tax Year 2016. Thereafter, the Deptt again initiated proceedings against the taxpayer and issued notice u/s 122(9) of the Ordinance calling evidence of foreign remittances amounting to Rs.23.371 million declared in the wealth statement for Tax Year 2016. The Complainant did not respond to the notice, hence Deptt passed order dated 11.06.2022 u/s 122(5A) of the Ordinance creating tax demand amounting to Rs.8.531 million for Tax Year 2016.

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 parawise comments vide letter dated 02.11.2022 contending that it was found that the Complainant purchased a plot at DHA, Lahore but the same was not declared in the wealth statement, hence notices u/s 122(9) read with 111(1) of the Ordinance were issued, but elicited no response, therefore, order dated 29.09.2021 u/s 122(1) of the Ordinance was passed. Further it was contended that later on, it was observed that claim of foreign remittance as declared in the wealth statement was not based on documentary evidence, hence opportunity of being heard was afforded to the taxpayer, but he failed to submit any documentary evidence, therefore, order u/s 122(5A) of the Ordinance was passed on 11.06.2022. Further it was contended that Complainant has legal remedy of filing of appeal before CIR (Appeals) against both orders dated 29.09.2021 & 10.06.2022.

4. During hearing proceedings, Complainant and DR reiterated their respective stance taken in the complaint and parawise comments, respectively. The Complainant contended that he never

received any notice from the Deptt as he is unable to use the IRIS login, therefore, impugned orders passed by the Deptt be set at naught. Further Complainant also averred that he has no business in Pakistan and earned foreign remittances from serving in Saudi Arabia from 1978 to 2016 till his retirement.

5. Arguments heard and available record perused.

6. Perusal of the record indicates that the Complainant has already declared property situated at EME Multan Road Lahore (DHA-XII,) valuing of Rs.13.000 million in the wealth statement for Tax Year 2016. Further Dept'l show cause notices were also not properly serviced to the Complainant as envisaged in section 218 of the Ordinance. Therefore, Dept'l order dated 29.09.2021 passed u/s 122(1) of the Ordinance for Tax Year 2016 is not tenable under the law.

7. Furthermore, the Complainant declared foreign remittance amounting to Rs.23.371 million in his wealth statement as he had been serving in Saudi Arabia and returned back Pakistan after retirement in 2016 and has no business in Pakistan. The Deptt issued notices to the Complainant calling documentary proof of foreign remittances, but the same have not been serviced to the Complainant as envisaged in section 218 of the Ordinance, therefore, order u/s 122(5A) of the Ordinance dated 11.06.2022 for Tax Year 2016 was passed without fulfilling legal procedure prescribed under the Ordinance.

**FINDINGS:**

7. Dept'l action to pass orders u/s 122(1) of the Ordinance dated 29.09.2021 and u/s 122(5A) of the Ordinance dated 11.06.2022 for Tax Year 2016 without proper service of notices to the taxpayer as

envisaged in section 218 of the Ordinance is tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance.

**RECOMMENDATIONS: -**

8. FBR to-

- (i) direct the Commissioner-IR, Zone-II, RTO Lahore to invoke provisions of section 122A of the Ordinance and cancel the order dated 29.09.2021 passed u/s 122(1) of the Ordinance for Tax Year 2016;
- (ii) direct the Commissioner-IR, Zone-II, RTO Lahore to re-visit the order dated 11.06.2022 passed u/s 122(5A) of the Ordinance by invoking provisions of section 122A of the Ordinance for Tax Year 2016 and pass lawful order after providing proper opportunity of being heard to the Complainant, as per law; and
- (iii) report compliance within 45 days.

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

Dated: 17 : 1 : 2022

*Approved for reporting*

*Certified to be True Copy*

  
**Registrar**  
FTO Secretariat  
Islamabad