

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

Complaint No.5348/KHI/ST/2022

Dated: 7.12.2022* R.O. Karachi

M/s. Sunflower International,
House No. 39/1, Main 26th Street
DHA PH.5,Ext
Karachi

...*Complainant*

Versus

The Secretary,
Revenue Division,
Islamabad.

...*Respondent*

Dealing Officer	:	Mr. Badruddin Ahmad Quraishi, Advisor
Appraising Officer	:	Mr. Muhammad Nazim Salim, Advisor
Authorized Representative	:	Nemo
Departmental Representative	:	i) Mr. Umair Khalil DCIR ii) Mr. Ghari Khan S.A , CTO Karachi

FINDINGS/RECOMMENDATIONS

The above mentioned complaint is filed against the Commissioner-IR RTO-II, Karachi, in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), for not de-registering the registration of the complainant despite closure of business since 2008.

2. Precisely, M/s Sunflower International Korangi Karachi was the manufacturer of textile goods and registered in sales tax on 18.10.2004. After assassination of Benazir Bhutto on 28.12.2007, a mob attacked and set on fire the factory premises. An FIR was lodged on 31.12.2007. In addition, insurance claim was also filed before NICL on 22.07.2008. The Complainant, thereafter, approached the Prime Minister and Hon'ble Chief Justice of Pakistan for compensation but without any success. The Complainant decided to close his business and filed de-registration application in prescribed form STR-3 on 21.05.2012 followed by reminders on 09.06.2014, 10.11.2022 & 21.11.2022 but did not get any response, hence this complaint.

* Date of registration in FTO Secretariat

3. The complaint was referred to the 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, the CCIR, RTO-II Karachi vide letter dated 15.12.2022 submitted that the jurisdiction of the complainant being manufacturer of textile goods should lie in CTO Karachi in view of FBR's jurisdiction order dated 29.12.2020 for necessary proceedings of de-registration from sales tax.

4. During hearing, the DR submitted that the NOC for transfer of jurisdiction from RTO-II Karachi to CTO Karachi have already been issued on 15.12.2022 by RTO-II Karachi and on 22.12.2022 by CTO Karachi to the Secretary (Jurisdiction) who had not yet transferred the case from RTO-II Karachi to CTO Karachi. The deregistration process would commence once the case is transferred from RTO-II Karachi to its proper jurisdiction CTO Karachi.

5. Both parties heard and record perused.

6. It is observed that after looting and arson of factory premises on 28.12.2007, the complainant had to close his business and filed deregistration application in prescribed form 'STR-3' on 21.05.2012. In terms of Rule 11 of Sales Tax Rule 2006; the Commissioner should issue order of de- registration or cancellation of the registration not later than ninety days from the date of such application. The said Rule states"

"11. De-registration.-- (1) Every registered person who ceases to carry on his business or whose supplies become exempt from tax, or who ceases to remain registered shall apply to the Commissioner Inland Revenue having jurisdiction for cancellation of his registration in Form STR3, and the Commissioner, on such application or on its own initiative, may issue order of de- registration or cancellation of the registration of such person from such date as may be specified, but not later than ninety days from the date of such application or the date all the dues outstanding against such person are deposited by him, whichever is later and such person shall be de- registered through computerized system accordingly.

(2) The Commissioner, upon completion of any audit proceedings or inquiry which may have been initiated consequent upon the application of the registered person for de-registration, shall complete the proceedings or inquiry within ninety days

from the date of application and direct the applicant to discharge any outstanding liability which may have been raised therein by filing a final return under section 28:

Provided that the person applying for de-registration shall not be de-registered unless he provides record for the purpose of audit or inquiry”

The complainant filed de-registration application in prescribed form STR-3 on 21.05.2012 but till date even after ten years, the Deptt did not bother to give any response attracting ‘maladministration’ under section 2(3)(i)(b) & (ii) of FTO Ordinance.

FINDINGS

7. Delay in de-registration of sales tax and keeping it pending for more than ten years despite statutory limit of ninety days tantamount to ‘maladministration’ under section 2(3)(i)(b) & (ii) of FTO Ordinance.

RECOMMENDATIONS:

8. FBR to direct:-

- i) the Secretary Jurisdiction FBR to transfer the jurisdiction of the Complainant from RTO-II Karachi to CTO Karachi in terms of FBR jurisdiction order dated 20.12.2020 and also in view of NOC issued by RTO-II Karachi on 15.12.2022 & by CTO Karachi on 22.12.2022;
- ii) Chief Commissioner-IR, CTO, Karachi to deregister the complainant from sales tax in terms of Rule 11 of Sales Tax Rules 2006;
- iii) To fix responsibility for inaction on the part of Department for ten years; and
- iv) report compliance within 45 days.

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

Dated: 1 : 2 : /2023

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Approved for reporting