THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

COMPLAINT NO.09544/SKT/IT/2026

Dated: 20.05.2026* R.O, Sialkot

Mr. Naqash Raza,
Gali Muneeb Shah Wali Hamza Ghous
Pasrur Road Sialkot. ...Complainant

Versus

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

Dealing Officer	:	Rana Hasan Akhtar, Advisor
Appraised by	:	Mr. Khalid Javed, Advisor
Authorized Representative	:	Mr. Amjad Ali, AHC
Departmental Representative	:	Mr. Muhammad Anadil Khan, DCIR RTO, Sialkot.
Date of hearing	:	**16.06.2026**

FINDINGS/RECOMMENDATIONS

The above-mentioned complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against delay in issuance of refund amounting to Rs.1.149 million for Tax Year 2025.

2. Precisely, the Complainant is non-resident, filed Income Tax Refund application u/s 170 of the Income Tax Ordinance, 2001 amounting to Rs.1.149 million pertaining to Tax Year 2025 along-with complete supporting documents attached in online system IRIS but despite of lapse of statutory time of 60-days as provided in sub-section (4) of section 170 no income tax refund has so far been issued by the concerned authorities of RTO Sialkot. The Complainant e-filed refund application on 10.02.2026. However, despite repeated efforts of the Complainant, the Deptt failed to pass order under Section 170(4) of the Ordinance within the stipulated time, hence this complaint.

*Date of registration with FTO Secretariat

3. In response to the notice issued under Section 10(4) of the FTO Ordinance, read with Section 9(1) of Federal Ombudsmen Institutional Reforms Act, 2013, the Department submitted the parawise comments dated 09.06.2026, wherein it is contended that the taxpayer is non-resident individual and proviso to Section 236K(2) of the ITO, 2001 inserted vide Finance Act, 2021 provides that tax deducted u/s 236K from a non-resident individual shall be final discharge of tax liability. The same is reproduced for the sake of ready reference.

> "Provided that if the buyer or transferee is a non-resident individual holding a Pakistan Origin Card (POC) or National ID Card for Overseas Pakistanis (NICOP) or Computerized National ID Card (CNIC) who has acquired the said immovable property through a Foreign Currency Value Account (FCVA) or NRP Rupee Value Account (NRVA) maintained with authorized banks in Pakistan under the foreign exchange regulations issued by the State Bank of Pakistan, the tax collected under this section from such persons shall be final discharge of tax liability for such buyer or transferee."

In view of the facts narrated above refund on account of Section 236K cannot be issued to a non-resident individual being final discharge of tax liability. Therefore, complaint being devoid of any merit may please be filed.

Federal Tax Ombudsman Secretariat HQs Islamabad FTO

4. Both parties heard on 16.06.2026 and record perused. The learned AR submitted rebuttal in response to departmental stance in contesting the following manner: -

i. According to said proviso if the immovable property has been acquired through a Foreign Currency Value Account (FCVA) or NRP Rupee Value Account (NRVA) maintained with authorized banks in Pakistan under the foreign exchange regulations issued by the State Bank of Pakistan **only then withhold tax u/s 236K against such property would conform final tax liability otherwise would be adjustable, whereas the taxpayer has not been maintaining any bank account of such specification mentioned in above provision of law** and payment of immovable property purchased by the complainant was never made through such bank accounts.

ii. In fact, the complainant taxpayer, being a non-resident person, purchased 10-marla 151-sq Feet House at Habib Pura, Sialkot vide registered deed approved on 25-01-2025 for a consideration of Rs. 9,000,000/- and said payment of Rs. 9,000,000/- was made by father of the taxpayer Mr. Muhammad Akram Bajwa bearing registration No. 3410127230775 (resident taxpayer), **being GIFT for his real son**, from his bank account with HBL, Circular Road Branch, Sialkot bearing account No. 1888-79003699-03 through Banker Cheque No. 25583464. Number of said banker cheque has also been mentioned in registered purchase deed of the property enclosed herewith, which is sufficient evidence that said payment was made by father of the complainant taxpayer.

iii. Father of the taxpayer has also declared said payment of purchase of property amounting to Rs. 9,000,000/- purchased by his son as GIFT to his son. In addition to said payment of Rs. 9,000,000/-, registration expenses of property worth Rs. 500,000/- were as also paid by the father of the complainant taxpayer and an aggregate amount of gift of Rs. 9,500,000/- was declared as gift in reconciliation statement of father Mr. Muhammad Akram Bajwa. In wealth statement of the complainant taxpayer for tax year 2025, the complainant has already declared said Gift of Rs. 9,500,000/- as received from father.

iv. In view of the above submissions, it is quite evident that dual condition: for final tax mentioned in above proviso of sub-section (2) of section 236K i.e (i) being a non-resident person and (ii) acquiring the immovable property through a Foreign Currency Value Account (FCVA) or NRP Rupee Value Account (NRVA) **are not fulfilled in the case of the complaint, hence withholding tax deducted u/s 236K is adjustable in the case of the complainant**.

5. It transpires from the above discussion that the department has arrived at the conclusion without issuance of notice u/s 170(4) of the ITO, 2001 by holding that tax deducted u/s 236K of the Ordinance is final discharge of tax liability on the basis of presumption without appreciating that the complainant had acquired the said immovable property through a Foreign Currency Value

Account (FCVA) or NRP Rupee Value Account (NRVA) maintained with authorized banks in Pakistan under the foreign exchange regulations issued by the State Bank of Pakistan. Accordingly, it is appropriate that Deptt provides an opportunity of hearing to the Complainant, obtain evidence of his claim and decide the matter as per law. Admittedly, the Complainant e-filed refund application for Tax Year 2025 on 10.02.2026. The Deptt: was required to have disposed of the refund application within 60 days of its filing, in terms of Section 170(4) of the Ordinance. However, till filing of the instant complaint, the Deptt failed to dispose of refund application. Thus, delay in disposal of refund application for Tax Year 2025, within the stipulated time under Section 170(4) of the Ordinance is evident.

FINDINGS:

6. The inordinate delay in disposal of refund application for Tax Year 2025 is manifestation of Departmental neglect, inattention and inaptitude in discharge of its duties and the same tantamounts to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance, 2000.

RECOMMENDATIONS:

7. FBR to direct-

(i) the Commissioner-IR, (Refunds), RTO, Sialkot to dispose of Complainant's refund application for the Tax Year 2025, as per law, after providing adequate opportunity of hearing and incorporating the arguments of the Complainant; and

(ii) report compliance within 30 days.

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

Dated: 08 JUL 2026