THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

COMPLAINT NO.28520/ISB/IT/2025

Dated:17.11.2025* HQ Islamabad

Mr. Ghulam Hassan, ...Complainant
(Registration No. 1310185322359),
C/o Bashir Ahmed Advocate,
2nd Floor, Faisal Plaza, Abbottabad Road,
Mansehra.

Versus

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

Dealing Officer	:	Mr. Muhammad Naseer Butt, Advisor
Appraised by	:	
Authorized Representatives	:	None
Departmental Representative	:	Mr. Naveed Hassan, ADCIR, RTO, Islamabad

FINDINGS/RECOMMENDATIONS

The complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance 2000 (FTO Ordinance). The complaint was initially assigned to CTO, Islamabad and a notice u/s 10(4) of the FTO Ordinance, 2000 was issued on 27.11.2025, for compliance by 10.12.2025. The CTO, Islamabad, informed that the taxpayer case falls under the jurisdiction of RTO, Islamabad. Accordingly, the CTO, Islamabad forwarded the complaint on the point of jurisdiction vide their letter dated 02.12.2025 to the RTO, Islamabad for further necessary action. However, no reply/para-wise comments were received from the RTO, Islamabad on due date. The case was fixed for hearing on 24.12.2025 and the Department/ RTO, Islamabad was directed to attend hearing along with para-wise comments. The DR attended. However, the complainant did not join proceedings. During hearing, the DR requested for adjournment for one day for filing of para-wise comments, which was allowed. However, again comments

* Date of registration with FTO Secretariat

were not received. Arguments were heard, record perused and complaint is disposed of on the basis of available record as under.

2. The complainant is a non-resident person who filed his return of income for tax year 2016 declaring rental income at Rs. 10,556,560/- being Pakistan source of income u/s 101(9) and claimed refund of Rs. 127,914,672/- collected by the CDA on the bid amount of plots purchased through auction u/s 236A.

3. The complainant further stated that as a consequence of Complaint No. 0992/ISB/IT2025 dated 03.03.2025, a refund order under section 170(4) was passed vide dated 20.02.2025 creating a refund of Rs. 107,968,411/- for tax year 2016. The refund so created was not allowed and it was adjusted against the impugned tax demand of Rs. 128,291,034/- for tax year 2018 on 20.02.2025.

4. The complainant further added that tax demand of Rs. 128,291,034/- for tax year 2018 was contested in appeal before the Appellate Tribunal Inland Revenue who vide appeal order in ITA No. 106/IB/2025 dated 10.09.2025 for tax year 2018 annulled the impugned order. Resultantly the tax demand created stands deleted under the law.

5. The complainant further stated that the order passed by the ATIR was received both by the taxpayer and department on **17.09.2025**. The department was thus, under legal obligation to give appeal effect under section 124(4) within sixty (60) days i.e. 17.11.2025 and allow the resultant refund along with compensation under section 171 of the Ordinance.

6. The complainant further stated that since the delay to give effect of appeal order within the statutory time under section 124(4) and thus not allowing the resultant refund constitute acts of

maladministration within the meaning of section 2(3)(i)(a) and (v) of the FTO Ordinance, 2000, therefore, the Commissioner-IR concerned be directed to give appeal effect and allow resultant refund along with compensation under the law.

7. However, it is noted that department did not file parawise comments to allegations of the complainant despite service of statutory notice. It is further observed that during hearing, the DR requested adjournment for filing of para-wise comments which was allowed time till 26/12/2025 but no response was received from the department. **This serious lapse is referred to the Member-IR(Operations), FBR with the direction to call explanation of the concerned commissioner for failure to file para-wise comments and also to ensure that no such lapse recur again.**

8. Perusal of complaint and record shows that the complainant came up before this forum to seek directions to the department to issue appeal effect order in terms of section 124(4) of the Ordinance and issue the resultant refund. Perusal of the record further shows that the department passed order on 20.02.2025 u/s 170(4) of the Ordinance for tax year 2016. Copy of order has been obtained and placed on file. Perusal of order passed u/s 170(4) for tax year 2016 shows that the department created refund of Rs. 107,986,411/- for tax year 2016 and then adjusted the refund amount against demand for tax year 2018.

9. It is further noted that being aggrieved the complainant filed appeal before the ATIR for the tax year 2018 who vide order dated 10.09.2025 annulled the assessing officer order with the following observations;

> *"12. On a holistic appraisal of the record, it is evident that the additions have been made on*

conjectures and presumptions, without proper inquiry and without adherence to the statutory preconditions. The so-called definite information is illusory, the mandatory procedure under section 111 has not been followed, the remittances are supported by documentary evidence of foreign origin, and the same taxpayer's non-resident status has been ignored. The impugned order thus suffers from legal as well as jurisdictional defects and cannot be sustained.

13. For these reasons, the appeal is allowed. The impugned order dated 19.02.2025 is annulled*."

10. As evident from above, the complainant was provided direct relief in appeal and the concerned Commissioner was required to give appeal effect to the appeal order within two months of the receipt of the appeal order in terms of section 124(4) of the Ordinance, 2001. However, the needful was not done. Thus, delay in giving appeal effect to the order of ATIR constitutes maladministration in terms of section 2(3)(ii) of the FTO Ordinance, 2000.

RECOMMENDATIONS:

11. FBR to:-

(i) direct the CIR concerned to give appeal effect to the order of the ATIR and issue due refund along with compensation, if any, on the basis of facts of case, and as per law, within 60 days;

(ii) direct the Member-IR (Operations) to call explanation of the concerned CIR in terms of para 07 of the order and submit the same with his comments within 30 days; and

(iii) report compliance, of Recommendations at Sr. No. (i), above within 70 days.

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

Dated: 02 JAN 2026