THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

Complaint No.28543/KHI/IT/2025
Dated 19.11.2025* R.O. Karachi.
(Tax Year 2022)

Mr. Muhammad Muzammil Basheer Ahmed, ...Complainant
Registration No.9040601598173
H # SUH 409, Army Officer Housing,
Malir Cantt.
Karachi.

Versus

The Secretary
Revenue Division
Islamabad. ....Respondent

Dealing Officer	: Syedain Raza Zaidi, Advisor
Appraisal Officer	: Mr. Khalid Javed, Advisor
Authorized Representatives	: Mr. Jehan Alam Khan, Tax Consultant
Departmental Representatives	: Nemo

Federal Tax Ombudsman Secretariat HQs
FTO
Islamabad

FINDINGS/RECOMMENDATIONS

The complaint has been filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against the Order u/s122(5A) of the Income Tax Ordinance, 2001 (ITO) for the tax year 2022, passed by the Additional Commissioner Inland Revenue, Range-A, Zone-I, RTO-II, Karachi.

2. Briefly stated, the Complainant claims to be a non-resident Pakistani, residing in the UAE for last 25 years and assessed to tax with Zone-I, RTO-II, Karachi. The Departmental officer passed an order u/s122(5A) of the ITO, 2001 on 08.10.2025 for tax year 2022, charging tax u/s 7E and created tax demand of Rs.4,334,971/- against immovable property. The Complainant for being non-resident claimed that as per clarifications issued by FBR through Circular No. 03 of 2023-24 dated 15.08.2023; provisions of Section 7E are applicable only on resident persons as defined in Section 82 of the Income

Date of registration in FTO Secretariat

Tax Ordinance, 2001. Being aggrieved by the action of the Departmental Officer, the complainant filed the instant complaint.

3. The complaint was referred to the Secretary Revenue Division, for comments and hearing by the Departmental Representative (D.R.), in terms of Section 10(4) of the FTO Ordinance read with section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013.

4. The Chief Commissioner IR, RTO-II, Karachi vide their letter C. No. CCIR/SO-IV/FTO-9292/IT/RTO-II/KHI/2024/3437 dated 03.12.2025 submitted para-wise comments with the following arguments: -

> *"i) The Deptt. contested that the jurisdiction of this Forum was barred u/s 9(2)(b) being a matter of tax assessed. The Deptt. stated that Section 9(2)(b) of the 'Establishment of the office of the Federal Tax Ombudsman Ordinance, 2001' (herein after refer to as FTO Ord., 2001) determines the scope of the jurisdiction of the office of the Federal Tax Ombudsman as under: -*
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> > *"(2) The Federal Tax Ombudsman shall not have jurisdiction to investigate or inquire into matters which-*
> >
> > *relate to assessment of income or wealth, determination of liability of tax or duty, classification or valuation of goods, interpretation of law, rules and regulations relating to such assessment, determination, classification or valuation in respect of which legal remedies of appeal, review or revision are available under the Relevant Legislation."*
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> *ii) The present complaint arose from the order issued u/s122(5A) of the Ord., 2001 dated 08.10.2025 over failure of the taxpayer to establish his non-resident status as per provision of section 82 of the Ordi., 2001. When confronted during proceedings under section 122(5A) read with section 122(9), the taxpayer was provided with adequate opportunities to explain the failure of payment of tax deemed income u/s 7E of the Income Tax Ordinance, 2001. In response the taxpayer filed a reply on IRIS dated 13.05.2024 and claimed to be a non-resident person. The taxpayer furnished an un-verified copy of employment certificate of M/s. Al-Biqa Steel & Mechanical Engineering Co. LLC. During the proceedings, the taxpayer's attention was invited to Section 82 of the Income Tax Ordinance, 2001 which prescribes the criterion for being a Non-Resident Person.*

Federal Tax Ombudsman Secretariat HQS Islamabad FTO

iii) *Further, argued that the unverified copy of employment certificate furnished by taxpayer did not fulfill the conditionalities of a "document" as provided in the Qanoon-e-Shahadat Order, 1984 and neither established the resident status of the taxpayer. Moreover, the taxpayer also failed to provide his travel history and verified copy of passport with exit/entry visa stamps; to help establish him a non-resident individual. Therefore, in the absence of concrete evidence, the assessment order was passed and the matter of Resident status of taxpayer has also been discussed in the said order.*

iv) *Additionally, stated that the taxpayer failed to file the details of capital assets in his revised return filed u/s.114(6) of the Ord., 2001 dated 24.03.2023. The taxpayer was required to compute fair market value on the basis of rate prescribed by F.B.R. vide SRO 345(I)/2022 dated 02.03.2022 in the capital assets columns of the return.*

v) *Furthermore, proper opportunity of being heard was afforded to the taxpayer through issuance of notice 122(9) read with section 122(5A) of the Ord., 2001 wherein the taxpayer filed his reply through letter dated 13.05.2024.*

vi) *The Deptt. conclusively argued that the taxpayer's recourse to the Federal Tax Ombudsman is misconceived, as the grievance raised pertains purely to the merits of the assessment, requiring adjudication under the statutory appellate hierarchy. The jurisdiction of the FTO is strictly limited to instances of maladministration, and it is well-settled through case law that matters involving interpretation of tax law, assessment of taxable income, admissibility of expenses, or appreciation of evidence fall exclusively within the domain of the appellate authorities, not the Ombudsman. The Honorable Courts have consistently held that the FTO cannot interfere in assessment proceedings or substitute the statutory remedy".*

5. Hearing conducted. The Authorized Representative (A.R.) of the Complainant attended the proceedings whereas the Departmental Representative (D.R.) did not attend the hearings. However, Para-wise comments were submitted by the Department vide CCIR, RTO-II, letter C.No.CCIR/SO-IV/FTO-9292/IT/RTO-II/KHI/2024/3437dated 03.12.2025. The A.R. of the Complainant during investigation on 12.01.2026, furnished

Federal Tax Ombudsman Secretariat HQS FTO Islamabad written submissions and requested that directions be issued to the Commissioner-IR (Appeals) to entertain the appeal of the Complainant and dispose of it within statutory period after filing of appeal by the Complainant.

FINDINGS:

6. The perusal of record reveals that the complaint in hand is against the order passed u/s122(5A) of the Income Tax Ordinance, 2001, by the Departmental officer, involving determination of facts and interpretation of law etc. The Department's primary legal objection that matter at hand being the assessment issue cannot be intervened by this Forum is misconceived as this Forum is investigating the maladministration, if any, involved with the processes of assessment. Therefore, the primary objection of the Deptt. is overruled being misconceived. However, it is observed that Deptt. has passed order u/s 122(5A) which is appealable. Further the AR, also, during the course of hearing pleaded that instructions may be issued to the CIR, Appeals for entertaining the appeal of the Complainant against the order u/s 122(5A) of the Ordinance 2001. Since, the AR has himself shown inclination to file appeal before the CIR(Appeals), therefore, the preponderance of the facts of the case demand that Complainant be allowed adequate opportunity of hearing to plead his case before the Commissioner, Appeals. Substantial time period has been consumed in filing this complaint and hearing etc. therefore, Complainant deserves to be allowed condonation of time period in filing appeal before the Commissioner, Appeals.

RECOMMENDATIONS;

7. In view supra,

(i) the concerned Commissioner, Appeals, RTO-II, Karachi, is advised to allow condonation in filing appeal by the Complainant keeping in view the time consumed during proceedings before this Forum and consequent to that decide the same on merit after affording adequate opportunity of hearing to the Complainant; and

(ii) the Complainant/AR is also advised to file appeal before the Commissioner Appeals for proper adjudication of the matter by the same.

8. The complaint is disposed of in above given terms.

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

Dated: 21 JAN 2026