THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

Complaint No.30551/SGD/IT/2025

Dated: 29.12.2025* R.O, Sargodha

Mr. Muhammad Umer S/o Muhammad Rafi,
(CNIC#34402-9598166-1)
Unit 1, House No.5/226, Ward No.5,
Mandi Bahuddin. ...Complainant

Versus

The Secretary
Revenue Division
Islamabad. ... Respondent

Dealing Officer	: Mr. Shaukat Mahmood, Advisor
Appraised by	: Mr. Khalid Javed, Advisor
Authorized Representative	: Complainant in Person (Through Video Link)
Departmental Representative	: Ms. Amna Niaz, DCIR, RTO, Sargodha

FINDINGS/RECOMMENDATIONS

This complaint has been filed u/s 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) regarding grievance against corruption in the public sector offices in connivance with the Income Tax Department, issuance of illegal notices u/s 137(2) read with section 122(9) of the Income Tax Ordinance,(ITO) 2001 and passing impugned order u/s 122(5A) of the Ordinance for tax year 2019 dated 23.06.2025 resulting in tax demand of Rs.0.071 million by Regional Tax Office (RTO), Sargodha, Federal Board of Revenue (FBR), ignoring the time limitation of five years as envisaged u/s 122(2) of ITO 2001 and in spite of the fact that the complainant status was **"Non-Resident"** (NR) during the period relevant to tax year 2019.

2. The complainant stated that:-

1. *"I am an overseas Pakistan Citizen and making this complaint to acquire justice according to law of Pakistan.*

* Date of registration in FTO Sectt.

2. *I am writing this complaint about the government officials of Mandi Bahuddin for concealment of income tax from the government of Pakistan in collaboration with the FBR, officials.*

3. *In Mandi Bahuddin, almost 90% of government officials are not paying proper income tax including the district court staff, judges, police officers and other public officials/servants in collaboration with the FBR officers.*

4. *The FBR office of Mandi Bahuddin & Sargodha is being corrupted by the tax lawyers public officials and by their own officers because they only issues illegal notices to the public for the sole purpose of extortion but do not inquire any public officials for nonpayment of income tax as required by law.*

5. *The constitution of Pakistan clearly gives the right of equality and due process of law to every Citizen of Pakistan and tax laws do not exempt public officials/servants of Pakistan from income tax.*

6. *That most public officials/servants of Mandi Bahuddin are corrupt because they get their salary from the government and also earn money from bribery and extortion which is pure black money illegally taken from the public Pakistan if a public official/servant is getting salary from Rs.70,000 per month then he/she is also illegally earning Rs.300000 per month on the top of it and FBR knowingly do not conduct audit on them due to corruption, relation and inequality etc.*

7. *The most lawyers of the district courts, Mandi Bahuddin also do not pay accurate income tax on their income due to corruption of FBR officials even they are also not exempted from income tax.*

8. *The officers of FBR visit the city Mandi Bahuddin and tax auditor collect bribery and extortion from the public and go back without any legal proceedings because he knows that no one can take any legal action against him because he is the official of FBR, Pakistan.*

9. *Recently, a dishonest tax Commissioner (Audit) issued an illegal notice to extort money from me and I made a complaint but FBR has not taken any legal action against the commissioner as of my knowledge not the other issues has been resolved. I contacted the FBR few times but there is still no avail on my given complaint."*

3. The complaint was sent for comments to the Secretary, Revenue Division, Islamabad in terms of Section 10(4) of the FTO Ordinance read with Section 9(1) of Federal Ombudsmen Institutional Reforms Act 2013. In response thereto, the Chief Commissioner IR, Regional Tax Office, Sargodha vide letter dated 09.01.2026 forwarded comments of Commissioner IR, Regional Tax Office, Sargodha dated 07.01.2026. At the outset preliminary objection regarding bar of jurisdiction was raised in terms of Section 9(2)(b) of the FTO Ordinance on the basis of Hon'ble President of Pakistan's decision in C. No. FTO/LHR/0000697/2016 and Hon'ble Lahore High Court's decision in Writ Petition No.5999/2017.

4. The preliminary objection raised by the Deptt in terms of Section 9(2)(b) of the Ordinance is misconceived as the decision of Lahore High Court(LHC), Lahore in Writ Petition No.599/2017. **(M/s Shahzadi Poly Propylene Industries VS Federation of Pakistan)** is distinguishable due to its peculiar facts. (In the said case refund application submitted to FBR was not processed and refund due was not paid to him. During FTO's investigation proceedings FBR acknowledged the availability of evidence supporting the claim of the complaint and made commitment before the FTO that the claim of M/s Shahzadi Polypropylene Industries would be settled in three weeks. ***In view of this commitment, the FTO did not give any finding or recommendation and disposed of the matter as per commitment.*** However, FBR reneged on its commitment.) Moreover, findings/recommendations issued by this forum in C.No.329/KHI/IT/2017, were assailed by the Deptt before the Hon'ble President by placing reliance on a judgment of Hon'ble Lahore High Court, Lahore in W.P.5999/2017. While rejecting the representation of the Deptt, vide order No.165/FTO/2017 dated 29.01.2018, the Hon'ble President observed that:-

> ***"It is as clear as the crystal that FTO has made recommendations which are only to the extent to direct the Commissioner IR to complete the verification process and settle refund claims for the tax years 2014 and 2015, as per law, within 45 days thereafter. It is just a harmless order and only the Agency has to decide the issue as per law which was never denied in its written reply even by the Agency. The Agency has full powers to decide the issue either way, on merits and in accordance with the provisions of law. Thus, the findings of the learned FTO are quite sustainable and the Agency has unnecessarily filed this representation. In such circumstances, this representation is liable to be rejected having no merits and the recommendations/findings of FTO are sustainable and maintainable being unexceptional in nature in the eyes of law."***

In view of the above factual and legal position, the preliminary objection regarding bar of jurisdiction being misconceived stands overruled.

5. Furthermore, it was mainly contended that:-

"Allegations at S.No.1 to 7 are found to be generic in nature, unsubstantiated, and unsupported without any documentary evidence. The complainant has not identified any specific officer, transaction, or instance of alleged tax evasion or misconduct. Accordingly, these allegations are found to be baseless as it is observed that the complainant is merely trying to malign the department since proceedings for amendment of assessment have been finalized against him for the reason that he failed to submit relevant and complete documentary evidence in support of his declared version before the officer concerned.

S.No.8:

the complainant's principal grievance (S.No.8) relates to the issuance of a notice during audit proceedings, for which it has been alleged by him that same was meant for extortion. It is respectfully submitted that the said allegation is baseless and misconceived. The notice in question was issued by the officer concerned strictly in accordance with the provisions of the income tax Ordinance, 2001, in the lawful discharge of statutory functions and on fulfillment of legal and codal formalities, and formed part of' duly conducted assessment proceedings on the basis of audit para framed by the Directorate of Internal Audit Faisalabad. It is further submitted that the explanation furnished by the taxpayer during the course of amendment proceedings was duly examined and considered by the officer concerned. However, the taxpayer failed to substantiate his contention with complete and verifiable documentary evidence regarding his claim of foreign remittance and non-resident status. Accordingly, the proceedings were concluded and the assessment was finalized by the officer concerned strictly in accordance with law. No mala fide intent, illegality, or maladministration, what so ever, it may be, is attributable to the department on the basis of the referred amendment of assessment proceedings.

It is observed that both through the instant complaint and reply during assessment proceedings, the taxpayer claims to be non-resident but claim of taxpayer was rejected at the time of assessment as he failed to file complete documentary evidence in the shape of travel history before the officer concerned. The copies of entry and exit stamps from Pakistan on passport of the taxpayer were provided but again these pages were incomplete and inconclusive to verify and confirm the status of taxpayer as non-resident. Furthermore, the evidence of foreign remittance received during the instant period was also incomplete however, assessment order of the taxpayer has been passed in a very judicious manner by the officer concerned by giving him credit of verified remittance to the extent of Rs.1,480,000/- As the taxpayer failed to substantiate his claim of income from property along with deductions claimed at source under this head (As per IRIS verification), hence consequently claim of the taxpayer regarding income declared from property was rejected by the officer concerned and same was treated as income from other sources chargeable to tax under NTR instead of FTR. It is finally submitted that legal remedy of appeal before the learned CIR(Appeals) is lying available to the taxpayer for redressal of genuine grievance if any well with the four walls of law".

6. The Complainant, Mr. Muhammad Umer, himself attended hearing through video link on 29.01.2026. On behalf of the department, Ms. Amna Niaz, DCIR, RTO, Sargodha attended hearing. Both the complainant & DR contended their stance as per complaint & parawise comments.

7. Furthermore, during hearing, the complainant argued that his status was NR during the period relevant to Tax Year 2019 and department did not had authority to issue any statutory notices as envisaged vide section 122 (2) of ITO Ordinance. Moreover, it was emphasized that in spite of completing/furnishing all documents required, the department partially accepted his contention and taxed the balance amount. Hence, the action of the department falls under the ambit of maladministration. The DR contended that no maladministration is committed since complainant's reply was considered on merit and the tax levied is on account of un-explained amount.

FINDINGS:

8. Assessment order u/s 122(5A) of the Ordinance has been passed on frivolous grounds and without appreciating the facts of case available on record. Consequently, the complainant has been burdened with unjust tax demand. In order to ascertain the "Non-Resident" status of the complainant the record available, i.e. copies of relevant extract of passport were examined. It has transpired that during the financial year relevant to tax year 2019 i.e. 01.07.2018 to 30.06.2019, the arrival stamp on the passport reflects the date as "16.03.2019" and 'the exit date is 01.05.2019. Therefore, the complainants' stay in Pakistan was not more than fifty (50) days during the period relevant to Tax Year 2019. As such, the status of complainant/taxpayer was of "Non-Resident" during the Tax Year 2019, as explained under Section 82(a) of the ITO 2001. Foreign remittance amounting to Rs.3 (m) was sent through proper banking channel and the evidence is available on record. Moreover, lease agreements were also provided indicating rental income of the complainants' properties in Pakistan, hence rent received

amounting to Rs.9,16,800/= is also explainable and claimed as exempt.

9. According to the parawise comments of the Deptt, the Complainant could not file complete proof of the non-resident status, foreign remittances and rental income. Nevertheless, during investigation process, the Complainant produced detailed documentary evidence in support of his claim as non-resident. He also produced proof of receipt of foreign remittances and rental income. The above account clearly shows that impugned order has not been made after obtaining the complete documentary evidence on all issues from the Complainant. No efforts were made by the Deptt to obtain all relevant record which was subsequently produced before this Forum. It clearly manifest Departmental negligence, inattention and ineptitude. Therefore, the circumstances of the case warrant that the Deptt must revisit its order by providing reasonable opportunity of hearing to the Complainant and decide the issue on merit. It is further observed, here that non-residents are very important citizens of Pakistan contributing in foreign remittances for the country. It has been felt while adjudicating many cases of non-residents that due diligence and precaution is not exercised by the Dept'l officers in proper appreciation of facts and in due recognition of their status as non-resident. Member-IR, Operations must give due consideration to this issue and ensure that the non-residents are not mistreated and deprived of their rights as provided in the law.

MALADMINISTRATION:

10. The inefficiency, negligence and ineptitude committed in conducting proceedings for the impugned order u/s 122(5A) tantamount to maladministration in terms of provision of Section 2(3)(ii) of the FTO Ordinance, 2000.

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Federal Tax Ombudsman Secretariat HQs. FTO Islamabad

RECOMMENDATIONS:

11. In view supra, FBR to direct-

i) the Commissioner-IR, Audit Zone, RTO, Sargodha to revisit the order passed u/s 122(5A) of the Income Tax Ordinance, 2001 dated 23.06.2025 for the Tax Year 2019, while taking into consideration the NR status of the Complainant, based on facts of the case and as per law; and

ii) report compliance within 60 days.

iii) the Complainant is also advised to submit complete record with the Deptt for proper appreciation of facts of the case.

(M. Zafar Ul Haq Hijazi)
Federal Tax Ombudsman

Dated: 03 JUN 2026