THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

Complaint No. 30721/LHR/IT/2025

Dated: 31.12.2025*[1]

Ms. Salma Jahan Khan,
Through real brother
Mr. Viqar Ahmed Khan,
42A Lawrence Road, Lahore. ...Complainant

Versus

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

Federal Tax Ombudsman Secretariat HQs Islamabad FTO

Dealing Officer	:	Mr. Hasan Akhtar Khan, Advisor
Appraised by	:	Mr. Khalid Javed, Advisor
Authorized Representative	:	Mr. Farrukh Ahmad, Senior Manager
Departmental Representative	:	Mr. Ali Imran, DCIR, CTO, Lahore

FINDINGS/RECOMMENDATIONS

The above-mentioned online complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (The Ordinance) against delay in issuance of exemption certificate under Section 236C(4)(b) of the Income Tax Ordinance, 2001.

2. The Complainant is a permanent resident of USA having Passport No.533807541 residing at 7113, Green Valley Drive Mentor 44060 Ohio, USA. She does not have a CNIC/NICOP. The property No. S-51-R-42 commonly known as 42A, Lawrence Road, Lahore was originally allotted to Mr. Aziz-ud-Din Ahmad Khan, father of the Complainant. Further contended that on death of her father on 23.06.2014, the Complainant being one of the two legal heirs, got her share of the inherited property which comes to 24 Marlas (1/3rd of total

[1] Date of Registration in FTO Secttt.

of 72 Marlas). The Complainant has now sold her above referred share in the inherited property which is attracting payment of advance tax under Section 236C of the Income Tax Ordinance, 2001. The Complainant has claimed exemption from payment of advance tax on sale of inherited land and thus falls within the purview of Section 236C(4)(b) of the Ordinance. The Complainant submitted an application dated 08.05.2025 to the Commissioner-IR, Zone-IV, CTO, Lahore for issuance of exemption certificate under Section 236C(4)(b) of the Ordinance. However, despite repeated efforts of the Complainant, the Department failed to issue exemption certificate under Section 236C(4)(b) of the Ordinance, 2001, hence this complaint.

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3. The complaint was sent for comments to the Secretary, Revenue Division, 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 Commissioner-IR, Zone-IV, CTO, Lahore submitted parawise comments vide letter dated 09.01.2025, contending therein that exemption certificate under Section 236C(4)(b) of the Income Tax Ordinance, 2001, in the case of the Complainant cannot be issued, as the Complainant is not the original allottee of the property rather the property has been acquired through transfer by inheritance and the request of the Complainant for issuance of exemption certificate cannot be entertained as the Complainant is the owner by succession and not the original allottee thereof and does not qualify for exemption certificate.

4. In response, the applicant has vehemently pleaded that the Department has admitted Mr. Aziz-ud-Din Ahmed Khan, the applicant's father, as the original allottee and by default established

the applicant's entitlement as "original allottee", as per "Non-recognition rules" given in section 79(1)(b) and 3(a) of the Ordinance, 2001. This section states that the person acquiring the asset through inheritance shall be treated as acquiring an asset of the same character as that of the person disposing of the asset, hence it applies on all fours to the applicant's case in hand. Thus, applicant squarely falls under the category of "Original Allottee". Department's refusal to accept the applicant's status as original allottee is a stark disregard to binding legal provisions of the Income Tax Ordinance, 2001 and constitute an act of contrary to law and arbitrariness. The AR argued that the applicant has never claimed that she is registered with the Department. It has been contended that there is obvious maladministration on part of FBR field formations, owing to their blatant disregard to the binding legal provisions contained in Section 79(1)(b), 3(a) titled Non-recognition rules which reads as under: -

> 79. **Non-recognition rules:**
>
> (1) ……
>
> (a) …..
>
> (b) by reason of the transmission of the asset to an executor or beneficiary on the death of a persons;
>
> (2) ……
>
> (3) Where clause (a), (b), (c), (e) or (f) of sub-section(1) applies, the person acquiring the asset shall be treated as -
>
> (a) acquiring an asset of the same character as the person disposing of the asset; and

5. Arguments heard and available record perused.

6. It plainly transpires from perusal of record that the Complainant did not purchase the property involved in the case, rather the same devolved onto her by operation of succession certificate/inheritance law after the death of her father. Admittedly, the deceased father was

original allottee of the property and he did not dispose of/sold the same during his life time. That means that till death he maintained the status of first allottee of the land. However, on the death of her father, the Complainant being the inheritor of the deceased, stepped into the shoes of her father in the capacity of original allottee. It is general principal governing transfer of assets that the same are transferred along with any encumbrances and privileges. The Complainant after acquiring through inheritance the land also inherited the character of original allottee as held by the deceased till his death. It needs to be highlighted that the Complainant has not acquired the property through any sale/purchase but through operation of inheritance. So, by all facts together, the Complainant, no doubt, is holding the character of original allottee. The character of original allottee only extinguishes when any such person makes first sale, which was not done in the instant case. Further, the provision of Section 236C(4)(b) provides for exemption from levy of tax u/s 236C(1) and emphasizes the **first sale** of immoveable property which has been acquired or allotted as original allottee. The condition of original allottee qualifies with the first sale. Undoubtedly, in the instant case, this is first sale of the property. it flows quite logically that if it is first sale then quite obviously the status of first allottee must also have been intact.

7. The above given view point is further strengthened from the provision of Section 79(1)(b) read with sub-Section (3)(a) of the same. The sub-Section (3)(a) provides that when an asset is acquired on the death of a person then the beneficiary (inheritor in this case) will be treated to have acquired the asset of the same character as the person disposing of asset (deceased in this case). The Non-Recognition Rules as enunciated vide Section 79 of the Income Tax Ordinance 2001, as discussed in detail in para 4 above, also support

the contention of the Complainant having acquired the status of fist allottee.

8. It is an admitted position that the Complainant being one of the two legal heirs got her share of the inherited property on the death of her father, thus the Complainant assumed the status of original allottee after death of her father in terms of above referred sub-section (1)(b) and sub-section (3)(a) of Section 79. The Complainant has got the ownership due to succession under inheritance, which is a mechanical sort of transaction and not being a business or profiteering transaction on the part of the Complainant. Hence, the inherited property under reference carries the same character as that was owned by the deceased person during his life time as envisaged under Section 79(1)(b) and sub-section 3(a) of the same. The Complainant is for all intents of law is akin to an original allottee of the land and liable to benefit from the exemption provided under Section 236C (4)(b) of the Ordinance, 2001. The Deptt. has kept pending the application of the Complainant for exemption u/s 236C(4)(b) of the Ordinance, 2001 for a very long time i.e. approximately 255 days, which constitutes extra ordinary delay in disposing the application for exemption which is grave maladministration.

FINDINGS:

9. The extraordinary delay in disposal of application for exemption certificate under Section 236C(4)(b) of the Ordinance, filed by the Complainant despite lapse of approximately 255 days, from the date of filing, clearly manifests Departmental neglect, inattention and ineptitude in discharge of its duties and same tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance, 2000.

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RECOMMENDATIONS:

10. In view supra,

    (i) Member (Legal), FBR is advised to provide guidance to and ensure that the adequate opportunity be provided to the Complainant and that arguments of the Complainant are properly adjudicated by the concerned Commissioner;

    (ii) the concerned Commissioner is directed to dispose of the Complainant's application for issuance of exemption certificate under Section 236C(4)(b) of the Ordinance 2001, after providing opportunity of hearing to the Complainant, as per law; and

    (iii) report compliance within 20 days.

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

Dated: 22 JAN 2026