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President Lauds FTO Role



The Annual Performance Report of Federal Tax Ombudsman for the year 2020 was presented to the President of Pakistan, Dr. Arif Alvi at Awan-e-Sadr by the Federal Tax Ombudsman Mr. Mushtaq Ahmed Sukhera on 26-03-2021.

The President was briefed about the achievements made by the office of the Federal Tax Ombudsman, intimating that 3715 complaints were disposed of during the year 2020, against 2794 complaints in the year 2019, and 3332 fresh complaints were registered during 2020 as compared to 2510 in 2019. While refund claims to the tune of Rs. 8242.45 million were decided and due amount was paid to the aggrieved tax payers by Federal Board of Revenue during 2020 as against Rs. 5864.94 million paid in 2019.

The President was pleased to express his appreciation and felicitated the Federal Tax Ombudsman on his outstanding performance in providing cost free and prompt relief to the

aggrieved tax payers against the mal-administration of tax functionaries.

The President underscored the need for further strengthening the institution of Tax Ombudsman which played significant role in reducing malpractices as well as improving tax collection. He asked the Ombudsman to improve liaison with Federal Board of Revenue (FBR) that would help in promptly redressing the grievances of the people against the maladministration of tax authorities.

He emphasized the need for creating awareness about the significant role being played by the Tax Ombudsman with regard to addressing public grievances against the tax authorities.

The President acknowledged the role and valuable contributions made by the Federal Tax Ombudsman during the year 2020 and assured him of his full support and patronage towards the institution of Federal Tax Ombudsman in performance of its duties and functions.

(Phone: 051-9212437 Fax: 051-9205553) Email: media@fto.gov.pk

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FBR directed to initiate action against Non-Compliant withholding agents

The Federal Tax Ombudsman Mr. Mushtaq Ahmad Sukhera has directed the Federal Board of Revenue (FBR) to initiate and finalise proceedings against non-compliant withholding agents under the Income Tax Ordinance.

He also asked the FBR to register all non-compliant withholding agents on the tax roll and ensure submission of withholding statements in terms of Section 165 of the Income Tax Ordinance. The FBR was directed to take action and submit compliance report to the ombudsman within 60 days.

Out of 11,273, 6,406 withholding agents are not on the tax roll as per the data provided by the FBR.

An investigation was initiated into the



failure of the FBR to monitor advance tax to be collected at the time of sale, purchase and transfer/registration of immovable properties in terms of Sections 236C and 236K of the Income Tax Ordinance.

During the investigation, it was revealed that most of the withholding agents, who are NTN holders, were non-filers of withholding tax statements submission which is

mandatory under Section 165 of the Ordinance. Consequently, the public exchequer has been losing a large sum of legitimate tax, which the FBR ought to have collected, wherever applicable. Federal Tax Ombudsman's Own Motion decision states that this is due to sheer inefficiency on the part of FBR along with its field formations that resulted in failure in developing a timely, proper and robust mechanism to monitor Advance Tax collections under Section 236C and 236K of the Ordinance which tantamount to maladministration. Therefore, FBR has been directed to do the needful and report compliance within 60 days, FTO added.

FTO Identifies High handedness of Tax Officials

The FTO has directed FBR to settle illegally recovered refund from the complainant's bank account along with payment for delayed refund.

FBR has been directed to conduct enquiry, fix responsibility and initiate disciplinary proceedings against the official(s) found responsible for making unlawful recovery of the amount from the complainant's bank account.

According to FTO's report commissioner-IR, Zone-1, RTO Gujranwala has been directed to settle refund of Rs.0.810 million, illegally recovered from the complainant's bank account along with payment for delayed refund under Section 67 as per law.

FTO report states that unlawful recovery through attachment of complainant's bank account and delay, unjust and oppressive acts in settlement of refund, is tantamount to maladministration.

FBR had created sales tax demand amounting to Rs 25.475 million against a complainant who was engaged in manufacturing and sale of Poly propylene products. After losing case before the collector the complainant filed second appeal. The Appellate Tribunal, Inland Revenue, Lahore (ATIR) decided the appeal in favour of the complainant but FBR filed reference before the Honourable Lahore High Court. The Lahore High Court also upheld decision of the ATIR but in the meanwhile FBR recovered Rs.0.604, Rs.0.023 and Rs.0.183 million, (total Rs.0.810 million) by attaching bank account of the Complainant.

The Complainant again approached FBR but failed to evoke any response, hence, filed complaint with FTO and also prayed for additional payment for delayed refund under Section 67



of the Sales Tax Act, 1990.

After hearing FBR and the complainant, the FTO found that even after decisions of the ATIR and High Court the FBR initiated coercive measures and attached bank accounts of the complainant.

The FTO in its report has stated that evidently, this is a case of unlawful recovery made by the FBR through coercive measures

of attachment of complainant's bank account. FBR remained sleeping over the matter as not even a single correspondence was made with the complainant. It is after filing of the instant complaint that the FBR woke up from deep slumber and instead of redressing grievance of the aggrieved complainant, raised objection regarding late filing of refund application.

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FTO holds assessment beyond period of limitation being contrary to law

The Federal Tax Ombudsman (FTO) has directed FBR to recall an impugned Assessment Order (AO) passed after expiry of period of limitation of five years.

FTO recommendation states that passing an Assessment Order after expiry of period of limitation is contrary to law, result of neglect, inattention, inefficiency, negligence and ineptitude of the concerned tax officer and tantamount to maladministration.

A complaint was filed with Federal Tax Ombudsman against Assessment Order based on Show Cause Notice (SCN) issued in violation of provisions of Section 11(2) of Sales Tax Act, 1990.

According to FTO report, FBR served upon the complainant Show Cause Notice pertaining to the tax periods beyond the period defined under Section 11(5) of the Act, thus, illegal per se. The complainant submitted comprehensive replies. Although impugned Show Cause Notice was barred by limitation, the FBR unlawfully taking cover of general condonation allowed by

Section 74 of Act, passed the impugned Assessment Order creating huge demand of sales tax and penalty amounting to Rs.3.272 and Rs.0.110 million, respectively. Therefore, the complainant filed a complaint with FTO.

FTO report states that the complainant's case for tax periods was selected by the FBR, through computer ballot but unfortunately, the Officer concerned remained sleeping over the file for more than five years, for the reasons best known to him. It is evident that the Officer concerned, in order to save himself from the consequences of criminal negligence of failure to take timely action, had tried to shift the entire responsibility of delay and concomitant action on the complainant by passing time-barred Assemet Order.

FTO stated that unfortunately, entire facts were also available before the Zonal CIR. However, the Zonal CIR, instead of calling explanation of the officer responsible for this negligence, had deliberately covered up unlawful act of his sub-ordinate officer.

Business community to benefit from FTO services: President SCCI

The President, Sarhad Chamber of Commerce and Industry Mr. Sherbaz Bilour has asked the business community to benefit from the Federal Tax Ombudsman (FTO) office.

While speaking to Advisor (Customs) Federal Tax Ombudsman, Islamabad, Dr Arsalan Subuctageen, Advisor In-charge Income Tax FTO, Peshawar, Mr. Abdul Wadud and Mr. Kiramatullah Khan. The SCCI chief said wherever required, the chamber members should file complaints, against the Federal Board of Revenue (FBR) and its subordinate institutions to get speedy and cost free relief.

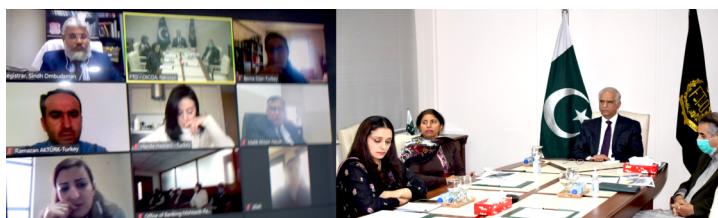
Terming the FTO as an effective forum for the business community to address their complaints about Income Tax, Sales Tax, Customs and Federal Excise Duty, the SCCI chief lauded the FTO steps for addressing taxpayers' genuine grievances / complaints against FBR and its subordinate institutions.

The SCCI chief said that the FTO office has conducted independent investigations into the complaints of businessmen and addressed them within 60 days which provided relief to the trading business community.

Sherbaz Bilour said that being hit by terrorism and covid-19; the businesses in Khyber Pakhtunkhwa were confronted with a host of challenges and difficulties.

He urged the FTO office to give special importance to the business community of Khyber Phaktunkhwa and to play an effective role in addressing issues relating to FBR.

Training Session by the FTO Secretariat on OICOA Forum



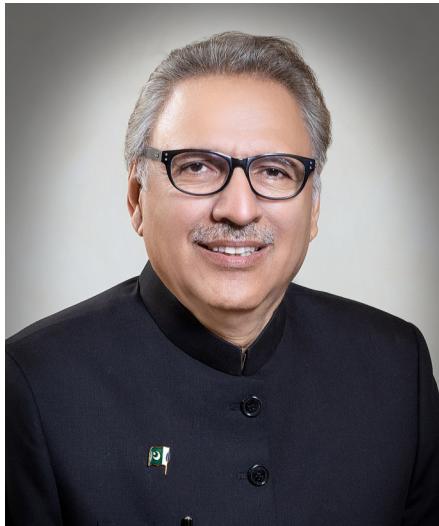
The 1st and 2nd successive Organization Islamic Countries Ombudsman Association (OICOA) Board of Directors meetings were held online on 14th October 2020 and 2nd December 2020 respectively. Amid Covid-19 pandemic, where the organizations have confined most of their operations, the world has learnt the "New Normal", which is evolving and utilizing technology enabling the world to interact on virtual platforms while maintaining social distances. The second training session of OICOA held on 27th of January, 2021, was in the pursuance of "Building Communication

Network" among all the OICOA forums. The session was conducted by Advisor Customs Dr. Arslan Subctageen the session aimed to create awareness about the functionalities, operations of Federal Tax Ombudsman Pakistan. The session focused on the working of FTO office in areas of complaint receipts, disposal, decision making and grievance redressal.

He further explained that the institution of the Federal Tax Ombudsman is a pro-active organization with its doors open to the aggrieved taxpayers and instead of waiting for the complaints to be reported, the FTO Office under the outreach program, itself contacts the various stakeholders such as the Federation of Pakistan Chamber of Commerce and Industry, Chambers of Commerce and Industry in different parts of the country, the Tax Bars, legal forums and the general public through print, electronic and social media to provide them with assistance and details on how to file the complaints.

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President Dr. Arif Alvi Rejects Representation Filed by FBR Against the Recommendations of FTO



Hon'ble President Dr. Arif Alvi rejected a representation filed by the FBR against the recommendations of Federal Tax Ombudsman (FTO) in a case of bogus tax refunds worth over Rupees 14 Million made to a fake registered person (RP).

The president directed the FBR to recover the amount paid on the basis of fake/flying invoices, while upholding the decision of Federal Tax Ombudsman (FTO) following its suo-moto action against the irregularities committed by the FBR field formations in registering, processing,

sanctioning, and issuing sales tax refunds to fake RPs during the period 2012/13.

The president stressed recovery of the embezzled money, saying that instead of resistance by FBR to the suo-moto action by FTO, they should recover the precious money belonging to the people of Pakistan.

The FBR has filed 74 similar representations with the office of the president against the orders of FTO. Out of 74 representations, 54 cases have been decided while 22 are still awaiting adjudication. Furthermore, according to the

relevant record, FBR allowed Rupees 875.2 Million to be paid to fake RPs, of which a payment of Rupees 223.3 million has already been made.

The Federal Tax Ombudsman Last year directed the Chief Commissioner Inland Revenue and Corporate Regional Tax Office Karachi to investigate and identify the officials involved in registration of fake RPs and initiate disciplinary/criminal action against those found involved and report compliance within 45 days.

The FTO in its decision further directed FBR to initiate appropriate action including criminal proceedings leading to recovery of amount swindled from public exchequer through claiming inadmissible input tax and bogus refund. Instead of implementing the directives of FTO, the FBR challenged its jurisdiction and filed a representation with the president taking plea that it could not issue such orders and rely on interdepartmental correspondence of FBR.

President Dr. Arif Alvi rejected the FBR's representation and made it clear that the body could exercise its power conferred under section 9(1) of the Federal Tax Ombudsman Ordinance 2000 to investigate irregularities in the department.



Editorial Board

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FTO Secretariat

Zoyina Ali Pasha
Assistant Advisor
Media and Research