

Annual Report 2015



Federal Tax Ombudsman
Pakistan

ANNUAL REPORT 2015

Committed to Serve the Aggrieved Taxpayers



**Federal Tax Ombudsman
Pakistan**

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ

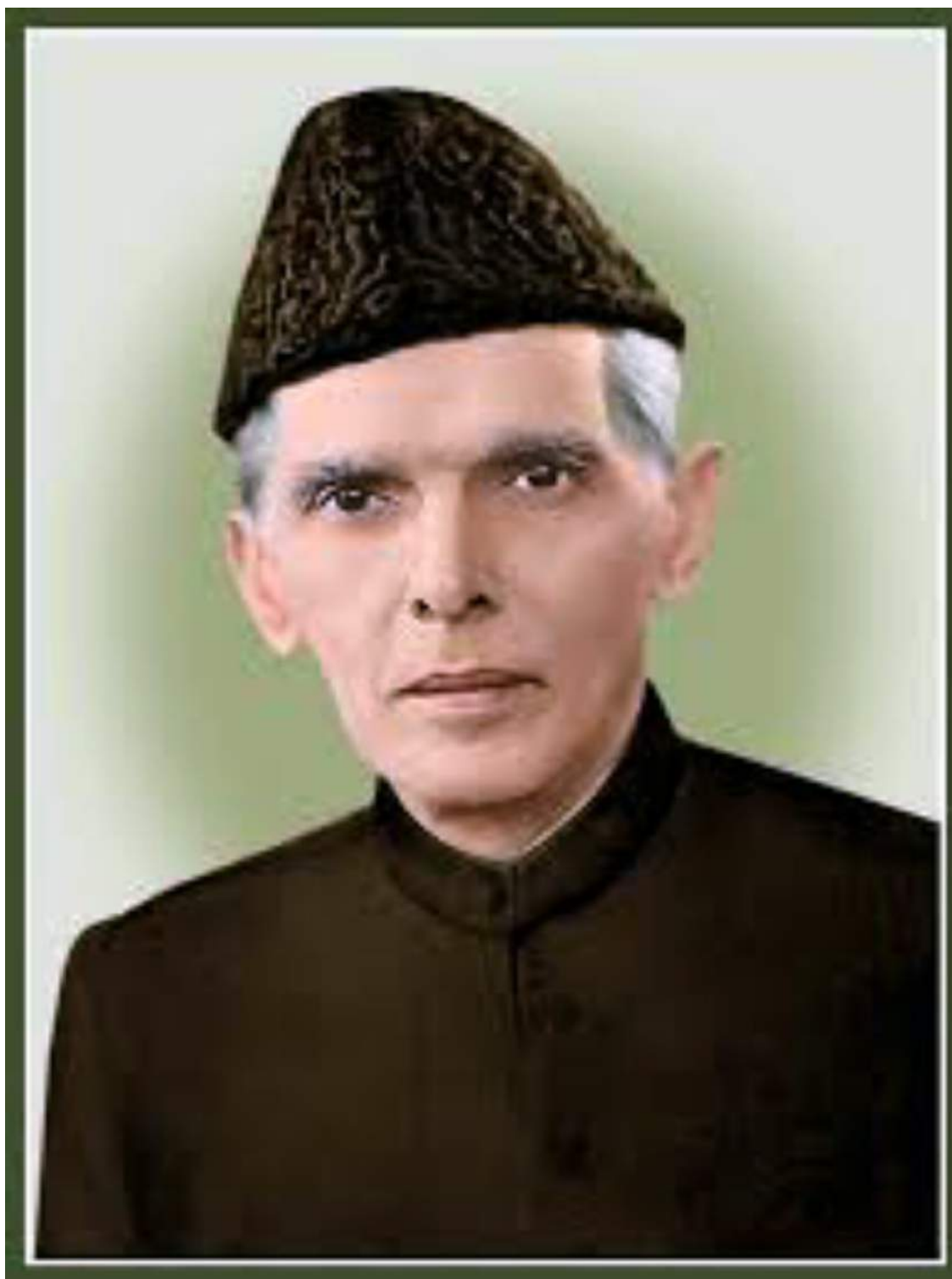
**Indeed, Allah orders
justice and good conduct**

(Surah An-Nahl : Verse No 90)

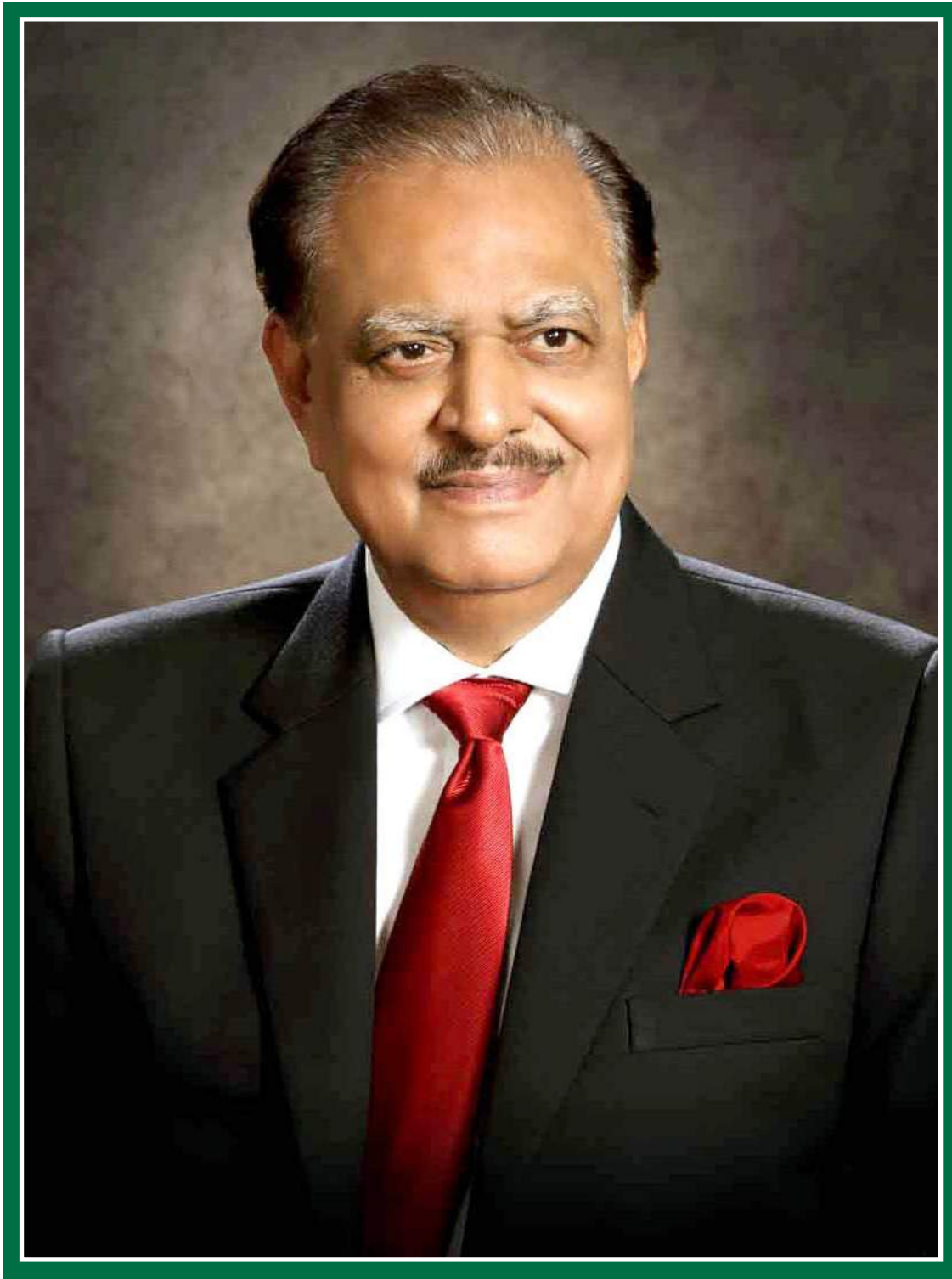
The Constitution of the Islamic Republic of Pakistan makes the State responsible

“to ensure inexpensive and expeditious justice”

Article 37 (d)



Quaid-e-Azam Muhammad Ali Jinnah
Founder of Pakistan



**Mr. Mamnoon Hussain
Honourable President
Islamic Republic of Pakistan**

D.O. No.10(2)2015-A-II
Islamabad, March 28, 2016

Dear Mr. President,

It is indeed a very distinguished honor for me to present Annual Report for the year 2015 to your esteemed office. The report briefly enumerates the performance of Federal Tax Ombudsman's Secretariat. This Office established in the year 2000 to resolve the complaints of the tax payers against maladministration of the federal tax collectors, generally receives and decides 1500-2000 complaints every year. Although the number of complaints decided during 2015 (i.e. 1,610) remained within the range, yet this year was momentous in several aspects. During the year, the number of complaints decided in favor of the complainants increased significantly to 70%; while in quantitative terms it constitutes a preponderant chunk (1,127) out of the total number of 1,610 complaints. Similarly, the acceptability of the decisions of the FTO also improved and 85% of our decisions were straightaway accepted by the complainants and Federal Board of Revenue (FBR).

Following the guidelines provided under Article 37 of our Constitution which guarantees that the state of Pakistan would 'ensure inexpensive and expeditious justice' to the aggrieved persons, the FTO office took effective measures to reduce the time taken in the disposal of complaints. In addition, the FTO's secretariat continued its policy of self-assessment and benchmarking with a view to improve service delivery and learn from the accredited management standards practiced elsewhere in the world.

We also continued our collaboration and partnership with international donors and other Ombudsman offices through regional and international cooperation. The FTO's secretariat successfully implemented two important projects aimed at capacity building of the Ombudsman offices, with the generous financial assistance and technical guidance provided by the World Bank.

During the year the Advisory Committee comprising tax experts and eminent representatives of the business community compiled a very comprehensive report containing useful proposals, related to issuance of SROs, establishment of a Taxpayers Integrated Information System linked with CNIC as the sole identifier and adoption of globally accepted principle of separation of tax policy, collection of revenue and adjudication. The report was presented to the Government for consideration during preparation of Finance Bill for the year 2015-16.

Finally, I would express my sincerest thanks and gratitude to your august office for sagacious guidance and direction provided through your prudent judgments on representations filed by the FBR or aggrieved taxpayers.

With profound regards,

Yours sincerely



Mr. Abdur Rauf Chaudhry
Federal Tax Ombudsman

Message from Federal Tax Ombudsman

The word 'maladministration' has a wide connotation. It includes decisions or processes that are contrary to laws, rules or regulations and acts of omission or commission that are perverse, arbitrary, unjust, oppressive, discriminatory or unreasonable. The FTO's office is deeply concerned about the sufferings of the taxpayers whether caused due to the excesses of the tax authorities or due to some systemic inadequacies. The FTO's investigation is triggered by a complaint lodged against the 'maladministration' of the federal tax collectors. For effective dispensation of justice in the area of 'maladministration' the FTO is adequately vested with the wide-ranging judicial and administrative powers including recommending disciplinary action, and awarding punishment for contempt etc. against delinquent tax collectors.

During the year 2015 the Federal Tax Ombudsman (FTO) Secretariat focused on an adroitly articulated agenda to improve service delivery. In this regards our efforts mainly remained focused on the following:

- a) Expeditious disposal of complaints; and
- b) Implementation of our findings by the FBR

With relentless efforts, the FTO's secretariat was able to dispose of more than 1,600 complaints during 2015 and average time taken for the disposal of a complaint remained 63 days. This remarkable achievement could not have been possible without utmost dedication and commitment of our team of Advisors and other staff. The senior management of the FBR also deserves credit for their overwhelming support and countenance.

Realizing, that most of the complaints of the tax-payers are presently emanating from major urban metropolis, we also focused on extending our outreach. For this purpose, we opened three new regional offices at Sukkur, Multan and Abbottabad. In addition, we embarked upon a series of meetings with the members of the Chambers of Commerce & Industry, Trade Bodies, Tax Bars and representatives of the business community. We hope that these endeavors will have a positive impact and result in increasing the number of tax-payers availing our services.

Abdur Rauf Chaudhry
Federal Tax Ombudsman

Foreword

In modern history, the first Ombudsman office was established by the Swedish King Charles XII who observed the merits of the institution during his exile to Turkey in 1713 A.D. as he was convinced to have a representative in Sweden to ensure that judges and civil servants acted in accordance with the laws. In Pakistan, the 1973 Constitution provided for establishing an office of Federal Ombudsman, and accordingly the institution was eventually created through the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 (President's Order No. 1 of 1983). The Ombudsman has been vested with vast powers to investigate, diagnose, redress and rectify complaints of the aggrieved public against the maladministration of the public servants.

Later on in view of the complexity and diversity involved in the disposal of public complaints about tax matters, the tax complaints were separated and entrusted in September 2000, to the Federal Tax Ombudsman Office. He is empowered, under the law, to entertain complaints against officials of Revenue Division / Federal Board of Revenue (FBR), investigate the maladministration pointed out by the aggrieved taxpayers and give suitable recommendations for dispensation of justice if the maladministration is proved. The FTO's Ordinance (2000) and Federal Ombudsman Institutional Reforms (FOIR) Act, 2013 confer the FTO with vast powers including administrative and financial autonomy as envisaged in the concept of separation of judiciary from the executive. The FTO is also empowered to adjudicate upon complaints registered under the Freedom of Information Ordinance, 2002. Our system ensures speedy and inexpensive justice to the aggrieved taxpayers by establishing a convenient, efficient and interactive complaint handling framework. Due to its outstanding performance in handling public complaints, the 'Transparency International' ranked it among the most respected national institutions and described it a role-model for other public sector organizations.

The Annual Report 2015 is published to meet the requirement of Section 28(1) of the FTO Ordinance, 2000. We expect our readers would send us useful feedback.





Contents

1	Historical Perspective	1
2	Mandate, Vision, Mission and Values	3
3	Highlights of the Performance-2015	5
4	Outreach and Capacity Building Initiatives	21
5	National and International Cooperation	35
6	Significant Recommendations Forwarded to the Government	45
7	Selected Findings & Recommendations	53
8	Public Feedback	83
9	How to File a Complaint	89
10	Sanctity of Tax & Our Founding Fathers	93
11	FTO's Team of Advisors	95

Hon'ble Federal Tax Ombudsman



Mr. Justice (R) Saleem Akhtar
(19-09-2000 to 18-09-2004)



Mr. Justice (R) Munir A. Sheikh
(08-12-2004 to 07-12-2008)



Dr. Muhammad Shoaib Suddle
(03-06-2009 to 10-07-2013)



Mr. Abdur Ruaf Chaudhry
(10-07-2013 - -----)



Historical Perspective

The concept of Ombudsmanship has its origin in Islamic History. The first such institution was established by the Second Caliph Hazrat Omar (RA) as Qadi-al-Qadat, and later this institution was replicated as Diwan-al-Mazalim and Mohtasib respectively by the Abbasids (750-847 AD) and the Ottoman Empire. During his exile in Ottoman Turkey, the Swedish King Charles XII was so enamored with the effectiveness of this institution in Turkey; he decided to introduce it in Sweden on his return. Thus the Institution of Ombudsman established in Sweden in 1809 became the role model to be flourished, evolved and adopted by more than a hundred countries by now.

2. As the tradition goes, the Ombudsman has been tasked in a number of countries to protect people against infringement of rights, abuse of power, error, negligence, unfair decisions and maladministration. Usually the Ombudsman can investigate complaints about administrative acts of government either on public petitions or 'suo moto'. As a consequence of investigation, if some improper administrative conduct is found, he can recommend the government for rectification. However, authority and role of the Ombudsman varied from time to time and country to country.

3. In Pakistan, the institution of Federal Ombudsman was established in 1983 under the 'Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983' (President Order No.1 of 1983). The tax maladministration being a specialized and multi-dimensional phenomenon was segregated from Federal Ombudsman Office and made exclusive domain of the Federal Tax Ombudsman, instituted under the Federal Tax Ombudsman Ordinance, 2000.

4. The Federal Tax Ombudsman is mandated, under the Ordinance to investigate, diagnose, redress and rectify any injustice done to a person through maladministration by the functionaries administering Federal Tax Laws. He is empowered under the law to entertain complaints against officials of Revenue Division / Federal Board of Revenue (FBR), investigate the maladministration pointed out by the aggrieved taxpayers and give suitable recommendations for dispensation of justice, if the maladministration is proved. The FTO Ordinance, 2000 and Federal Ombudsman Institutional Reforms (FOIR) Act 2013 vest the FTO with authority and administrative / financial autonomy to ensure his

independence for achieving the mandate entrusted to him.

5. The FTO's Office consists of Headquarter at Islamabad with Regional Offices located at Karachi, Lahore, Quetta, Peshawar, Faisalabad, Abbotabad, Multan and Sukkar. A team of expert Advisors assists the Ombudsman in investigation of the complaints and in ensuring speedy and inexpensive justice to the aggrieved taxpayers by establishing a convenient, efficient and interactive complaint handling framework. The FTO's Office is committed to fulfil the assurance provided by our state in Article 37 of the Constitution of the Islamic Republic of Pakistan that inexpensive and expeditious justice would be ensured to the citizens.



**Federal Tax Ombudsman with his Team
(Advisors' Conference February 2, 2015)**



We Believe & We Serve

Mandate

Under the law we are to

Investigate, diagnose, redress and rectify any injustice done to a person through maladministration by functionaries of Revenue Division FBR administering federal tax laws.

Vision

We envision to

Eliminate tax maladministration and helping taxpayers receive the highest level of service and respect.

Mission

We are committed to

Redress taxpayers' grievances by instituting accountability for tax maladministration.

We Value

- Accessibility
- Integrity
- Efficiency
- Transparency
- Objectivity



**Federal Tax Ombudsman presenting Annual Report, 2014
to the Honourable President of Pakistan**



Highlights of the Performance - 2015

Fresh Complaints

The FTO's Office received 1,509 fresh complaints during 2015 as compared to 1,624 in 2014; this number varied from 1,500 to 2,000 over the last few years except the year 2009 in which only 810 fresh complaints were received.

Disposal of Complaints

The FTO's office decided 1,610 complaints during 2015 out of which 1,224 were fresh complaints and 381 were carried over from 2014. Five (5) of the decided cases were FTO's 'own motion' cases.

Decisions in favour of Complainants

Out of 1,610 decided cases 1,127 or 70% were decided in favour of the taxpayers in 2015 as compared to 72% in 2014.

Complaints Rejected

The number of complaints rejected in 2015 remained low. In 2015, 330 or 20.5% complaints were rejected. The number of complaints rejected in 2014 was 305 or 19.7%; 235 or 12.7% during 2013; 183 or 11.5% during 2012; 195 or 13.9% in 2011; 242 or 16.8% in 2010 and 200 or 23.8% in 2009.

Complaints withdrawn

In 2015, 153 or 9.5% of the complaints were withdrawn during the hearing as compared to 135 or 8.7% in 2014 and 183 or 9.9% complaints withdrawn in 2013.

Decisions accepted by the FBR and Complainants

In 1,375 or 85.4% of the FTO's recommendations were straightaway accepted by the taxpayers and the FBR in 2015 as compared to 1,309 or 84.6% in 2014; 1,563 or 84.2% in 2013; 1,378 or 86.3% in 2012; 1,138 or 81.2% in 2011; 1,104 or 76.8% in 2010 and 655 or 77.8% in 2009.

Number of Representation

The FTO's recommendations in 235 or 14.6% cases were challenged during 2015 through review or representation mechanism as compared to 239 or 15.4% challenged during 2014; 293 or 16% during 2013; 219 or 13.7% during 2012; 264 or 18.8% during 2011; 333 or 23.2% in 2010 and 187 or 22.2% in 2009.

Amount refunded

A huge amount of Rs. 735 million was refunded to the aggrieved taxpayers on the basis of FTO's recommendations during 2015.

Average Disposal time for Complaints

Average time taken for disposal of a complaint remained 63 working days as compared to 53 days in 2014; 54 days in 2013; 48 days in 2012; 60 days in 2011; 67 days in 2010 and 117 days in 2009.

Implementation of Recommendations

The FTO's recommendations in 1,412 cases were implemented as compared to 1,374 cases implemented in 2014; 1,208 in 2013; 1,420 in 2012; 1,159 in 2011; 698 in 2010 and 321 in 2009.

Grievances redressed at investigation stage

The FBR redressed the grievances of 452 complainants at investigation stage as compared to 396 grievances redressed in 2014; 524 grievances redressed in 2013; 493 in 2012; 399 cases in 2011; 367 cases in 2010 and 151 in 2009.

Recommendations pending

At the end of year 2015, 821 recommendations were pending for implementation with the FBR and its field offices. These do not include cases where a Representation or a Review Petition has been filed by the FBR or the taxpayers.

Details of Performance - 2015

Disposal of Complaints

The FTO's Secretariat decided 1,610 cases in 2015 which included 1,509 fresh complaints received during 2015 and 383 complaints carried forward from the previous years. During this year, 1,892 complaints remained under investigation.

2. Out of the 1,610 decided complaints, decisions in 1,227 complaints were awarded in favour of the complainants. In other words 76% complaints were decided in favour of the taxpayers as compared to 1,108 or 71.58% in 2014; 1,438 or 77.48% in 2013; 88.54% in 2012; 86.09% in 2011; 83.16% in 2010 and 76.25% in 2009. The trend indicates that the Advisors have been more careful in investigating the complaints due to upgraded skill for distinguishing the genuine from the frivolous complaints.

3. Receipt and disposal of complaints, with category-wise breakup, during 2015 is reflected in Table-1 below:

TABLE-1

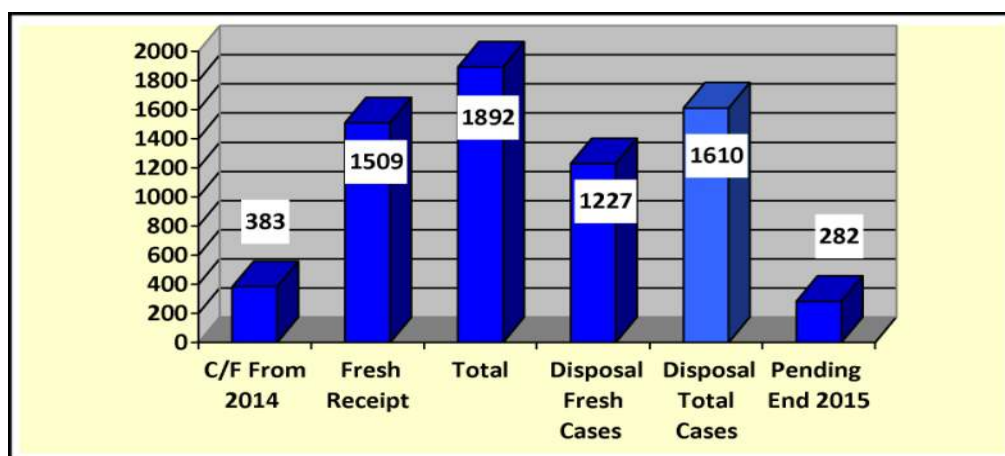
Receipt and Disposal of Complaints, with Category-wise Breakup, in 2015

Type of Tax	Carried forward from 2014	Fresh Receipt	Total	Disposal of Fresh Complaints	Disposal of Total Complaints	Pending End 2015
Income Tax	187	878	1065	739	926	139
Sales Tax	137	447	584	332	469	115
Customs	53	177	230	149	202	28
Federal Excise	4	1	5	1	5	-
Freedom of Information	-	3	3	3	3	-
Own motion	2	3	5	3	5	-
All	383	1509	1892	1227	1610	282

4. Graphic view of the receipt and disposal of complaints during 2015 is presented in the following figure to further elaborate the position given in Table-1.

FIGURE

Receipt and Disposal of Complaints in 2015



5. Category-wise number of fresh complaints received during 2015 and their percentage with respect to total complaints is shown in Table-2:

TABLE-2

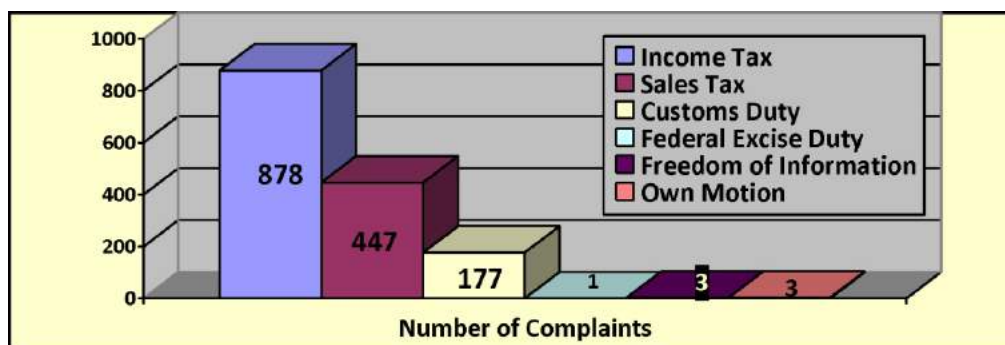
Category-wise Number and Percentage of Fresh Complaints in 2015

Category	Number of Complaints	Percentage (%)
Income Tax	878	58
Sales Tax	447	30
Customs Duty	177	12
Federal Excise Duty	1	0.07
Freedom of Information	3	0.20
Own Motion	3	0.20
Total	1509	100

6. Graphic view of category-wise number of fresh complaints (relative share) received during 2015 is shown in the following diagram.

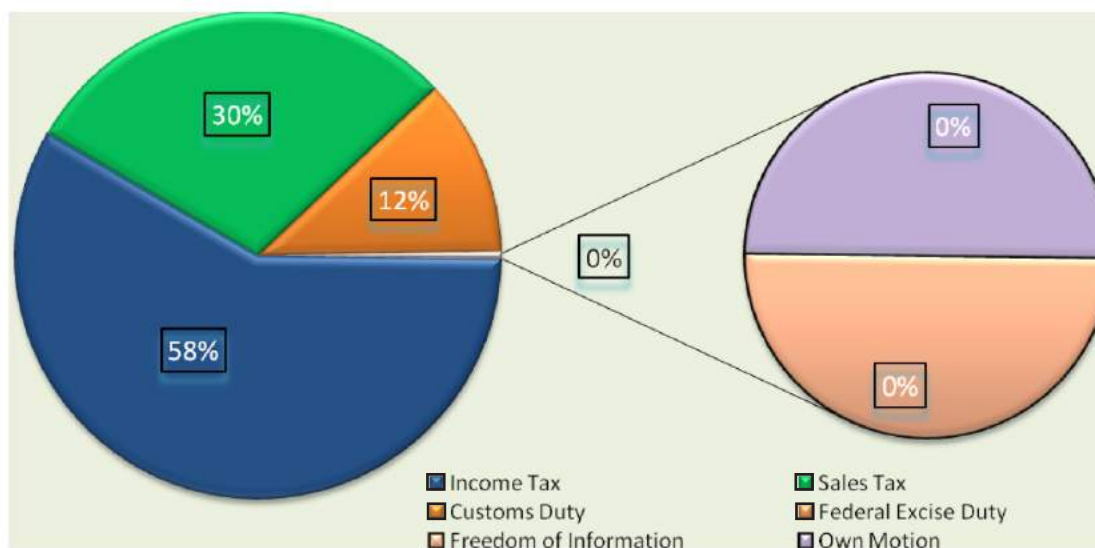
FIGURE

Category-wise receipt of complaints 2015



FIGURE

Category-wise Receipt of Complaints (% share) in 2015



7. Region-wise receipt and disposal of fresh complaints, received during 2015 is reflected in Table-3:

TABLE-3

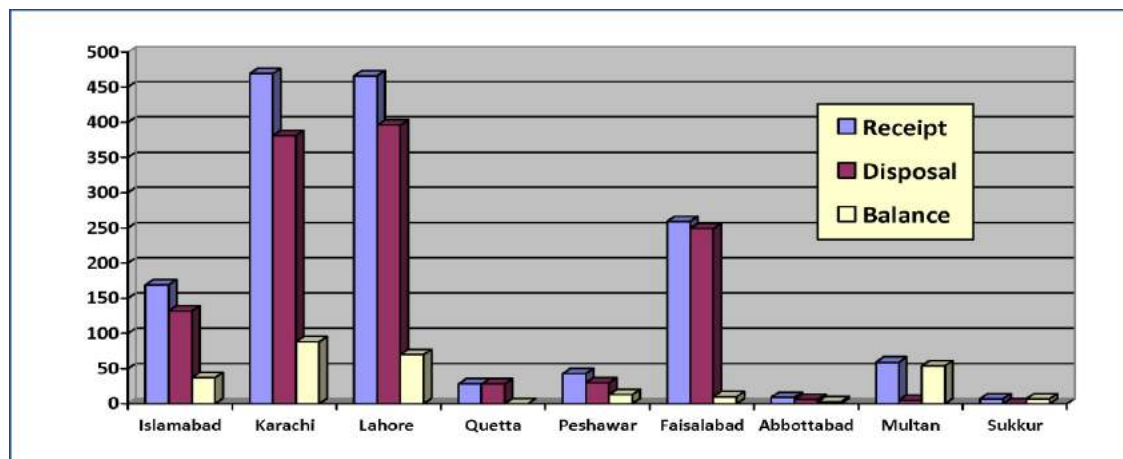
Region-wise Receipt and Disposal of Fresh Complaints in 2015

Region	Receipt	Disposal	Balance
Islamabad	169	132	37
Karachi	469	381	88
Lahore	466	396	70
Quetta	28	28	0
Peshawar	43	30	13
Faisalabad	259	249	10
Abbotabad	09	6	3
Multan	59	5	54
Sukkar	07	0	7
Total	1509	1227	282

8. Graphic view of Region-wise receipt and disposal of fresh complaints during 2015 is shown in the following Figure.

FIGURE

Region-wise Receipt and Disposal of Fresh Complaints During 2015



9. Office-wise monthly receipt of fresh complaints during 2015 is reflected in Table-4:

TABLE-4

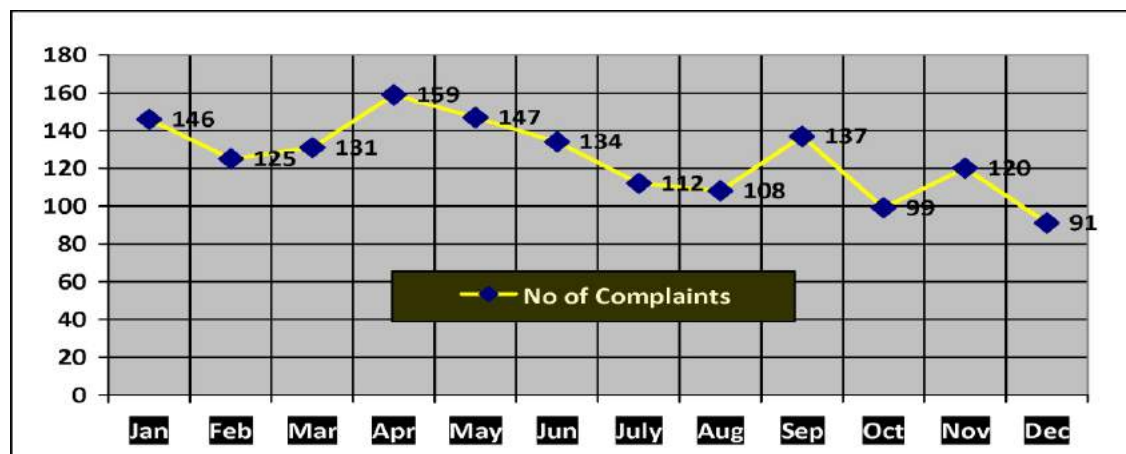
Office-wise Monthly Receipt of Complaints in 2015

FTO Office	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Total
HQ Islamabad	09	13	12	17	9	20	18	17	15	10	18	12	170
Karachi	42	40	33	53	47	41	37	32	30	48	41	25	469
Lahore	57	33	41	47	51	45	33	37	45	17	27	32	465
Quetta	11	2	8	2	0	1	1	1	1	0	1	0	28
Peshawar	2	0	6	1	2	2	2	4	7	7	1	9	43
Faisalabad	25	37	31	39	32	21	19	11	14	10	17	3	259
Abbottabad	0	0	0	0	0	1	1	0	1	1	4	1	19
Multan	0	0	0	0	6	3	1	1	23	6	11	8	59
Sukkur	0	0	0	0	0	0	0	5	1	0	0	1	7
Total	146	125	131	159	147	134	112	108	137	99	120	91	1509

10. The following graph further explains the trend of monthly receipt of complaints in 2015.

FIGURE

Monthly Receipt of Complaints in 2015



Acceptance Ratio of the FTO's Recommendations

11. Out of 1,610 cases decided during 2015, only 235 cases were challenged, mostly by the FBR, through representations under Section 32 of the FTO's Ordinance-2000 and Section 14 of the FOIR Act-2013, Review Petition under Section 14(8) of the FTO Ordinance-2000 and Section 13 of the FOIR Act-2013. The year-wise number of the FTO's decisions challenged is reflected in Table-5.

TABLE-5

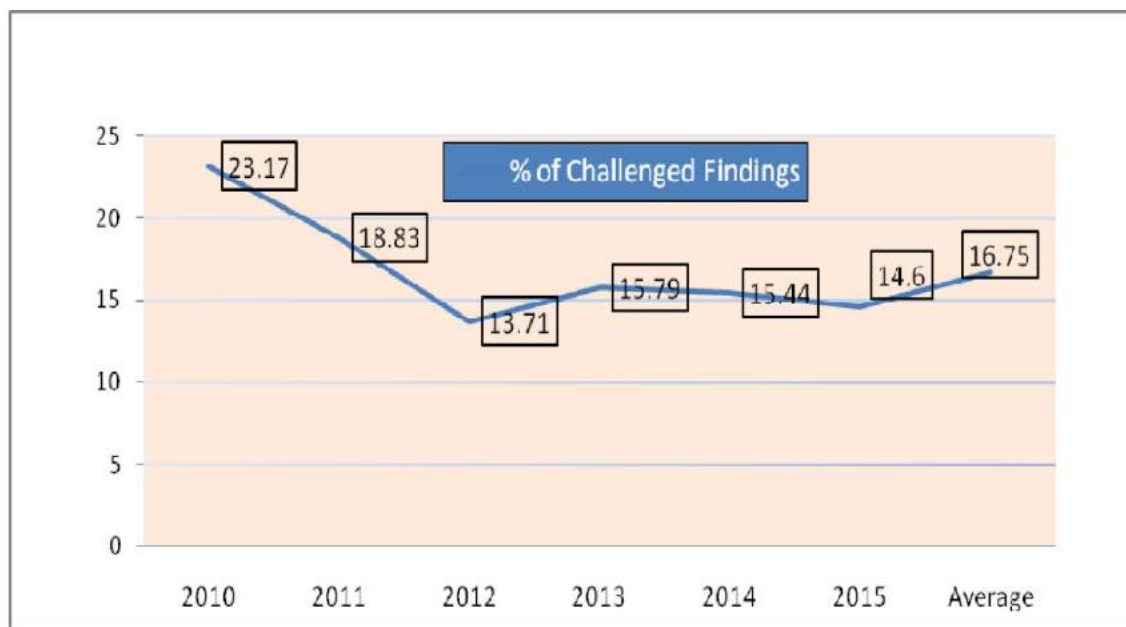
Year-wise Number of FTO Recommendations Challenged

Year	Total Findings	Number of Representations	Number of Review Petitions	Total	% of Challenged Findings
2010	1437	212	121	333	23.17
2011	1402	211	53	264	18.83
2012	1597	153	66	219	13.71
2013	1856	237	56	293	15.79
2014	1548	167	72	239	15.44
2015	1610	117	118	235	14.60
Total	9450	1097	486	1583	16.75

12. The following graph provides year wise percentage of findings challenged during 2010-2015.

Figure

Year-wise Percentage of Findings Challenged During 2010-2015



13. Table-5 and the above given Figure show that in the year 2015, 235 or 14.6% of the FTO's recommendations were challenged through Representations and Review Petitions as against the six years' average of 16.75%. The declining trend of challenging the recommendations as indicated in the above Table and the Figure, confirms taxpayers' growing confidence in the relief providing mechanism of the FTO which is inexpensive and expeditious.

14. It is satisfying to note that 1,375 or 85.4% decisions were straightaway accepted by the FBR and the taxpayers during 2015. The acceptance percentage of the FTO's decisions during the last 6 year is provided in Table 5-A:-

TABLE-5-A

Year-wise Percentage of Decisions Accepted

	2009	2010	2011	2012	2013	2014	2015
Acceptance %	77.79	76.82	81.86	86.29	84.21	84.56	85.4

Representations and Review Petitions

15. During 2015, 117 recommendations were challenged through representations before the Honourable President of Pakistan under Section 32 of the FTO's Ordinance, 2000 and Section 14 of FOIR Act 2013 and 118 recommendations were challenged in Review Petitions before the FTO under Section 14 (8) of the FTO's Ordinance read with Section 13 (1) of the FOIR Act 2013. Table-6 reflects the number and applicant wise break-up of representations and review petitions.

TABLE-6

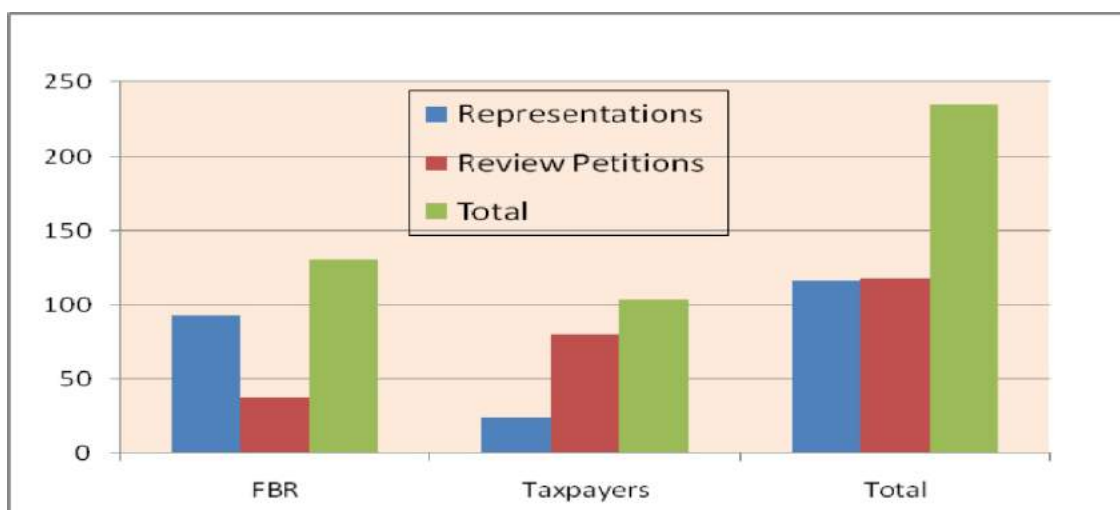
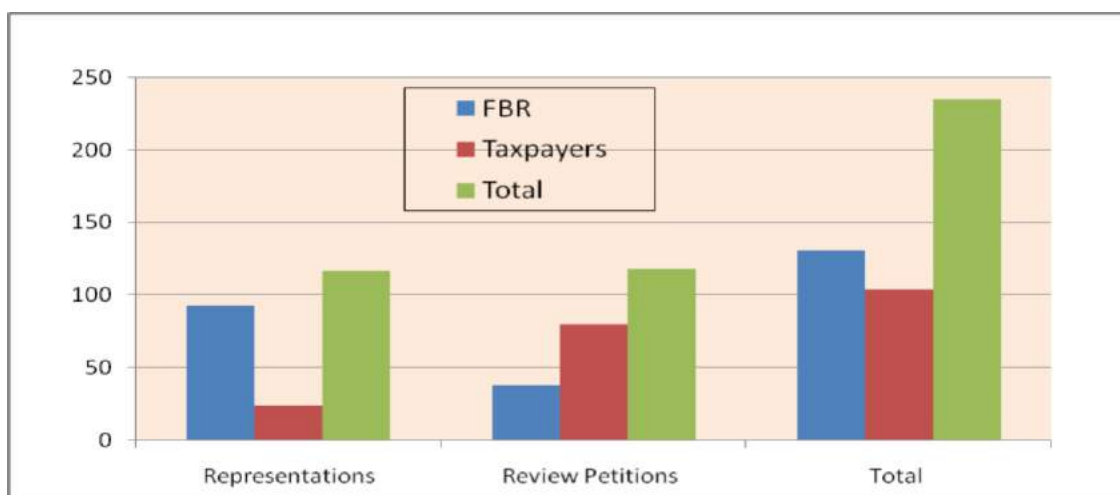
Applicant-wise Breakup of Representations and Review Petitions Filed in 2015

Applicant	Representations	Review Petitions	Total
FBR	93	38	131
Taxpayers	24	80	104
Total	117	118	235

16. Given below Figure A and Figure B further elaborate in graphic form, applicant-wise break-up of representations and review petitions filed in 2015.

Figure -A

Applicant-wise Break-up of Representations and Review Petitions Filed in 2015

**Figure -B**

Representations

17. Table-7 provides the summary of the representations decided in 2015:

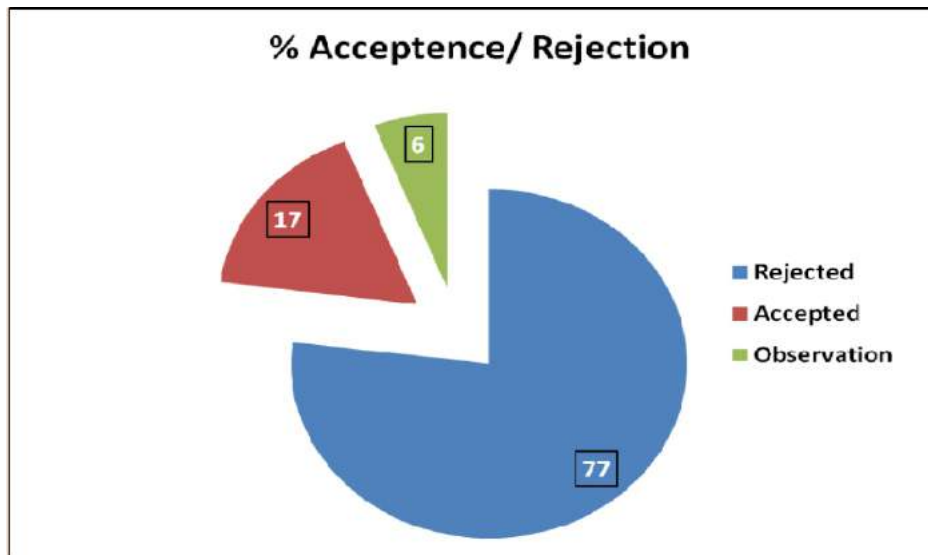
TABLE-7

Representations decided by the Honourable President in 2015

Representations made by	Rejected	Accepted	Observation	Total
FBR	92	23	7	122
Taxpayer	13	0	2	15
Total	105	23	9	137

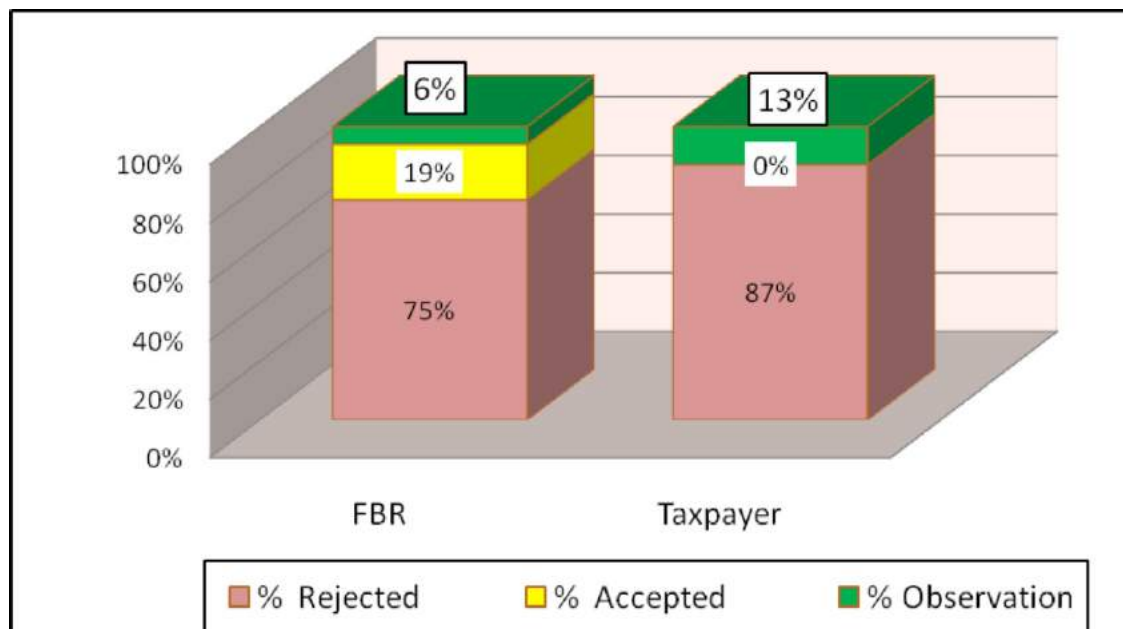
18. Given below Figure-A provides graphic view of percentage of acceptance and rejection of the representations during 2015. The rejection of 105 out of 137 representations means in 77% cases, the recommendations of the FTO were up held by the President of Pakistan.

Figure-A



19. The graphic view of stakeholder-wise percentage of acceptance and rejection of representations by the President of Pakistan during 2015 is given in Figure B. It provides a comparison of acceptance and rejection of representations made by the taxpayers vis a vis FBR. The percentage of rejection of the FBR's representations is lower than that of the taxpayers.

Figure-B



20. Table-8 below shows year-wise breakup of pending representations by the end of 2015

TABLE-8

Year	Representations Pending	Year	Representations Pending
2001	3	2009	3
2002	4	2010	10
2003	5	2011	6
2004	3	2012	6
2005	3	2013	7
2006	0	2014	161
2007	1	2015	55
2008	3	Total	270

Review Petitions

21. Apart from 117 representations submitted to the President, 118 review petitions were also received. Besides, 16 review petitions were carried forward from 2014. Out of 134 review petitions, 94 were decided during 2015 leaving a balance of 40 review petitions. Table-9 reflects receipt and disposal of review petitions.

TABLE-9

Receipt and Disposal of Review Petitions in 2015

Applicant	Received during 2015	Carried forward from 2014	Total	Disposal during 2015	Balance
FBR	38	9	47	35	12
Taxpayers	80	7	87	59	28
Total	118	16	134	94	40

22. Acceptance/Rejection ratio of Review Petitions during 2015 is reflected in Table-10:

TABLE-10

Applicant	Accepted	Rejected	Withdrawn	Modified	Total
FBR	9	23	0	3	35
Taxpayers	11	45	1	2	59
Total	20	68	1	5	94

23. Tables 6-10 show that most of the representations were filed by the FBR and review petitions by the taxpayers. As a substantial number of representations were rejected; it indicates that the representations were not based on merit.

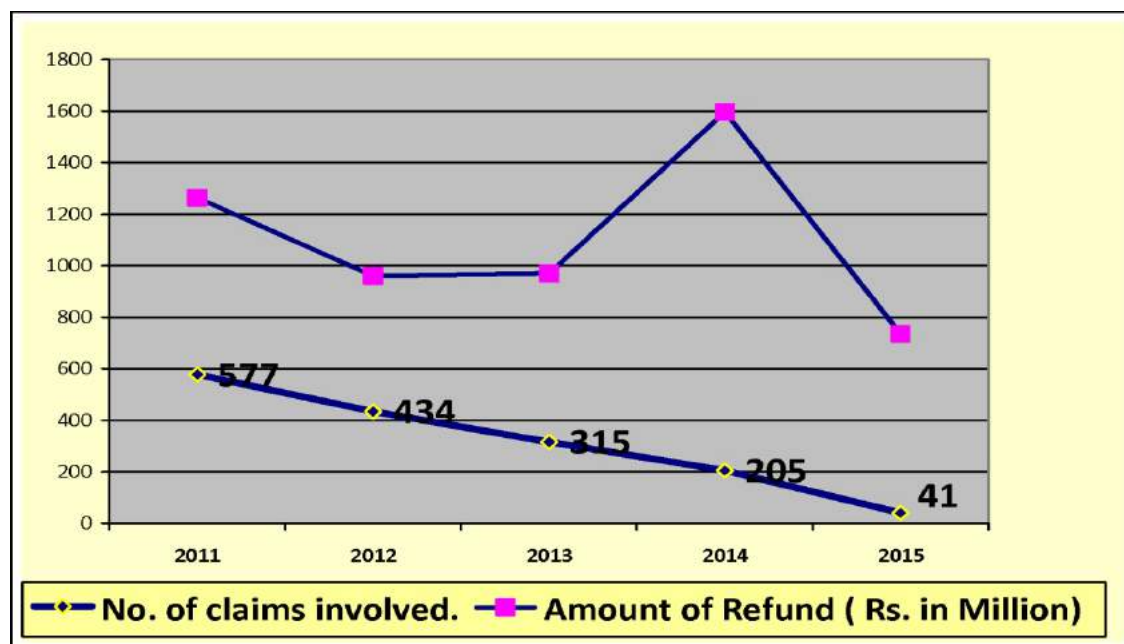
Refunds

24. The FTO's interventions are extremely helpful in expediting settlement of delayed refund cases which promote sense of accountability among the tax functionaries. During 2015, a staggering amount of Rs.734.80 million, involving 41 complaints, was paid to the aggrieved taxpayers due to the intervention of the FTO. Table-11 summarizes the year-wise refund position:

TABLE-11

	No. of claims involved	Amount of Refund (Rs. in Million)
2011	577	1263.04
2012	434	959.44
2013	315	969.85
2014	205	1596.74
2015	41	734.80

25. The following figure presents the graphic view of the Table-11. Both the curves, representing the amount of refund and the number of refund cases, depict a declining trend over the last five years.



Average Time Taken for Disposal of Complaints

26. Time taken for disposal of a complaint is counted from the date of filing of a complaint with the FTO's office. It includes the time taken:

- (i) By the FBR and its field offices in filing comments;
- (ii) By the complainant for filing a rejoinder;
- (iii) Referring the rejoinder to the FBR for further comments;
- (iv) Holding of hearings;
- (v) Drafting findings; and
- (vi) Approval of the recommendations.

27. The average time taken for investigation and disposal of complaints was 63 working days in 2015 as against 53 working days in 2014, 54 working days in 2013, 48 days in 2012; 60 days in 2011; 67 days in 2010 and 117 days in 2009. Table-12 reflects time taken per complaint for disposal in 2015. Out of 1,610 complaints, 966 or 60% were decided in 61 days. While 53 complaints took 15 days to decide; 474 took 32 days and 439 were finalized in 61 days. The FTO's Secretariat plans to under take research to find out the reasons attributable to taking 91 days in deciding remaining 644 or 40% complaints.

TABLE-12

Average Time Taken for Disposal of Complaints in 2015

Year	Up to 30 days	31 to 60 days	61 to 90 days	More than 90 days	Total
2015	53	425	337	412	1,227
2014	0	49	102	232	383
Total	53	474	439	644	1,610
Total Days	814	15,108	26,955	58,541	1,01,418
Average days per complaint	15.4	31.9	61.4	91.0	63

Implementations of Recommendations

28. During 2015, the recommendations of the FTO in 1,412 complaints were implemented by the FBR and its field offices as compared to 1,374 in 2014. Out of 1,412 recommendations implemented during 2015, grievances of the complainants were

redressed in 452 cases during the investigation stage as against 396 cases in 2014. Table-13 reflects year-wise implementation of FTO's findings and redress of grievances in complaints during the investigation phase:

TABLE-13

Year-wise Implementation of Recommendations

Year	Cases Implemented at Investigation Phase	Cases Implemented after FTO Decision	Total Cases Implemented
2009	151	170	321
2010	367	331	698
2011	399	760	1159
2012	493	927	1420
2013	524	684	1208
2014	396	978	1374
2015	452	960	1412

TABLE-14

Recommendations Pending for Implementation with FBR

Category	2014	2015
Carried over stock of decisions	809	993
Fresh implementable decisions added during the year.	1224	1127
Decisions/Representations/Review Petitions received during the year.	334	113
Total stock during the year (1+2+3)	2367	2233
Decisions implemented during 2015.	1374	1412
Stock of decisions pending on the end of the year.	993	821

TABLE-15

Year-wise Breakup of Recommendations Pending for Implementation with FBR

Year	2008	2009	2010	2011	2012	2013	2014	2015	Total
2015	1	16	39	23	76	132	214	320	821

29. In view of Article 37 of the Constitution of the Islamic Republic of Pakistan, expeditious redress of taxpayers' grievances is imperative. The whole process of investigation becomes meaningless if the FTO's recommendations are not promptly implemented to complete the cycle of justice. The responsibility of the FBR is immense in accomplishing this task. Therefore, the FBR needs to put in place a reliable system to ensure prompt implementation of the FTO's recommendations for expeditious redress of taxpayers' grievances.

30. The President of Pakistan vide his directive No.01 of 1990 issued on September 20, 1990 and the Prime Minister of Pakistan vide Order No.JS9PUB/Misc/14156/25035 issued on November 14, 1995 had directed all Federal Government agencies including the FBR to promptly implement Ombudsman's decisions and avoid misuse of the window of representations as a delaying tactic. Likewise, the Supreme Court of Pakistan has also strongly observed in judgment reported in 1999 SCMR 2,189 (Federation of Pakistan Vs M. Tariq Pirzada and others) as under:

"It would thus appear that it has been the departmental interpretation of the Federal Government itself that Recommendations of the Mohtasib ought to be implemented promptly. It is unfortunate that the agencies / public functionaries unnecessarily resort to Representations under article 32 of the order instead of expeditious implementation of the Recommendations of the Ombudsman and thereby thwart the ends of justice, aggravating the suffering of the complainants."





**Federal Tax Ombudsman Chairing Meeting of
Forum of Pakistan Ombudsman (March-2015)**



Outreach And Capacity Building Initiatives

i. Advocacy and Outreach Initiatives

The FTO's Secretariat adopted an integrated approach for strengthening the outreach, advocacy and awareness initiatives. Accordingly, an advocacy team comprising Chief Coordinator and Advisor (I&M) was constituted which co-opted an Advisor from the Regional Offices. This team was assigned to approach the trade bodies, business associations and individual businessmen of small and medium enterprises. In pursuance of this country-wide outreach program, the team held extensive meetings during 2015, with the following Chambers and trade bodies:-

i.	Chamber of Commerce and Industry, Peshawar:	01.01.2015
ii.	Chamber of Commerce and Industry, Mardan:	25.03.2015
iii.	Trade bodies and local Chamber, Abbotabad:	17.06.2015
iv.	Chamber of Commerce and Industry, Larkana:	02.09.2015
v.	Khairpur District Bar Council :	03.09.2015
vi.	Chamber of Commerce and Industry, D.I. Khan:	22.09.2015
vii.	Chamber of Commerce and Industry, Haripur:	03.11.2015
viii.	Chamber of Commerce and Industry, Sukkur:	01.12.2015

2. During the aforementioned meetings, the participants were addressed by the Chief Coordinator, who highlighted the historical perspective of the institution of Ombudsman. Formal presentations were given by the Advisor (I&M), explaining the salient features and legal framework of the office of FTO. These presentations generally covered the FTO's mandate, organizational setup, jurisdiction, procedure for redress of grievances, receipt and disposal of complaints, review petitions and representations etc., landmark investigations conducted and views of Transparency International.

3. These visits provided opportunities to listen to the grievances and proposals from the business community. The participants got appropriate guidance for resolution of their complaints and useful proposals and feedback was received by the FTO's Secretariat.

4. During his visit to Sukkur on December 1, 2015, the Hon'ble FTO addressed the members of local Chamber of Commerce & Industry and inaugurated the FTO's Regional

Office, Sukkur. The local business community hailed this step and commended the efforts of the FTO's Secretariat for resolving their issues.

5. In addition to the visits to various Chambers of Commerce & Industry, all Advisors (Incharge) were also directed to keep a close liaison with there counterparts in Income Tax and Customs Offices.

6. This out-reach programme would be continued during the current year as well.



**Hon'ble Federal Tax Ombudsman Inaugurating
the Regional Office Sukkur**

ii. Advisors' Conference

7. The FTO's Secretariat convened a Conference of Advisors at Islamabad on 2nd February, 2015 which was presided over by the Federal Tax Ombudsman. The main objective of arranging this conference was to get feedback from regional offices.

8. Welcoming the participants, the FTO appreciated the efforts made by the FTO's Secretariat for arranging the conference and expressed hope that such consultative meetings would become a regular feature. After the welcoming remarks, presentations were given by the Chief Coordinator, Advisor (Projects) and all regional heads.

9. The Chief Coordinator while highlighting the objectives of the Conference explained that the primary purpose of convening the Advisors' Conference was to bridge the

communication gap between the head office and the regional offices and gain full advantage from the collective wisdom of all the Advisors. He hoped that the triggered consultative process would help bring improvements in the overall working of the office and raise



standard of 'Findings' by assuring consistency and uniformity in the decisions and application of law by Investigation Officers. He apprised the participants about the restructuring of the FTO's Office that included separation of Complaint Handling and Administration, strengthening of Implementation and Monitoring Wing and introducing Quality Assurance Framework at Head Office.

10. Advisor (Projects) briefed the participants on several new improvements introduced in the FTO's 'Complaint Management System'. These include; (i) On line Centrally Controlled Complaint Registration; (ii) Digital Journal; (iii) Digital Library; and (iii) Video Conference Facility.

11. Senior Advisor (Appraisal) while giving presentation on 'Necessity of Streamlining Findings and Standardizing the Format' highlighted the salient features of the Standard Operating Procedures (SOP) being issued for this purpose. He advised the Investigation Officers to follow the SOP's in letter and spirit to ensure improvement in quality and consistency in the findings, which would enhance the credibility of the institution and its contribution towards good governance.

12. Advisor (Implementation & Monitoring), the Registrar, HQs and the Director General (Administration) also briefed the participants on their respective subjects.



13. Concluding the meeting, the FTO thanked all the participants. He showed satisfaction on overall performance and appreciated the efforts made by all concerned in successfully organizing the Conference.

iii. Advisory Committee Meeting

14. In exercise of powers conferred under Section 18 of the 'Establishment of Office of FTO Ordinance, 2000', the FTO re-constituted the 'Advisory Committee' to include several new members. The new committee is now consisted of 11 members. The first meeting of the Committee was held in the FTO's Secretariat, Islamabad on February 9, 2015. Welcoming the participants, the FTO paid tributes to the services of members of the former Advisory Committee.

15. The participants appreciated the efforts of the FTO's Secretariat in bringing improvement in the working of the office. The members of the new Advisory Committee congratulated the FTO on the Transparency International Pakistan's comments, which declared the FTO's office as the most clean and efficient organization and also declared it a role-model for all public sector organizations in Pakistan. The participants were also briefed on 'Legislation of Taxpayers Bill' as well as on implementation of recommendations made during 2003-2014.

16. It was observed that recommendations of former Advisory Committee had generally been implemented except the following:

- (i) Elimination of SRO culture.
- (ii) Independent Tax Adjudication.

17. In order to review overall implementation status of all previous recommendations and identify the ones deserving legislation through next Finance Bill, a three member sub-committee headed by Mr. Abdullah Yusuf, former Chairman FBR was constituted.

18. A meeting of the sub-committee of the FTO's Advisory Committee was held on 02.03.2015 in the FTO's Secretariat, Islamabad with Mr. Abdullah Yusuf in Chair.

19. The members of the sub-Committee identified following areas for framing recommendations for consideration by the Government:

(i) Unconstitutional Practice of SROs

As Article 77 of the Constitution states that 'tax shall be levied by or under Act of Parliament'. The practice of altering taxes through SROs was unauthorized. Following points were considered noteworthy with respect to unconstitutionality of SRO culture:



- (a) SROs originate through delegated authority of the Federal Government. Apparently there is no constitutional provision (Article 77 is referred) sanctioning this delegation. Charge of tax is on the basis of explicit legislative provision without recourse to implication, inference or intendment.
- (b) ITO, 2001 provides for ex-post facto parliamentary sanction of SROs which is inconsistent with pre-existing legislative authority prior to imposition of tax. SRO not being preceded by parliamentary processes is a *fait accompli* impinging on the roots of fiscal legislation.
- (c) SROs granting exemption/concessions stand parallel to second schedule of ITO 2001 which is substantive law, a status not conferred on SROs. SROs, therefore, in terms of legislative authority cannot be equated with second schedule which is as much a substantive law as the Ordinance itself.

(ii) **Arbitrary and Unjust Taxation**

- (a) Taxes with irrational rate structure which are unjust, unprogressive and burdensome to the disadvantaged/ underprivileged need to be identified and reviewed for appropriate measures.
- (b) Taxes apart from being arbitrary / unjust may be hard to collect involving elaborate collection mechanism, which has to be put in place necessitating large scale monitoring, the appropriateness of

which needs to be gone in to.

- (c) Viability of a tax has to be looked into in the perspective of revenue generating potential which may not be commensurate with expense/time involved in operationalizing tax machinery.

(iii) Integrated Information System

- (a) A nationally integrated information system providing for reliable data base, cross-verification, transmission etc has to be put in place being a prerequisite for a fully automated online tax system.
- (b) The automated system has to be geared up in such a way as to ultimately ensure full documentation.
- (c) Fully automated system has to ensure filing of return, processing, collection, refund etc.

(iv) Separation of Tax Policy, Collection and Adjudication

- (a) Tax Policy formulation/implementation could be the exclusive domain of Revenue Division.
- (b) FBR could exercise control over field formation for collection.
- (c) To ensure independence adjudication could be assigned to a Tax Tribunal to ensure autonomous functioning. Above three areas being exclusive domain of separate organs must have no constitutional/functional overlapping.

20. The Advisory Committee finalized following recommendations in its meeting held on 13.05.2015 and presented them to the Government for consideration:

- (a) Practice of issuing SROs for levy of taxes, enhancing or reducing tax rates, etc, without approval of the Parliament is not in line with Article 77 of the Constitution; therefore SROs to this effect may be issued only under essentially compelling public interest, authorized by the Economic Coordination Committee (ECC) and concurrently confirmed by the Parliament.
- (b) FBR needs to establish a Taxpayers Integrated Information System linked with CNIC as sole identifier. Every financial transaction may be linked with the proposed system. At the end of the year the electronic income tax statement may be sent to the individual taxpayer for perusal and payment.

- (c) Effective reformation of taxation system in Pakistan essentially requires adoption of globally accepted principle of separation of tax policy, collection of revenue and adjudication. For that:
 - (i) Revenue Division needs to be made functional as an independent and competent body;
 - (ii) The role of FBR may be restricted to revenue collection within the policy framework set by the Revenue Division; and
 - (iii) To ensure fair and effective judicial adjudication system, Commissioner of Appeals needs to be made independent. An independent National Tax Tribunal (NTT) may be constituted, under the Ministry of Law. NTT may also have provision for inter court appeals."

iv. Development Projects

21. The Project Wing of the Federal Tax Ombudsman's Secretariat is responsible for conceiving and implementing development projects. The following projects were implemented during 2014-15:

- A. Project Preparation Facility for Revenue Mobilization Project
- B. Ombudsman IDF: Institutional Capacity Building
- c. Enhancing Countrywide Outreach, Up-gradation and Computerization of Federal Tax Ombudsman Office

22. Progress achieved in all the three projects is summarized below:

A: Project Preparation Facility for Revenue Mobilization Project

This project was approved by the CDWP in 2012 with the cost of Rs.25,745,000/- which was provided by the World Bank as a grant. The main objectives of this project were to enhance accountability and transparency of tax administration including strengthening the office of Federal Tax Ombudsman. The project had the following components:-

- i) Capacity Building (Training to Middle and Senior Management);
- ii) Fee of Advisor for preparing report/recommendation to convert FTO's office to become a Centre of Excellence;
- iii) Study of international best practices, through study visits to two

- iv) offices of foreign country Ombudsmen; and
- Research for exploring synergy between FTO and FBR practices for effectively addressing cases of tax maladministration and implementation of FTO's recommendations.

23. Due to limited time, only one activity (Study on Exploring Synergy between FTO and FBR Practices) could be completed. The contract of this study was awarded on 23rd December, 2013. The final report of the study was presented by the Consultant and his team on 16th June, 2014.

Networking of Ombudsman in OIC Member States:

24. Funds were arranged from "PPF for RMP" and "Ombudsman IDF" projects for organizing a conference on 'Networking of Ombudsman in the OIC Member States' at Islamabad on 28-29 April, 2014. Thirty eight (38) OIC Members having Ombudsman and like institutions, of which eighteen (18) are recognized by the International Ombudsman Institute (IOI), were invited to attend the Conference. Seventy (70) delegates from twenty nine (29) Ombudsman and like institutions representing seventeen (17) OIC Members States attended the Conference. The representatives of Organization of Islamic Cooperation, International Ombudsman Institute, Asian Ombudsman Association, Islamic Development Bank, World Bank and Asian Development Bank also attended the Conference.

25. The main theme of the Conference was: "Strengthening the Institution of Ombudsman in OIC Member States by Sharing Knowledge, Experience and Ideas". The sub-themes of the Conference were "Embracing Change" and "Modernization, Cooperation and Synergy". As a follow-up of this Conference, a meeting of members of the Steering Committee was held at Islamabad on 28-29 April, 2015 to approve the Constitution, By-laws and Rules for the Association and its Secretariat. These were drafted in a two-day session of the Conference held at Islamabad and Bhurban.

B: Ombudsman IDF: Institutional Capacity Building

26. The Project was approved by the CDWP in March 2012 with a total cost of Rs.40.95 million provided by the World Bank as grant. The objectives of the project were to strengthen the performance of Ombudsman offices and ascertain improvements required for improving service delivery. The Project helped in identification of the useful interventions to enhance capacity, accountability and responsiveness of Ombudsman Offices.

27. The Project achieved the following important objectives:

a) Independent Service Monitoring Interventions

The Project assigned this consultancy to M/s (NCBMS) in February, 2014 for reviewing the internal and external monitoring mechanisms and their effectiveness of various Ombudsman offices. The Consultant firm submitted its final report in January, 2015 where it was recommended that:

- i) All the Ombudsmen Offices should be provided adequate budgetary resources to enhance awareness about their existence and complaint lodging process;
- ii) All complaints should be acknowledged promptly by the Ombudsman Offices;
- iii) All complaints, whether admitted or dismissed in limini, should be entered in the Complaint Registration System immediately upon receipt;
- iv) To improve the quality of Ombudsman service, adopting new technologies was the need of the modern time;
- v) Timeliness for investigation of complaints should be improved;
- vi) Record keeping of the proceedings should be improved; and
- vii) Travel costs of staff to other cities for conducting hearings should be reduced.

28. The copies of the Consultant's report were widely distributed among all the stakeholders. The Ombudsman offices are now trying to bring improvements in their working in the light of the recommendations.

b) Performance Improvement interventions in all Ombudsman Offices

29. This consultancy was awarded to M/s Ernst & Young Ford Rhodes Sidat Hyder (EY) on 6th May 2014. The Prime objective of this engagement was to identify the performance improvement interventions in Ombudsman offices. The final report of the consultant firm was received in January, 2015. The Consultants recommended the following Short , Medium and Long Term Action Plans:

i. Short Term Plans

- i) Develop hiring rules and Job Descriptions;
- ii) Fully adhere to the Federal Ombudsman Institutional Reforms Act 2013;

iii) Monitor and review complaints filed; and

iv) Document minutes of meetings/hearings.

ii. Medium Term Plans

i) Conduct Training Need Assessment (TNA) and then arrange relevant trainings;

ii) Launch awareness campaigns regarding the mandate of Ombudsman offices;

iii) Develop standard operating procedures in line with the applicable rules/laws; and

iv) Carry out recruitment on vacant positions.

iii. Long Term Plans

i) Complaint Management System should be automated, and

ii) A mechanism for regularly updating the Websites should be established

c) Citizen Report Card

30. Under 'Ombudsman IDF: Institutional Capacity Building project, the FTO's Secretariat engaged M/s NCBMS Consulting (Private) Limited on 12th August, 2015 to carry out the analytical exercise through Citizens Report Card (CRC) to evaluate the performance of the FTO and Wafaqi Mohtasib's offices from the users of their services (who lodged complaints with the FTO and Wafaqi Mohtasib) during the last three (3) years.

31. The main purpose of the CRC exercise was to determine the level of inputs required for improving the services. The suggested sample sizes and their proportionate break-ups was as under:

i)	Survey size:	FTO Secretariat	1,000
		Wafaqi Mohtasib Secretariat	3,000
ii)	Period:	Actual users during the last 3 years	
iii)	Area-wise Distribution:	Punjab 50%	Sindh 25%
		KPK 20%	Baluchistan 5%

32. The consultant conducted a preliminary study of approximately 1% of the total sample size of 1,000 respondents to finalize the survey instrument. Based on the initial results and the feedback, the questionnaire of the survey was adjusted. Similar exercise was carried out in the Wafaqi Mohtasib office.

33. After conducting the CRC study M/s NCBMS submitted the following findings/recommendations:

- i) Presently two major sources that constitute about 89% awareness about the FTO's office were 'friends/family' and 'legal professionals'. Therefore, other means of creating awareness required attention.
- ii) The number of Advisors dealing with the sales tax and income tax should be enhanced in order to reduce pendency.
- iii) About 51% of respondents pointed out the need for implementation of the recommendations within the stipulated timeframe. The FTO's office ought to put in place a simple mechanism of Audit/Feedback from and to the complainants to ensure implementation of the decisions in a timely manner.
- iv) The FTO's office should appoint officer grade staff at the Complaint Centres. The staff appointed should have sufficient knowledge and authority to take prompt decisions on the spot. Such staff should invariably be equipped with changes in laws, policies, rules & regulation and modern day techniques.
- v) The FTO's office should initiate a citizen awareness program to educate (through indoor bill boards/hoardings) citizens about its policies, processes and procedures so that they directly approach FTO confidently because 92% of the complainants approach the FTO through legal representatives. The efficiency of the agency/department needed improvement in order to remove negative experiences of the complainants. The FTO Secretariat needed to critically look into the cases where the time taken for disposal of complaints exceeded the stipulated six months.

d) Alternate Dispute Resolution

34. The Ombudsman IDF: Institutional Capacity Building project also sponsored a Research Study on 'Extending Outreach of Alternate Dispute Resolution (ADR) Mechanism through Advocacy' by hiring the services of a renowned Consultant in August, 2015. The main objective of the Study was to discover whether or not the ADR system practiced by the Federal Ombudsman could be further extended first to the divisional level and later to the district level. The consultative meetings at provincial levels strongly supported the proposal for extending the outreach of Federal Ombudsman at the grass-root level across the country. There was strong willingness of the Chief Secretaries of Khyber Pakhtunkhawa, Sindh and Punjab as well as the provincial Ombudsman of Punjab, Balochistan and Khyber Pakhtunkhawa to share their facilities with the Federal Ombudsman.

35. It was generally agreed that joint teams of Federal Ombudsman and Provincial

Ombudsman should move to District headquarters initially, and later to Sub-Divisional/ Tehsil levels on pre-planned and pre-advertised dates to conduct hearings and announce on-the-spot decisions, as per their jurisdiction and under their regulatory laws separately but under the same roof.

36. The 'Ombudsman IDF: Institutional Capacity Building Project' strengthened the capacity of the Ombudsman Offices by providing office equipment i.e. Computers, Fax Machines, Printers, Photocopiers including a video conference facility to the Federal Ombudsman office. Total cost of equipment was Rs.36.661 million and almost all the Ombudsman offices benefitted from World Bank's grant funding.

e) Awareness Campaign

37. For this component, the FTO's Secretariat hired the services of M/s M. Com, Advertising Agency for carrying out awareness campaign about the role and services provided by the Ombudsman offices. The awareness campaign was carried out through FM Radios and print media. Messer's M. Com prepared Radio awareness messages, arranged recording of the messages, identified FM Radios for broadcasting the messages, prepared broadcast plan, ensured broadcast at most appropriate indicated times, designed advertisements and for printing newspapers/periodicals, and designed and print brochures/pamphlets of FTO and other Ombudsman offices.

C: Enhancing Countrywide Outreach, Up-gradation and Computerization of Federal Tax Ombudsman Office

38. Several activities were carried out under this project during 2015. The project sponsored a Conference of the Advisors of Federal Tax Ombudsman's Head Office and Regional Offices on 2nd February 2015 in Islamabad.

39. The main objective of the Conference was to bridge the communication gap between the headquarters and the regional offices through gaining full advantage of the collective wisdom of all the Advisors. It was expected that the triggered consultative process would help in bringing in improvements in the overall working of the FTO offices in general and raise the standard of 'draft findings' in particular by introducing consistency, uniformity and homogeneous application of law and rules by the Investigation Officers.

40. During the Conference, Advisors gave valuable suggestions for improving the overall performance and overcoming the challenges and problems faced by them in terms of complaint handling. It was agreed in the Conference that:

- i. Regional heads should take initiatives to interact with Small Taxpayers through Trade Associations,
- ii. Three new Regional offices should be established at Multan, Abbottabad and Sukkur, and

- iii. Essential Staff should be posted in the Regional Offices immediately.
41. As a follow-up of the Advisor's Conference, three new Regional offices were established at Multan, Abbottabad and Sukkur during 2015.
42. The Projects Wing also initiated the work on the following three new initiatives:
- i. Prepared a new project PC-I with the title, 'Public Awareness & Advocacy About Dispute Resolution Mechanism of Federal Tax Ombudsman Office.'
 - a. The project was approved at a cost of Rs.59.40 million by the DDWP in its meeting held on November 18, 2015. The Administrative Approval of the project has been issued on December 1, 2015. The period of implementation of the project is thirty months (30) starting from 1st January, 2016 during current financial year.
 - b. The overall objective of the project is to raise awareness about the mandate of the FTO office created under FTO Ordinance 2000 which seeks to provide quick and inexpensive redress of taxpayers' grievances against maladministration. More specifically, the project envisages achieving the following objectives:
 - (i) Increase the number of complaints (about 1500) in the FTO's Offices by raising awareness among the targeted tax-payers about the role and relief providing mechanism.
 - (ii) Build the confidence of the prospective tax-payers to become part of the tax-net by removing their fears that once registered as tax-payer they would fall in the clutches of the dreadful tax-collectors. It would bridge information and trust deficit about the role of social contract between citizen and state and role of taxation, of the FTO's office and improve implementation of the decisions.
 - (iii) Inculcate tax-paying culture in order to create preponderant compliant taxpayers.
 - (iv) Carry out a 'Knowledge Attitude and Practice' (KAP) Survey as part of the project under consideration to arrive at benchmark/baseline level of awareness of the targeted tax-payers for fixing a realistic target of attaining increase in number of aggrieved and prospective tax-payers, and transferring the ownership of achieving the above objectives for converting the adamant behavior and non-

responsiveness of all relevant service providing stakeholders especially the FBR and its lower formations through mainstreaming and advocacy among, NGOs, Civil Society, Media persons, IEC strategy experts, Research Organizations, Educational Institutions and Federal Government Departments.

- c. The PD&R Division on December 31, 2015 agreed to provide an allocation of Rs.5.00 million (Rupees Five Million Only) for the project during current financial year 2015-16.
- ii. Construction of Official Residence for the FTO at Sector F-5/2, Islamabad.
 - a. The FTO's office was allotted a plot of land in the year 2011 by the Prime Minister for construction of his official residence in Sector F-5/2, Islamabad. The cost estimates for the construction of the house were prepared by the Pak. PWD in May 30, 2014. The matter could not proceed further as the cost of land (which was to be conveyed by the CDA) was also to be incorporated in the PC-I.
 - b. The Project Wing reactivated the project by obtaining cost of land from CDA and now the PC-I of the project is being updated.
- iii. Allotment of plot for construction of Office Building.
 - a. The FTO's office is presently housed in two separate rented buildings which are insufficient to cater for the existing office space requirements. Due to shortage of office space, there are no designated complaint hearing rooms which compromise confidentiality of proceedings. Very little space is available for the offices of advisors and staff and almost no space for support staff and support functions e.g. record room or store rooms etc. The scarcity of space is seriously impeding automation and reducing efficiency.
 - b. A summary for the Prime Minister for allotment of a plot of land measuring about 3,000 square yards for construction of office





National and International Cooperation

i) Forum of Pakistan Ombudsman

Establishment

The initiative of FTO to develop networking of Federal and Provincial Ombudsmen in Pakistan led to the establishment of "Forum of Pakistan Ombudsman" (FPO) on 15th April, 2011. The FPO has been registered under the Societies Act (Act XXI of 1860) on 4th June, 2011.

Service Delivery

2. Aforementioned nation-wide networking of Ombudsmen is providing a useful permanent platform to the Ombudsmen of Pakistan and AJK to design a common development agenda for capacity building of their offices for improved service delivery.

Services

3. The following service package has been designed for the FPO:
- (i) Research pertaining to Ombudsman institutions;
 - (ii) Training and educational programmes for capacity building;
 - (iii) Collection and sharing of relevant information and experiences; and
 - (iv) Planning, arranging and supervising periodic conferences.

World Bank Assistance

4. World Bank intervention was solicited which spelled out following development objectives with a view to strengthening the FPO through:
- (i) Better handling of complaints;
 - (ii) Increasing the number of citizens benefiting;
 - (iii) Faster processing; and
 - (iv) Greater citizen satisfaction.
5. Above objectives were achieved by:
- (i) Improving business processes of Ombudsman offices;
 - (ii) Increasing awareness among citizens about Ombudsman offices;
 - (iii) Enhancing capacity; and
 - (iv) Implementing a citizen feedback mechanism to measure citizens' satisfaction.

6. The World Bank's implementation strategy to realize above development goals consisted of:

- (i) Strengthening the FPO's Secretariat;
- (ii) Identifying (needs assessment study) and implementing performance improvement interventions;
- (iii) Establishing independent service monitoring mechanisms (beneficiaries' feedback survey) and arranging related assistance;
- (iv) Capacity building programs that included conferences, training and international best practice exposure visits; and
- (v) Increasing citizens' awareness/communication and outreach (magazine launch and an international conference).

Highlights of the outcomes

7. Highlights of the outcomes of World Bank's interventions to strengthen the FPO platform were as follows:

- (i) The FPO's secretariat has been strengthened through hiring of new staff and holding of regular meetings;
- (ii) Needs Assessment Study was conducted in all offices and urgently needed equipment and training were provided to the selected offices;
- (iii) Independent service monitoring mechanism was established;
- (iv) Quarterly Newsletter for communication and outreach was regularly published; and
- (v) Capacity building program was initiated resulting in organizing several workshops and international conferences.

Achievements

8. Following are the outstanding achievements of the FPO:

- (i) Standardization of terms/conditions of the Federal Ombudsmen;
- (ii) Holding training workshops for collective capacity building;
- (iii) Organizing conference on "Networking of Ombudsman offices in OIC Member States" in 2014 in Islamabad;
- (iv) Establishment of OIC Ombudsman Association;
- (v) Holding meeting of the Steering Committee of OIC Ombudsman Association in 2015 in Islamabad; and
- (vi) Launching of the FPO Newsletter and website.

ii OIC Ombudsman Association (OICOA)

9. OIC Ombudsman Association (OICOA) owes its existence to a Resolution of Council of Foreign Ministers of OIC member countries passed in its 39th session held in the Republic of Djibouti (15-17 November, 2012) whereby it was decided to establish Networking of Ombudsman offices in the OIC member countries. Pursuant to the above resolution, first conference of the Ombudsman or like institutions of OIC countries was held on 28-29 April 2014 at Islamabad in which 'Islamabad Resolution' was adopted to establish OICOA. The conference also nominated a Steering Committee headed by the Honourable FTO to prepare bye-laws for the OICOA. The OIC Secretariat swiftly completed the bye-laws and dispatched them to each member of the Steering Committee for their input.

10. After receiving the input from the members, the Steering Committee met on 28-29 April, 2015 at Islamabad for approving the bye-laws. Brief details of the proceedings of the meeting are given below:-

Opening Remarks by the Chairman

11. Welcoming members of the Steering Committee, the honourable FTO and the Chairman Steering Committee observed that "The event marks achievement of an important milestone of the historic initiative started last year for the promotion and strengthening of the Ombudsman Institution in the Islamic World which, in fact, had been the pride of the Islamic Civilization."

First Session of the Meeting

12. Each Article of the drafted bye-laws, introduced by Secretary OICOA was deliberated upon. The queries raised by Ombudsman of Sudan regarding appropriate nomenclature for bye-laws was unanimously resolved by calling them as 'Statutes'. It was also agreed unanimously that the Association shall be described as Association of Ombudsman and Mediators of OIC Member States (AOMOIC).

Second Session

13. Second session of the meeting was convened at Pearl Continental, Bhurban on 28-29 April, 2015. The statutes read out by the Secretary OICOA were deliberated upon by the members and where ever required amendments were incorporated in the draft.

Third Session

14. During the third session after detailed discussions the delegates approved the

statutes and passed a resolution to place these Statutes before the General Assembly in its next session for its formal ratification and adoption.

Resolution No.1 of 2015

on the draft bye-laws for the proposed Organization of Islamic Conference Ombudsman Association

The Steering Committee of organization of Islamic Conference in session at Islamabad, Pakistan on the 28-29th April, 2015 (9-10, Jumaada Al-Thawny, Rajab 1436 (A.H.).

Pursuant to the Islamabad Declaration of 29th April 2014 adopted by the OIC General Assembly convened to find ways and means to implement Resolution No.4/39-IRG dated 17th November 2012 tabled by the Foreign Minister of Pakistan, at the 39th session of the OIC Foreign Minister's Conference, at Djibouti, Republic of Djibouti,

Cognizant of the text of Declaration No.8 of the said Islamabad Declaration,

Resolute in the determination to adhere to the 1 year deadline stipulated therein,

Mindful of the pressing need to facilitate good governance in the OIC;

We, the members of the Steering Committee of the OICOA referred to in the cited Islamabad Declaration, having considered the draft bye-laws drawn up to provide statutory cover for the proposed association,

Hereby Resolve

To place the duly considered bye-laws before the General Assembly of the OIC in its next session for their formal ratification and adoption.





Concluding Remarks of the Chairman

15. The Chairman, Steering Committee concluded the session by observing that it was a matter of great honour that the delegates with painstaking attention to details, consistent hard work and high spirit of zeal/dedication had unanimously agreed to adopt an amended version of the draft OICOA bye-laws. He further observed that it was only a matter of time that the bye-laws would be placed before the OICOA General Assembly for formal ratification and adoption, following which OICOA could get into business. The Chairman finally expressed his gratitude and thanked all participants generally and members of the Steering Committee particularly for their enlightened and positive spirit in shown in adopting the bye-laws.

Media Briefing

16. The Steering Committee delegates held a meeting with the journalists in Serena Hotel, Islamabad on 29th April, 2015, wherein the FTO briefed them about the background for the creation of the OICOA and the objective for holding the Steering Committee meeting.

OICOA Delegates called on Hon'ble President of the Islamic Republic of Pakistan

17. The OICOA delegates called upon Mr. Mamnoon Hussain, Honourable President of the Islamic Republic of Pakistan on 29th April, 2015 at President House. Welcoming the visiting delegates, the President



called for strengthening the institution of Ombudsman in the OIC member states by promoting and sharing expertise, best practices in complaint handling skills, speedy dispensation of public grievances and capacity building. He highlighted the importance of the Ombudsman as an institution for dispensation of justice through a speedy and inexpensive process. The Hon'ble President mentioned that Pakistan enjoyed unique distinction of being the first country in South Asian region to establish not only general purpose Wafaqi Mohtasib but also took lead in establishing single mandate Ombudsman offices in the areas of taxation, banking, insurance and protection of women against harassment at workplace. He praised the establishment of OICOA for promoting Ombudsman Institution in the Islamic World.

Celebration of the 1st Anniversary of OICOA

18. The OICOA was established on 29th April, 2014, therefore, on completion of the 1st year of establishment of the OIC Ombudsmen Association on 29th April, 2015, the delegates of the Steering Committee celebrated its 1st Anniversary at Bhurban, Murree and prayed for the long lasting and active cooperation among the member states for the development of OICOA.

iii Asian Ombudsman Association

19. The 14th Asian Ombudsman Association Conference was held on 24-25th November, 2015 at Serena Hotel, Islamabad. The theme of the Conference was "Challenges of Ombudsmanship". The Conference was attended by more than 74 delegates from 23 countries.

20. The Conference was inaugurated by Mr. Mamnoon Hussain, Hon'ble President of the Islamic Republic of Pakistan at the President Secretariat. The Hon'ble President observed that the institution of Ombudsman was not new to our culture. This concept was present since long in our society and had appeared in many ways, but it took a



codified shape and form only recently. The Hon'ble Chief Guest further observed that the conference should provide a good opportunity to address the challenges for redressing of public complaints.

21. Hon'ble Mr. Sartaj Aziz, Advisor to the Prime Minister on Foreign Affairs while addressing the delegates observed that challenges of Ombudsmanship were not only multifaceted but also kept on varying in form and complexity requiring frequent exchange of current views and developments in their context, and for taking new initiatives through a meaningful consultative process.

22. Mr. M Salman Faruqi, Hon'ble Federal Ombudsman of Pakistan while addressing the delegates observed that it was indeed a great opportunity for us all to share our experiences for the purpose of identification of the new challenges to the Ombudsmanship and for making suggestions to meet those challenges. His Excellency Professor Siracha Vongsarayankura, outgoing President, AOA and Chief Ombudsman of Thailand stated, "It is my firm belief that the Conference under the theme: 'Challenges of Ombudsmanship' will provide another important opportunity for all of us to learn and share valuable experience and expertise as well as deliver vast benefits and useful materials for all Ombudsmen in order to develop their institutions."

23. Chairing the opening session, Mr. Abdur Rauf Chaudhry as the Federal Tax Ombudsman and President of the Forum of Pakistan Ombudsman highlighted three initiatives for promotion of Ombudsman institution in the Asian region. "Firstly the Bye-Laws of the AOA should allow the right of full membership to every country having an institution fulfilling the required conditions; therefore, every country may be admitted as full member with voting right instead of giving some interim status like Associate Member which is not in line with the Bye/Laws. Secondly we should find some way to promote the institution of Ombudsman in the countries of the Asia region where this institution does not exist with its generally accepted standards. Thirdly, when a vacancy/post falls vacant on the Board of Directors (BOD), instead of waiting for the next General Assembly meeting, it should be filled immediately by processing it through electronic means on the pattern of International Ombudsman Institute."

24. The Federal Tax Ombudsman further observed that several Independent Surveys have ranked Ombudsman Institution in Pakistan as "the most efficient, responsive and clean institution" in the country. It is now popularly considered as a "poor man's court" because it provides free of cost and speedy justice by finalizing the complaints within 60

days without charging any fee, etc. Hon'ble Chief Justice of Pakistan while addressing the delegates as chief guest in the concluding session of the Conference observed that the Ombudsman was a critical interface between the state and the citizen that created an enabling environment for citizens to assert their rights and claim their entitlements with respect to the public sector, which essentially means access to basic goods and services guaranteed or promised by the state.

25. The general consensus in the Conference was to actively pursue creation of the positions of Ombudsman or Ombudsman-like institutions in every Asian country, arrange more frequent meetings of Board of Directors and General Assembly and organize training courses to promote exchange of information and best practices.

iv International Ombudsman Institute (IOI)

26. A regional meeting of the IOI Asian region was held on 25th November 2015 at Islamabad, Pakistan. Mr. Salman Faruqi, Hon'ble Federal Ombudsman of Pakistan chaired the meeting as president of the Asian region. Earlier the IOI Board of Directors held its annual meeting in Windhoek, Namibia from 21-23 September 2015. The Office of IOI President and Namibia Ombudsman John R. Walters hosted this event and welcomed the members of the Board in Namibia.



v Third International Symposium on Ombudsman Institutions in Ankara, Turkey

27. The Office of Chief Ombudsman of Turkey, organized "Third International Symposium on Ombudsman Institutions" in Ankara, Turkey on 16 -17 September, 2015. Mr. Recep Tayyip Erdogan, President of the Republic of Turkey addressed the inaugural session. Mr. Abdur Rauf Chaudhry, Hon'ble



Federal Tax Ombudsman represented Pakistan in the Symposium. The main objective of the symposium was to establish a platform to promote good practices for effective functioning of the Ombudsmanship in line with international standards. The experiences of different countries were shared and concrete recommendations were made for the effectiveness of Ombudsman Institutions. During the Conference, the FTO called upon the Chief Ombudsman, Turkey to apprise him on the developments so far made viz-a-viz the OICOA, and discuss matters relating to the next General Assembly meeting likely to be held in 2016 in Turkey. He also apprized the Turkish Ombudsman on the working of various Ombudsman Institutions in Pakistan and mutual cooperation extended by these institutions under the umbrella of the Forum of Pakistan Ombudsman.



vi Meeting of the Presidents of the Regional & International Networks of Institutional Mediation Institutions

28. In order to develop a legal framework suitable for implementation of "Marrakech Declaration on Institutional Mediation" issued on conclusion of the meeting of the "Second World Human Rights Forum" held on 27- 28 November, 2014 in Rabat, Marrakech, a commission was set-up headed by Mr. Abdelaziz Benzakour, Mediator of the Kingdom of Morocco. As a follow up, on the invitation of the Mediator of the Kingdom of Morocco, a meeting of the Presidents of the Regional and International Networks of the Mediation Institutions was held on 6 - 7 July, 2015 in Rabat, Morocco. The meeting was attended by Mr. Faiq Mohammed, President Arab Ombudsman Association; Prof. Siracha

Vongsarayankura, President, Asian Ombudsman Association; Ms. Raymonde Saint-Germain, President, Association of Ombudsman and Medators of La Francophonie; Dr. Joseph Said Pullicino, Treasurer, Association of Mediterranean Ombudsman (AOM); Ms. Lucia Franchini, Member, Executive Board, European Ombudsman Institute; Mr. John Walters, President International Ombudsman Institute and Mr. Abdul Khaliq Secretary, Organization of Islamic Cooperation Ombudsman Association.

29. At the conclusion of the meeting a final report agreeing on the followings points was issued:

- ◆ Establish a multilingual International Center for Training and Exchange of Experiences and Expertise;
- ◆ Support further research studies in the field of Ombudsmanship for the benefit of the Institution of Mediation and Ombudsman;
- ◆ Resolve to act together to promote the active and extremely positive role of the institutional mediation in protecting and promoting the Human Rights; and
- ◆ Obtain recognition and endeavor for admission of the international association planned to be established in the United Nations, as well as in the UN specialized Human Rights agencies and advisory bodies.





Significant Recommendations Forwarded to the Government

1 Recommendations for Improving of Taxation System

On the basis of the feedback received from the complainants, comments from the business community, recommendations prepared by the Advisory Committees, etc. a set of recommendations was framed by the FTO's Office in the following areas and forwarded to the Government for consideration in the Finance Bill for the year 2015-16.

(i) Unconstitutional Practice of SROs

2. As per Article 77 of the Constitution 'tax shall be levied by or under Act of Parliament'. Following points were considered noteworthy with respect to unconstitutionality of SRO culture:

- (a) SROs originate through delegated authority of the Federal Government, apparently there is no constitutional provision (Article 77 is referred) sanctioning this delegation. Charge of tax is on the basis of explicit legislative provision without recourse to implication, inference or intendment.
- (b) ITO, 2001 provides for post facto parliamentary sanction of SROs which is inconsistent with pre-existing legislative authority prior to imposition of tax. SRO not being preceded by parliamentary processes is a fait accompli impinging on the roots of fiscal legislation.
- (c) SROs granting exemption/concessions stand parallel to second schedule of ITO 2001 which is substantive law, a status not conferred on SROs. SROs, therefore, in terms of legislative authority cannot be equated with second schedule which is as much a substantive law as the Ordinance itself.

3. In view of above it was recommended that the practice of issuing SROs for levying of taxes, enhancing or reducing tax rates, etc, without approval of the Parliament was not in line with Article 77 of the Constitution; therefore SROs to this effect might be issued only under essentially compelling public interest, authorized by the ECC and concurrently confirmed by the Parliament.

(ii) Integrated Information System

4. Following points could be focused:

- (a) A nationally integrated information system providing for reliable cross verified data base has to be put in place being a prerequisite for a fully automated online tax system.
- (b) Above automated system has to be geared up in such a way as to ultimately ensure full documentation.
- (c) Fully automated system should ensure filing of return, processing, of taxes, collection, refund etc.
- (d) The FBR should establish a Taxpayers Integrated Information System linked with CNIC as sole identifier. Every financial transaction should be linked with the proposed system. At the end of the year the electronic income tax statement should be sent to the individual taxpayer for acceptance and payment.

(iii) Separation of Tax Policy, Collection and Adjudication

5. Following points were forwarded for consideration:

- (a) Tax Policy formulation/implementation should be the exclusive domain of Revenue Division.
- (b) FBR should exercise effective control over field formations for collection of taxes.
- (c) To ensure independent adjudication Tax Tribunals should be assigned functional autonomy.

Above three areas being exclusive domain of separate organs, they should not have constitutional/functional overlapping. Therefore, effective reformation of taxation system in Pakistan essentially required adoption of globally accepted principle of separation of tax policy, collection of revenue and adjudication.

6. In order to achieve the above objectives, it was recommended to the Government that:

- (i) Revenue Division be made functional as an independent and competent body;

- (ii) The role of FBR be restricted to revenue collection within the policy framework set by the Revenue Division; and
- (iii) To ensure fair and effective judicial adjudication system, Commissioner of Appeals be made independent. An independent National Tax Tribunal (NTT) may be constituted, under the Ministry of Law. The NTT may also have provision for inter court appeals.”

2 Advocacy and Outreach Initiatives

7. In order to extend its outreach and create awareness an integrated approach was designed by the FTO Secretariat during the last year. Accordingly a team of experienced Advisors was constituted and tasked to address the trade bodies and business associations of small and medium entrepreneurs and businessmen. In pursuance of this strategy the team held extensive meetings, during 2015.

8. These visits provide and opportunity to listen to the grievances and proposals from the business community. The participants got appropriate guidance for resolution of their complaints. Useful proposals were conveyed to the respective authorities for consideration.

9. To ensure easy and inexpensive access to the aggrieved taxpayers for resolution of their complaints, the FTO Office added four new Regional Offices during 2015.

3 Improved Service Delivery

10. The FTO Office introduced several initiatives to improve 'Service Delivery' with the objectives to make its complaint handling mechanism more effective, convenient to the complainant and inexpensive.

- i Periodical Advisors' Conference to share experiences, expertise and close the communication gap between the head office and the regional offices;
- ii Restructuring of the FTO Office that included separation of Complaint Handling and Administration, strengthening of Implementation and Monitoring Wing and introducing Quality Assurance Framework at Head Office;
- iii Following systems were introduced:
 - (i) Comprehensive Complaint Management System; and

- (ii) On line Centrally Controlled Complaint Registration.
- iv Digital Journal;
- v Digital Library; and
- vi Video Conference Facility, etc.

4 Redress of Systemic Issues

1) Income Tax Return Forms

11. Computerization of Income Tax Forms and assessment system has been a hot subject for discussion and experimentation for the last two decades. However, even today online system of submission of Income Tax/Sales Tax returns, issuance of notices and issuance of refunds appeared to be a complicated job. Previously, the FBR was not exercising proper/control over PRAL which was given the task of computerizing the Tax System. Some breakthrough has been made during the last two years but the taxpayers are still facing difficulties in utilizing the I.T system. This issue has been frequently brought to the notice of the Hon'ble FTO by the taxpayers as a systemic issue. In various decisions including Suo Moto actions, the FBR has been directed to streamline the system and also adopt measures to allow the taxpayers to submit returns and other documents manually alongside utilizing IT system, till IT Software is developed to the optimal level.

2) Issuance of Refund

12. The major systemic issue frequently brought to the notice of the Hon'ble FTO has been regarding non issuance of lawful amount of refunds in various cases of taxpayers on account of tax paid or withheld in excess of tax liability. Such refunds remain blocked on one pretext or the other by the departmental officers violating the provisions of law. On the contrary, wherever tax liability is created, the tax demand is recovered instantly through coercive measures and at times penalties are also imposed. In case of Sales Tax refunds, where even Refund Payment Orders (RPOs) are issued by the field officers after lengthy and tiring process, the refunds are blocked in the CSTRO, FBR on the pretext of queue system, which is inviolation of provisions of law. Through a Suo Moto action by the Hon'ble FTO, the FBR has been specifically directed to establish CSTROs in every RTO/LTU to facilitate the taxpayers for issuance of refunds in accordance with the provisions of law. In Income Tax and Sales Tax Cases, directions have been issued frequently to settle the refund claims within time limit as prescribed by law.

3) Selection of Returns for Audit

13. Section 214C of the Income Tax Ordinance 2001 (the Ordinance) provides that FBR would select the cases of persons or classes of persons for audit through random computer balloting. The Hon'ble FTO has viewed this provision of law as contrary to the FBR's authority. The selection of cases and assessment of cases basically pertains to the field formations and not to the FBR which is a policy making and monitoring organization. Moreover, majority of cases selected through random balloting (almost about 80%) have been found to be of small/petty taxpayers and exempt business source, thus defeating the very purpose of audit/scrutiny of deserving taxpayers. It has been suggested to the FBR to propose amendment in law empowering only the Commissioner to select a case for audit on merit and with proper justification.

4) Unlawful Flawed Statutory Provisions

14. The provision of assessment u/s 122C of the Income Tax Ordinance does not provide a taxpayer the remedy of appeal u/s 127 of the Ordinance and assessment completed under this section attains finality. This provision is against the principle of justice and Fundamental Rights. Through various decisions by the Hon'ble FTO, the FBR has been asked to propose amendment for correcting this anomaly in the statute. Likewise, deduction of withholding tax on commission receipts and on petty amounts received by the some persons during the whole financial year has been found unjust and contrary to legal exemption of minimum threshold limit, which is allowed to every taxpayer. Instances have come to the notices of Hon'ble FTO that in case of insurance agents and other commission agents where the whole amount of commission received during the whole year was between 20,000 and 400,000, tax was not only deducted on very petty amounts but it was not refundable being covered under FTR. In other words, a petty bread earner, who has no other source of income, has been taxed against the provisions of law and Constitution. The FBR has been directed through various decisions to correct this anomaly through amendment in the legal provisions.

5) Cases Decided in the Interest of Revenue

15. Not only relief is allowed to the taxpayer by redressing their grievance but also the Hon'ble FTO has taken notice of gross evasion of tax on account of negligence/incompetence of FBR's functionaries. In two separate 'Own Motion' cases, the Hon'ble FTO conducted thorough investigation and held that there was apprehension of

revenue loss of more than Rs.180 billion by incorrect application of law and unlawful issuance of Circular No.6 of 2009 by FBR. This issue was consistently followed by the FTO Secretariat and as a result Clause 79 of the Second Schedule of the Income Tax Ordinance, inserted unlawfully, was deleted by the Parliament through Finance Act 2015. The decision of this important issue has saved revenue of more than Rs. 180 billion in tax years 2010 to 2015 which is substantial contribution by this office.

16. Likewise, the Hon'ble FTO has taken notice of verification of receipts and tax payment of Network Mobile Companies and after extensive investigation, it was held in a decision that there was no proper system for ascertaining true figure of receipts in payment of tax of the Network Mobile Companies. The FBR was directed to devise an automated system so as to plug all the leakages of revenue in these cases. As a result of this decision the FBR has decided to conduct forensic audit of Network Mobile Companies. The provincial revenue authority appreciated the decisions of the Hon'ble FTO as they were also made part of investigation proceedings.

17. In the case of non resident company, the Hon'ble FTO found that the concerned officers of FBR had violated express provisions of law regarding assessment and determination of tax. After lengthy investigation and discussion with the concerned parties, the FBR had agreed to seek clarification from the Ministry of Law and Justice. The Ministry of Law and Justice endorsed the view point of the Hon'ble FTO, but still the FBR was dilly-dallying and ultimately the issue was sent to the ECC by the FBR. Thereafter, relevant provisions of Income Tax Ordinance creating confusion in the matter were removed in the relevant law by adding clarification through Finance Act, 2014. This long pending issue got settled through intervention by the Hon'ble FTO.

5 Redress of Difficulties Faced by the General Public while Depositing Withholding Tax during Annual Renewal of Registration of Vehicles

18. Various complaints were received by this office alleging that taxpayers were facing difficulties in the post offices while depositing withholding tax during annual renewal of registration of vehicles. It was alleged that even regular taxpayers were treated as non-filers and additional tax was being charged from them, as there was no mechanism to prove that they were on Active Taxpayers List (ATL) of the FBR, as regular filers of income tax return.

19. During an 'Own Motion' hearing fixed on 27.07.2015, the representatives of the FBR admitted that taxpayers were facing difficulties in depositing withholding tax in the post offices. The representatives of the Pakistan Post complained that in the absence of proper mechanism for evidence regarding filers and non-filers, post office authorities had to ask the taxpayers to deposit the amount of tax applicable for non-filers.

20. During the proceedings, the representative from PRAL informed that an automated system had been developed, whereby any taxpayer, who filed return of income, would get Active Taxpayers List (ATL) activated through SMS. In order to inform the taxpayers, advertisements were being published in the national dailies after regular intervals. It was further informed that the FBR had decided to accept manually filed returns as well. The Postmaster General appreciated the measures adopted by the FBR and requested that toll free access of such SMS should be allowed to the Post Office authorities as well as to the taxpayers for prompt verification of filers. The FBR functionaries were directed to get the date of depositing withholding tax in post offices extended up to August 31, 2015, to facilitate the taxpayers for verification of filers through ATL system. They were also directed to create awareness among the public through wide publicity in the press and electronic media so that the taxpayers may enable themselves avail the facility of knowing their status as active taxpayers/filers.

21. The Revenue Division accordingly reported the following implementation measures on September 4, 2015:-

- ◆ 'An SMS service has been started to facilitate the taxpayers for verification of their status of being filers or non filers by just typing "ATL space 13 digit CNIC" from his mobile phone and sending it to 9966. Moreover, advertisements have been published in the national dailies in accordance with the directions of the Honourable FTO.
- ◆ 'The ATL is published on FBR's website weekly (every Sunday-midnight) to facilitate the taxpayers.
- ◆ 'The date of depositing of token tax along with withholding tax u/s 234 of the Income Tax Ordinance, 2001 was extended up to 31.08.2015 to facilitate the taxpayers.
- ◆ 'All the relevant Provincial tax authorities were directed to take similar measures.'

6. International Cooperation

Networking of Ombudsman in OIC Member States

22. Funds were arranged from "PPF for RMP" and "Ombudsman IDF" projects for organizing a Conference on 'Networking of Ombudsman in the OIC Member States' at Islamabad on 28-29 April, 2014. Thirty eight (38) OIC Members having Ombudsman and like institutions, of which eighteen (18) are recognized by the International Ombudsman Institute (IOI), were invited to attend the Conference. Seventy (70) delegates from twenty nine (29) Ombudsman and like institutions representing seventeen (17) OIC Members States attended the Conference. The representatives of Organization of Islamic Cooperation, International Ombudsman Institute, Asian Ombudsman Association, Islamic Development Bank, World Bank and Asian Development Bank also attended the Conference.

23. The main theme of the Conference was: "Strengthening the Institution of Ombudsman in OIC Member States by Sharing Knowledge, Experience and Ideas". The sub-themes of the Conference were "Embracing Change;" and "Modernization, Cooperation and Synergy".

24. As a follow-up of this Conference, a meeting of the members of Steering Committee was held at Islamabad on 28-29 April, 2015 to approve the Constitution, By-laws and Rules for the Association and its Secretariat. These were drafted in a two-day session of the Conference held at Islamabad and Bhurban, Murree.





Selected Findings & Recommendations (A Qualitative Reflection)

The office of the Federal Tax Ombudsman provides relief to the aggrieved taxpayers through its recommendations. Some of these recommendations have multiplier effect triggering relief to thousands of taxpayers. The excerpts of a few important findings given in 2015 are reproduced here under which may provide guidance to the FBR in improving its system and help the complainants to understand the taxation regulations more appropriately.

Income Tax

Assessment in the case of a non-resident can only be made on his representative

(Complaint No.27/LHR/IT/(19)/83/2015)

This complaint was filed u/s 10(1) of FTO Ordinance, 2000 against the provisional assessment u/s 112C of the Income Tax Ordinance, 2001 (the Ordinance) dated 20.06.2014 for Tax Year 2009.

2. Briefly stated, the Complainant purchased a plot vide deed No.4524 dated 22.06.2009 for a consideration of Rs.750,000/-. Statutory notices for filing return u/s 114(4) and wealth statement u/s 116(1) issued on 17.01.2014 were served through UPC for compliance within 10 days, but no response was made. Thereafter, show cause notice u/s 122C(1) and 111(1)(b) was served through TCS/registered post for compliance by 12.05.2014, but none attended the assessment was finalized on 20.06.2014 at an income of Rs.780,000/- and tax at Rs.117,000/-.

3. According to the Complainant, provisional assessment was patently illegal because the Complainant a non-resident individual was permanently residing in France. Whereas, the impugned assessment was made without appointment of his representative in Pakistan in terms of Section 172(3) of the Ordinance. Further, the Complainant's date of birth is 23.02.1992 as per CNIC. He was, therefore, 'minor' on the date of purchase of property on 22.06.2009. Moreover, the investment in property was made by his father through his uncle Mr. Walayat Khan residing in Pakistan and not by the Complainant

himself. Given the proper opportunity, the Complainant's father can explain the source of investment and can produce documentary evidence in support thereof. According to the Complainant, no other adequate remedy was available to him, hence this complaint.

4. The complaint was referred for comments to the Secretary, Revenue Division, Islamabad in terms of Section 10(4) of the FTO Ordinance. In response, FBR vide letter dated 18.02.2015 forwarded comments dated 16.02.2015 of Chief Commissioner IR, RTO Sialkot. The Deptt contended that assessment was finalized after issuing notice and a reminder, but no compliance was made within the due date and so the assessment was finalized on merits as per facts and circumstances of the case on the basis of available information.

5. Both the parties heard, record perused and arguments considered. The contention of the Complainant appeared to be convincing. The perusal of passport and CNIC revealed that the Complainant was a French national. Under the circumstances, it was obligation of the Deptt to conduct independent inquiry to verify as to whether he was present in Pakistan for a period of, or periods amounting in aggregate to, 183 days or more in Tax Year 2009 and covered in the definition of a 'resident individual' u/s 82 of the Ordinance. This was not done. As the Complainant claimed the status of a non-resident in the relevant year, the assessment should have been made on his representative in accordance with sub-section (3)&(5) of Section 172 of the Ordinance. According to sub-section (3), where a person is a non-resident person, the representative of the person for the purposes of this Ordinance for a Tax Year shall be any person in Pakistan;

- (a) who is employed, or on behalf, the non-resident;
- (b) who has any business connection with non-resident person (in this clause the expression "business connection" includes transfer of an asset or business in Pakistan by a non-resident);
- (c) from or through whom the non-resident person is in receipt of any income where directly or indirectly;
- (d) who holds, or controls, the receipt or disposal of any money belongings to the non-resident person;
- (e) who is the trustee or non-resident person;
- (f) who is declared by Commissioner by an order in writing to be the representative of the non-resident person.

Whereas, under sub-section (5) no person can be declared as the representative of non-resident person unless the person has been given an opportunity by the

Commissioner of being heard. On the contrary, assessment in the instant case was framed without considering the aforementioned provisions of law and moreover, the validity of service of statutory notices could not be established from the record.

6. As the assessment was made without conducting independent inquiry, confirming the residential status of the Complainant, without proper service of notices and following legal course, FBR was directed to review the provisional assessment by invoking the provisions of Section 122A of the Ordinance after providing opportunity of hearing to the Complainant, within 21 days.

**Concession of reduced tax deduction @ 1% is applicable
to only those taxpayers who are registered in sales tax**

(Complaint No.86/LHR/IT/(66)/231/2015)

This complaint was filed u/s 10(1) of FTO Ordinance, 2000 against the delay in issuance of refund amounting to Rs.43,926/- for Tax Year 2013.

2. The Complainant who derives income from supplies of artificial leather footwear, e-filed refund application on 06.08.2014, followed by reminder dated 04.12.2014 but refund was not processed as per provisions of law.

3. The complaint was referred for comments to the Secretary, Revenue Division, Islamabad in terms of Section 10(4) of the FTO Ordinance. In response, Commissioner, Zone-VI, RTO Lahore submitted comments dated 11.03.2015 and acknowledged e-filing of statement of final taxation/return and refund application within the due date. Further submitted that the principal company/deducting agent deducted tax at source u/s 153(1)(a) of the Ordinance on supplies of artificial leather footwear whereas, the Complainant claimed reduced rate of tax deduction as per clause 45(A) of Part-IV of the 2nd Schedule to the Ordinance. The said clause provides that rate of deduction of withholding taxes under clause (a)&(b) of sub-section (1) of Section 153 shall be 1% on local sales, supplies and services provided or rendered to the taxpayer falling in the category of textile and article thereof, carpet, leather and article of artificial leather, surgical goods and sports goods. However, this rate applies to the cases of sellers, suppliers, and service providers of the above mentioned category of sales tax zero rated taxpayers who are registered in sales tax regime or who get themselves registered by 30.06.2011. Since the Complainant was neither registered nor got himself registered by 30.06.2011, therefore, was not entitled to the concession of tax deduction @ 1%. Refund claimed on this account was therefore not due to the Complainant. As regards tax deducted on cash withdrawal u/s 231-A and on telephone u/s 236 of the

Ordinance, the Complainant has not yet provided evidence and so the refund could not be processed.

4. The DR reiterated written comments. According to him, there was no maladministration involved in the case. However, he could not provide any justification for not deciding the refund application within time limit and also could not explain as to why deficiencies if any, were not communicated to the Complainant immediately on receipt of refund application.

5. On the contrary, the AR contended that certificates of tax deduction, particulars of bank account and telephone were provided and declared in Annex-B of the return. The Deptt should have required the banks and telephone companies to verify tax deduction by invoking the provisions of Section 176 of the Ordinance. This has not been done. Further contended that the Complainant was not required to be registered under the Sales Tax as his turnover was below Rs.5.00 million and so the condition in proviso to clause (45A) of Part-II of the 2nd Schedule to the Ordinance was not applicable in the case.

6. Both the parties heard, record perused and arguments considered. The contention of the Deptt with regard to deduction of tax @ 1% appears to be convincing. The concession of 1% was available only to those taxpayers who were registered in the sales tax and not to those outside the regime. However, it was obligation of the Deptt to decide the issue as per law. This was not done and so the Complainant's application remained pending for adjudication. Even, no letters were issued to the Telephone companies and banks for verification and no other deficiencies communicated to the Complainant so far. As such, FBR was directed to ascertain the admissibility of refund and dispose of claim as per law after affording opportunity of hearing to the Complainant within 21 days.

Delay in disposal of appeal effect order within the time limit prescribed in law is tantamount to maladministration

(Complaint No.57/LHR/IT/(43)/142/2015)

This complaint was filed u/s 10(1) of FTO Ordinance, 2000 against the delay in issuance of appeal effect order for Tax Year 2010 and refund of Rs.1,392,563/- due in consequence thereof.

2. According to the Complainant, provisional assessment u/s 122C of the Income Tax Ordinance, 2001 (the Ordinance) for Tax Year 2010 was made on 12.03.2012. Aggrieved, the Complainant filed appeal before Commissioner IR (Appeals-III), Lahore who vide

order No.21 dated 23.10.2014 annulled the provisional assessment. In the meanwhile, the Deptt recovered tax demand of Rs.1,392,563/- through bank attachment. Though, the Deptt passed appeal effect order u/s 124/129 on 20.11.2014, but credit of tax collected was not allowed. The Complainant vide application dated 02.12.2014 applied for rectification of the mistake, followed by reminder dated 26.12.2014, but to no avail, hence this complaint.

3. The complaint was referred for comments to the Secretary, Revenue Division, Islamabad in terms of Section 10(4) of the FTO Ordinance. In response, the FBR vide letter No.4(142)TO-1/2015 dated 10.03.2015 forwarded comments of the Chief Commissioner IR, RTO Lahore. The Deptt submitted that the Complainant purchased House No.184-BB, Phase-V, DHA, Lahore for a consideration of Rs.5,021,250/- and Suzuki Bolan vehicle No.FE-10-8544 for Rs.549,000/- during the period relevant to Tax Year 2010. Compliance to the notice for filing of return and wealth statement u/s 114(4) and 116 was not made, therefore, provisional assessment made and tax recovered. However, assessment was annulled by the Commissioner (Appeals-III), Lahore on 23.10.2014, but inadvertently credit of tax could not be accounted for in appeal effect order dated 20.11.2014.

4. With the intervention of this office, Complainant's application dated 02.12.2014 was disposed of and appeal effect given allowing tax credit at Rs.1,392,563/- vide order u/s 124/122C dated 11.03.2015. After adjustment of the tax due, refund was determined at Rs.1,346,016/- and a proposal for approval of the refund sent to the Commissioner vide ACIR's letter No.404/4 dated 16.03.2015.

The assessing and supervisory officers' lapses tantamount to maladministration

(Own Motion No.01/2014 by the Federal Tax)

Maladministration has an inclusive definition under the Establishment of Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) and u/s 2(3)(vii) of the FTO Ordinance, professional incompetence of FBR functionaries falls in this category. One such glaring case came to the notice of the FTO in which an Inland Revenue Audit Officer (IRAO) thought it fit to make an addition of Rs.81.684.612/- in the total income of a taxpayer assessed by him u/s 122(1)/122(5) of the Income Tax Ordinance, 2001 (the Ordinance) for Tax Year 2010 as his concealed income invoking the provisions of section 111(1)(b) of the Ordinance. The taxpayer contested the addition before the Commissioner (Appeals) who found it to be untenable in law and recorded a verdict in

favour of the taxpayer, deleting the addition. The Dept challenged that decision before the Appellate Tribunal which not only upheld the order passed by the CIR (Appeals) but passed a stricture against the assessing officer's professional incompetence. Additionally, it found the assessing officer's action to be 'malafide' insofar as he appeared to be motivated by a desire to cause financial harm to the taxpayer by saddling him with a huge financial liability when there was no objective basis for such action. The Dept did not accept the Tribunal's verdict in the matter and filed a reference against the Tribunal's judgment before the Lahore High Court but the High Court found the questions framed were either not valid questions of law or did not arise from the order passed by the ATIR and the reference was disposed of accordingly. The Dept did not contest the High Court's decision and the Judgment of the Tribunal thus attained finality.

2. The Federal Tax Ombudsman took suo-moto, 'Own Motion,' cognizance of the assessing officer's arbitrary, capricious, whimsical and seemingly vindictive actions when his attention was drawn to the fate of the assessment order passed by the IRAO. On confrontation, the Dept could offer no defense for the failure of the assessment to stand the test of appeal. Instead, it mounted a purely technical challenge to the FTO's jurisdiction to take up the case for investigation. The Dept contended that the person who had brought the matter to the notice of the FTO was not an 'aggrieved' person as he was not personally affected by the assessment made by IRAO. Further, it held that the provisions of section 9(2)(b) of the FTO Ordinance were statedly attracted as assessment of income was involved and resultantly the FTO's jurisdiction was ousted. Finally, the Dept claimed that its functionaries enjoyed immunity from prosecution u/s 227 of the Income Tax Ordinance, 2001 (the Ordinance) so far as their official discharge of duties were concerned and were therefore not answerable before the FTO for their actions involving assessment of income.

3. The Dept's objections were considered by the FTO and found to be misconceived. He observed that the FTO was empowered u/s 9(1) of the FTO Ordinance to take up a matter for investigation, either on his own volition or on the pointation of a third party, even when no formal complaint had been filed by an 'aggrieved person' u/s 10(1) of the FTO Ordinance. He further held that assessment per se was not the core issue in this case. Rather, maladministration resulting from the crass professional incompetence of an assessing officer was the real issue, as evident from the adverse appellate adjudication on an assessment order passed by him. The Dept's 'immunity' claim was also invalid as the assessment did not appear to have been made in 'good faith.'

4. In addition to the assessing officer's incompetence the FTO also took notice of the

supervisory officers lapses. He observed that they were responsible for overseeing the work done by assessing officers and bore a heavy responsibility for failing to take cognizance of the adverse comments recorded by appellate authorities on the assessment order passed by the IRAO that had failed miserably to meet the test of appeal.

5. The FTO recorded the following Findings/Recommendations:

Findings:

6. The assessing and supervisory officers' lapses, referred to supra, tantamount to maladministration as defined in section 2(3) of the FTO Ordinance.

Recommendations:

7. FBR to ensure that:

- (i) the IRAO attends and successfully completes a course of compulsory training in Income Tax Law and Accounts at DOT(IR). His retention in service and payment of Additional Allowance to be made contingent to appropriate certification of professional competence by the training institution;
- (ii) appropriate observations are recorded in the PERs of the IRAO and his supervisory officers, i.e. the CIR and the CCIR;
- (iii) senior officers in field formations exercise regular supervisory oversight of work done by the sub-ordinate assessing officers and take prompt cognizance of all whimsical and arbitrary actions; and
- (iv) report compliance for No.(i), within 45 days and for Nos.(ii) & (iii) within 30 days.

Conduct enquiry to determine how, why and by whom defective NTN certificate was issued in Complainant's name

(Complaint No.66/2015)

It is hard to imagine that P.R.A.L (Pakistan Revenue Automation Ltd), a specialized, wholly owned subsidiary of the Federal board of Revenue (FBR) charged with overseeing all Information Technology initiatives in the organization, could possibly be involved in dubious activities like unauthorized CNIC access, unilateral issuance of NTN (National Tax Number) and amended NTN after forging signatures on an application form that records wrong particulars pertaining to a citizen's bank a/c's, email addresses and

telephone no's and attempted, contrived issuance of STRN (Sales Tax Registration No.). Yet that is precisely what has been alleged in a complaint filed by a young professional person based in Lahore, a graduate of LUMS who on taking up a job at Lahore enquired about obtaining an NTN. He was shocked to discover that he had already been allotted an NTN. Not only that, he also found that he had not only been allotted an NTN, but that a change in the particulars originally recorded on the NTN certificate had also been made. This was done on the strength of an application purportedly filed by him showing his association with a fictitious entity by the name, "Al-Khawan Enterprizes" in a city (Faisalabad) he had never been to in any capacity. What is more, the 'signatures' on the change in particulars application attributed to him were not his! In another bizarre twist in this strange sequence of events the Complainant discovered that an attempt had also been made to allot him an STRN but that move failed. After making some hectic enquiries he was told that he must approach the CEO PRAL without any delay for remedial action. He did that and despite several attempts, elicited no response. In exasperation, he then filed a Complaint before the FTO.

2. The forging of Complainant's signature on the change of NTN particular's application was of crucial significance in the investigation. The Complainant approached a handwriting expert having impeccable credentials and placed the relevant documents (change of NTN particulars application and Affidavit) before him. The expert made a forensic examination of the documents and submitted a detailed report that unequivocally confirmed that the signature on the change of NTN particulars application and the affidavit attributed to the Complainant by the Deptt bore no similarity to Complainant's specimen signatures. This office then sent the handwriting experts report to the Member Information Technology, FBR for counter verification of the Complainant's signatures by a handwriting expert of their choice. FBR however, chose not to avail the opportunity provided and did not refer the matter to anyone for further evaluation.

3. Earlier, a PRAL employee who was In-Charge of the NTN Cell at Lahore, had deposed before the FTO in writing that for many years PRAL functionaries at Lahore and Faisalabad had been actively engaged in the practice of tampering with tax relevant documentation and issuance of bogus NTN/STRN with ulterior motive. He identified two such rogue employees and explained their actions in some detail. He also made the startling revelation that one of these two persons was involved in fabricating documents in Complainant's case as well and had actually received the fabricated documents made out in the Complainant's name on their issuance by PRAL. He was the recipient of the revised

NTN Certificate, not the Complainant. He stated that the fact that some of these rogue functionaries were proceeded against by the Dept on disciplinary grounds including the person identified in Complaint's case- and later dismissed from PRAL, was proof of the veracity of his disclosure regarding involvement of PRAL functionaries in wrongdoing. This statement too was confronted to the Dept but apart from a bland denial no plausible explanation was forthcoming.

4. The issuance of new and revised NTN and STRN to taxpayers by the Dept is subject to strict protocols put in place by PRAL/FBR. A good deal of care inherent in these protocols and it is quite shocking that in Complainant's case at least the protocol's appear to have been brazenly violated with impunity. PRAL has offered no clear explanation as to how NTN was issued to Complainant without his knowledge. The DR speculated during the investigation that NTN may have been issued unilaterally to the Complainant by PRAL/FBR as a case of compulsory registration of a new taxpayer on the basis of withholding tax statements filed by employer. However, in such a situation the concerned person invariably receives official intimation of the same from PRAL. In Complainant's case no credible evidence in this regard has been filed. The so called application alleged to have been filed on Stamp Paper by Complainant for a change in NTN does not inspire any confidence at all. The most glaring defect in this "application" is the fact that the stamp paper on which it has been written bears no particulars of the stamp vendor on its reverse side without which the stamp paper is just a sheet of colored paper and has no evidentiary value as a legal document. Furthermore, the "application" bears no Diary number. Additionally, the signature affixed on the "application" has been rejected by the handwriting expert as forged and is stated to have no similarity to the complainant's authorized signature and the Deptt has not countered that firm finding with any credible rebuttal except to state that this was a forgery issue and should not be taken up by the FTO. It is inconceivable that such a grossly defective "application" could ever possibly form the basis for issuance of an NTN or for a change in NTN particulars. It is not plausible to expect any official in the Deptt to ever admit such a flawed request for issuance of a crucial tax document.

5. As already pointed out above, the complainant's email address, mobile phone number, bank account details and signatures on the 'change in NTN particulars application form' are all wrong. Quite obviously, a bona-fide applicant for a change in NTN particulars cannot be expected to furnish such basic particulars wrongly if the application was genuinely filed. Contrarily, a person impersonating the applicant who was simply desirous

of making changes perforce on the NTN certificate with ulterior motive and is not privy to complainant's confidential record can be expected to file concocted particulars just to ensure that a mandatory "field" in the online application form is not left "blank". If it were left 'blank' it could not be 'submitted' online and would not be 'accepted' by the PRAL 'system' set up for processing such documents.

6. So far as complainant's nexus with the so called M/s Ak-Khawan Enterprises, Faisalabad is concerned, the complainant has categorically denied any connection whatsoever with this entity and has filed an affidavit to support the denial. On the other hand the Deptt has not filed a shred of evidence to show that the complainant had any interaction at all with M/s Ak-Khawan Enterprises, Faisalabad. Mere assertion by the Deptt, unsupported by any corroborating evidence whatsoever, inspires no confidence in the Dept'l stance. Earlier PRAL admitted belatedly vide their letter No.85/S(IT)/14/FTO dated 18.05.2015, during the course of investigation, that forgery was indeed involved in this case. Paradoxically however, when the Complainant had requested the Deptt vide his letter dated 24.03.2014 to initiate criminal proceedings for forgery of his signature on the change in NTN particulars application and the affidavit, the Dept ignored the request.

7. NTN and STRN are critical to all income tax and sales tax operations including those involving refund claims. When tax documentation is prepared fraudulently, as in Complainant's case, there have to be reasons for the same. One sinister reason in Complainant's case appears to be the preparation of bogus sales tax refund claims. The starting point in such claims is a fraudulently issued NTN. This is followed by a fraudulently issued STRN laying the groundwork for a fraudulent sales tax refund claim.

8. The FTO's investigation confirmed all that the Complainant had alleged in his Complaint. Moreover, the investigation provided clues indicating that this exercise by some rogue PRAL functionaries was part of a much larger plan to forge and fabricate taxpayer's documentation with ulterior motive.

9. Taking cognizance of the brazen maladministration involved in this case the FTO recommended that:

FBR to-

- (i) conduct enquiry to determine how, why and by whom the defective NTN certificate was issued in Complainant's name;
- (ii) devise a fool proof SOP with the consultation of National Response Centre

for Cyber Crimes (NRCC) wing of FIA to stop the use of fraudulently prepared documents in PRAL;

- (iii) devise a policy to validate all NTN's on the PRAL data base through a system of biometric verification;
- (iv) report compliance within 30 days.

10. A copy of the above Findings/Recommendations, along with copy of complaint and all documents presented/obtained during investigation be forwarded to the F.I.A for initiating criminal investigation into the forgery of complainant's signatures on the so called stamp paper application for NTN and the change in NTN particulars application.

11. Because of sluggish departmental response in implementing the FTO's recommendations the FTO summoned CEO PRAL and told him to ensure biometric verification of all NTN's issued by PRAL as per FTO recommendation made on disposal of complaint. Presently, the Dept is committed to a policy of phased biometric verification of NTN/STRN.

12. In order to conduct a forensic evaluation of the signatures appearing on the change in NTN particulars application and the Affidavit, the FTO office has sent the case record to the Federal Investigation Agency and its report is awaited.

Cancel the impugned duplicate assessment orders passed for the same tax year

(Complaint No.243/KHI/IT(80)/793/2015)

The complainant, a limited concern engaged in manufacturing and sale of spring mattresses had been assessed at Karachi since its incorporation on 20.08.2002. The Complainant however received intimation regarding selection of return for tax year 2013 for audit from Zone-III RTO-II Karachi as well as from Zone-VII, TRO-II Lahore vide letter dated 19.11.2014 and dated 30.10.2014 respectively. As jurisdiction of the case lay with RTO-II Karachi, the Complainant made compliance of notices issued by the Assessing Officer (AO) Zone-III, RTO-II Karachi, who thereafter, completed the assessment proceedings vide order dated 09.01.2015 passed under Section 122(1) of the Ordinance. The complainant, subsequently informed the AO Zone-VII, RTO-II Lahore about completion of the audit proceedings by the AO Zone-III, RTO-II Karachi vide letter dated 02.04.2015. The AO RTO-II Lahore, despite this information made another assessment for the same year under Section 122(1)(5) of the Ordinance and created illegally huge tax

demand against the Complainant.

2. The CIR Zone-III, RTO-II Karachi contended that as per FBR Jurisdiction Order C. No.57(2) Jurisdiction/2011/103736 dated 20.06.2012 rightful jurisdiction of the Complainant rested with Zone-III RTO-II Karachi. Thus after selection of the case for tax year 2013, the audit proceedings were rightly completed under Section 122(1) the Ordinance vide order dated 09.01.2015. However, for settling issue of jurisdiction the Chief Commissioner-IR (CCIR) RTO-II Karachi approached the Secretary (IR-Jurisdiction) FBR vide letter dated 29.12.2014.

3. The CIR, Zone-II, RTO Lahore contended that the Complainant's manufacturing Unit was located at 3-KM, Raiwand Road, Lahore besides his cases of Sales Tax and Federal Excise Duty were also assessed at RTO Lahore. Thus in terms of Section 209(7) of the Ordinance no person could call into question the jurisdiction after filing return of income. In the instant case the return for tax year 2013 was filed at CIR, zone-VIII Lahore besides the case was assigned to this Zone by the FBR's Tax Audit Monitoring System (TAMS). The CIR further averred that the audit proceedings for tax year 2013 were completed after providing opportunity of hearing to the Complainant.

4. During investigation it was noted that FBR's on line verification e-portal showed jurisdiction of the Complainant with Zone-VIII RTO-II Lahore. However, as per tax record it was established that since its incorporation in 2002, the Complainant was assessed at Karachi. Furthermore, the Complainant after receipt of letter from A.O RTO-II, Lahore, approached the FBR vide letter dated 09.11.2014 for restoration of original jurisdiction. The Chief Commissioner-IR (CCIR), RTO-II, Karachi also referred the matter to the FBR for resolving the issue of jurisdiction vide letter dated 29.12.2014. The issue was still pending with FBR, when the DCIR Audit Unit-02 Zone-III RTO-II Karachi and DCIR Audit Unit-I Zone-VII, RTO-II Lahore completed the assessment proceedings under Section 122(1) of the Ordinance vide impugned orders dated 09.01.2015 and 30.04.2015. Though at page 06 of the impugned order passed at Lahore dated 10.04.2015, the receipt of the Complainant's letter dated 02.04.2014, whereby he was intimated that order for tax year 2013 had already been passed by the DCIR, Audit Unit-02, Zone-III, RTO-II Karachi on 09.01.2015 was duly acknowledged. The FBR, where issue of jurisdiction was pending since 09.11.2014, without resolving it, or even vetting their respective views, simply forwarded the para wise comments of the CCIR Lahore and Karachi. Evidently, careless and negligent approach of the FBR functionaries to resolve the issue of jurisdiction resulted

in double assessments for tax year 2013. Thus maladministration was established in terms of Section 10(3)(ii) of the Federal Tax Ombudsman Ordinance, 2000.

5. Recommendations: FBR to (i) direct the Secretary (IR-Jurisdiction) to resolve issue of jurisdiction of the Complainant's case within two weeks and send record to the Complainant's place of correct jurisdiction; (ii) direct the Commissioner-IR, who passed order without jurisdiction to invoke Section 122A of the Ordinance and cancel the impugned duplicate assessment; and (iii) report compliance within 30 days. (Note: This decision has been implemented by the Deptt)

Ex-party order assessment finalized without considering details filed by the Complainant.

(Complaint No.231/KHI/IT(73)/769/2015)

The Complainant, an Association of Persons (AOP), was a regular filer of income tax returns, e-filed return of income for the tax year 2014. The case was selected by the Department (Deptt) for audit of withholding tax. The Complainant after availing extension for filing the details, which was allowed upto 20.03.2015. Subsequently, a Show Cause Notice (SCN) dated 15.05.2015 was issued for filing head wise details of particular accounts by 25.05.2015, date of which was extended at the Complainant's behest to 29.05.2015. The Complainant made compliance of SCN and filed exhaustive details vide letter 27.03.2015 which was received at TFD counter on 29.05.2015 vide scanned # 35900. The Deptt, simply ignored the details filed by the Complainant and completed the proceedings ex-party vide impugned order dated 30.05.2015.

2. When confronted the Deptt contended that after examining the details a SCN was issued requiring the Complainant to submit head wise details by 25.05.2015. The date of compliance was subsequently extended to 29.05.2015. On 29.05.2015, no one appeared, nor was any request for further adjournment was received by the Deptt. The impugned recovery order under Section 161/2015 was passed for tax year 2014 on 30.05.2015.

3. After conducting the investigation it was revealed that details required by the Deptt vide SCN were duly furnished by the Complainant within time i.e. on 29.05.2015 vide letter dated 27.05.2015 which was received at TFD counter of the RTO thus maladministration in terms of Section 2(3) of the FTO Ordinance 2000 was established

against the Deptt.

Recommendations:

FBR to direct the Commissioner to revisit the impugned order dated 30.05.2015 in terms of Section 122A of the Ordinance, and decide the case afresh hearing the Complainant in a transparent manner, as per law; and (ii) report compliance within 30 days.

Delay in passing order under Section 170(4) of the Income Tax Ordinance 2001.

(Complaint No.201/KHI/IT(60)/669/2015)

The Complainant, a sole proprietorship engaged in manufacture-cum-exports, filed return of income for tax year 2013 under Section 114 of the Ordinance, and claimed, after adjustment of taxes, an amount of Rs.2,042,422 as refund. He filed refund application on the prescribed format on 27.05.2015. The Department (Deptt), despite repeated efforts of the Complainant failed to pass order under Section 170(4) of the Ordinance, within the stipulated time.

2. When confronted that Deptt contended that the Complainant e-filed his refund application for tax year 2013 however it was observed that;

- i) the taxpayer had failed to discharge his legal obligation to adjust Workers Welfare Fund (WWF) for tax year 2012 and 2013 amounting to Rs.307,986 and Rs.856,271 respectively.
- ii) the examination of record revealed that while filing return of income tax year 2013 the Complainant showed tax paid Rs.1,922,421 which constituted total import value at Rs.35.198 (m) whereas 177 GDs showed total import value of Rs.1,205.810 (m).

3. It was further contended that the Complainant had offered adjustment of WWF against the refund claimed. However, no clarification was given regarding alleged discrepancy in the amount of imports. As per FBRs directions the refunds were to be processed in the light of Circular No.5 of 2003 dated 30.06.2013. It was averred that the Complainant was reluctant to furnish explanation regarding difference in imports declared in the return of income for tax year 2013 and the value declared in GDs, the genuineness of refund claim was doubtful and needed to be examined.

4. The AR vehemently argued that the Complainant was never required by the Deptt to explain the alleged discrepancies in imports or non-adjustment of WWF. On the contrary, the Complainant, after service of the orders passed by the AQ under Section 4 of the Workers Welfare Fund Ordinance 1971, had voluntarily approached the Deptt vide letter dated 08.07.2014 to adjust the liability of WWF amounting to Rs.307,986 and Rs.878,165 requested against the pending refund claim for tax year 2013. The amount of income tax paid at import stage and the corresponding import value was mentioned in the relevant columns of the tax return. The AR reiterated that notwithstanding position explained above, the Deptt was required to have to pass order in terms of Section 170(4) of the Ordinance and issue refund due within stipulated time of 60 days.

5. The Deptt failed to produce any evidence regarding confronting the Complainant in respect of alleged discrepancies.

6. The arguments of the parties were considered and record perused. Admittedly the record negates the Deptt's claim of any correspondence with the Complainant regarding alleged discrepancies as pointed by the CCIR in para wise comments dated 10.06.2015. On the contrary it was the Complainant who approached the Deptt vide letter dated 08.07.2014, to adjust WWF liability amounting to Rs.307,986 and Rs.856,271 respectively against the refund claim for tax year 2013. The Deptt failed to explain inordinate delay in disposing of refund application within time stipulated under the law in terms of Section 170(4) of the Ordinance, which tantamount to maladministration in terms of Section 2(3)(ii) of Federal Tax Ombudsman Ordinance, 2000.

Recommendations:

FBR to direct the Chief Commissioner to-(i) complete the verification and settle refund for the tax year 2013, as per law, within 30 days; and (ii) report compliance within 7 days thereafter.

Rejecting request of the Complainant for exemption without providing him opportunity of hearing.

(Complaint No.202/KHI/IT(61)/670/2015)

The Complainant, a sole propriety concern engaged in manufacture-cum-exports had applied, both electronically and manually, along with all requisite documents on 23.12.2014 for exemption in terms of Clause 72B of Part IV of Second Schedule to the Ordinance. The exemption was claimed on raw materials to be imported during the

second half of the financial year ending 30.06.2015. After the repeated efforts of the Complainant, physical verification was carried out by the Department (Deptt) through Senior Auditor and Inspector on 13.04.2015 i.e. after almost 3 months delay from filing of the application. However, till filing of complaint on 19.05.2015, the Deptt failed to inform the Complainant about result of his application.

2. When confronted that Deptt contended that on receipt of online application dated 23.12.2014, the Complainant was required to submit documents and clarification on-line dated 25.03.2015, but no response was made. The team constituted for physical verification of the premises reported on 04.05.2015 that the Complainant did not meet the conditions as laid down in SRO 717(1)/2014 dated 07.08.2014 and also Circular No.8 of 2013 therefore, his request for exemption was regretted by the Commissioner-IR (CIR) vide speaking order dated 22.05.2015.

3. The AR argued that the Complainant had applied for exemption certificate for the period ending 30.06.2015 vide application dated 23.12.2014. The Deptt however initiated physical verifications after lapse of almost 5 months on 02.05.2015. The order of rejection was passed only after the complaint was filed on 22.05.2015. He further argued that while rejecting request of the Complainant the contents of physical report were not confronted nor documents submitted by him were considered.

4. The investigation revealed that the Complainant had applied for exemption certificate for the tax period from 01.01.2015 to 30.06.2015 under Section 159 of the Ordinance vide letter dated 23.12.2014. The Deptt did not respond for more than 5 months physical verification was got conducted on 02.05.2015 when the period for which exemption was sought was coming to an end. The order of rejection was however, passed on 22.05.2015, without providing opportunity to the Complainant and confronting physical verification report, on the basis of which his request was rejected. The delay in processing request of exemption under Section 159 of the Ordinance and rejecting the same without providing opportunity of hearing, tantamount to maladministration in terms of Section 2(3) of Federal Tax Ombudsman Ordinance, 2000.

Recommendations:

FBR to direct the Chief Commissioner-IR to (i) review the order dated 22.05.2015, after providing opportunity of hearing to the Complainant in terms of Section 122B of the Ordinance, and (ii) report compliance within 30 days.

Sales Tax

It was obligation of the Deptt to confront the Complainant regarding the basis for suspension of Sales Tax Registration as no person can be condemned unheard.

(Complaint No.04/LHR/ST/(01)/08/2015)

This complaint was filed u/s 10(1) of FTO Ordinance, 2000 against the suspension of sales tax status without confronting the basis and providing opportunity of hearing to the Complainant.

2. The Complainant approached the Commissioner's office and was informed that suspension was made for non-filing of sales tax return for the Tax period 2006-2007 on the basis of DRRR Audit report No.12376. According to the Complainant, the alleged period was not relevant as company was registered in sales tax regime w.e.f. 03.12.2007.
3. In order to seek justice, the Complainant filed representation before the Chairman FBR on 24.12.2014, but to no avail, hence this complaint. The unlawful and arbitrary suspension not only effected business but also government revenue, therefore, the Complainant prayed for an immediate restoration of the registration.
4. The complaint was referred for comments to the Secretary, Revenue Division, Islamabad in terms of Section 10(4) of the FTO Ordinance. In response, the Chief Commissioner vide letter dated 23.01.2015 forwarded comments of the Commissioner. The Deptt contended that registration was suspended vide order No.1890 dated 13.11.2014 for non-filing of returns for the tax period from 12/2007 to 06/2008. Show cause notice No.490 was also issued on 13.11.2014. Further, the suspension was made in accordance with the provisions of law and relevant rules made thereunder. The Complainant can, however, file its returns and make payment of tax during the period of suspension. As regards representation to the Chairman FBR, the Deptt submitted that

Commissioner IR, Zone-I, RTO Lahore vide letter dated 31.12.2014 had informed the Complainant about the reasons for suspension of registration. The registration can, however, be restored on receipt of evidence of filing returns for the aforementioned tax period and on payment of tax due along-with penalty.

5. During hearing the DR submitted that in accordance with para 'N' of STGO No.03/2014, registration of registered person can be suspended by the Commissioner through the system without prior notice, pending further inquiry. The basis for such action may include issuance of fake invoices, evasion of tax, tax fraud, non-availability of registered person at the given address, refusal to allow access to the business premises, abnormal tax profile, making substantial purchases from or making supplies to other blacklisted suspended persons for non-filing of sales tax return and for any other reasons to be specified by the Commissioner. As returns were not filed within the due dates, the action of suspension was within the framework of law.

6. On the contrary, the AR contended that suspension was made u/s 21(2) of the Sales Tax Act, 1990 read with Rule 12 of Sales Tax Rules 2006 dated 12.06.2006 and STGO No.03/2004 dated 12.06.2004. The Deptt asked the Complainant to file returns for the tax period 2006-2007 which was contrary to the provisions of Section 24 of the Act. This Section deals with retention of record during the relevant period was of five years which had expired in 2013. The Deptt. Therefore, cannot requisition the returns/documents after expiry of the period of retention.

7. Both parties heard, record perused and arguments considered. The Complainant's contention regarding denial of opportunity of hearing appeared to be forceful. The Deptt did not fulfill its obligation of confronting the Complainant regarding the basis for suspension of sales tax registration as the Complainant was condemned unheard. The DR was required to look into the restoration of the registration, as per law. During the hearing of complaint the Deptt informed that registration has been restored vide order No.Unit-05/746 dated 10.02.2015 and the Complainant's grievance redressed.

8. As the Complainant's grievance was resolved with the intervention of this office, the investigation was closed and case file consigned to record.

Continuous suspension of the Sales Tax Registration Number (STRN) without issuing show cause notice tantamount to maladministration
(Complaint No.12/PWR/ST(03)/726/2015)

The complaint has been filed in terms of section 10(1) of the FTO Ordinance, 2000, (the Ordinance) alleging maladministration against the Regional Tax Office, Peshawar (RTO, Peshawar) for suspending Sales Tax Registration Number (STRN) of the Complainant without issuing any notice and also failing to take action on the de-registration request of the Complainant.

2. The complaint was sent to the Secretary Revenue Division for comments in terms of Section 10 (4) of the Ordinance. In response, FBR, filed parawise comments vide letter No.1(172)S(TO-II)/2015 dated 09.06.2015. It was contended that Complainant's application for de-registration vide letter dated 25.09.2012, had not been received and acknowledged anywhere in RTO, Peshawar records and it had also not been submitted to any officer for order.

3. The case was heard on 23.06.2015. The AR and DR, reiterated their written submissions. The AR, stated the Complainant closed down his Company in 2012, and informed the Security Exchange Commission of Pakistan (SECP) and RTO, Peshawar for striking off his Company's name from their records respectively. The AR further stated that SECP, struck off its registration and RTO, Peshawar deactivated its NTN but almost after delay of two and half years, the sales tax de-registration had not been done. The AR pointed out that it was astonishing that sales tax registration of the Complainant was suspended without issuing any notice or passing an order. The AR claimed that inordinate delay in de-registration and suspension without any notice or order constituted maladministration under the Ordinance. The AR prayed for setting aside arbitrary suspension of STRN and for ordering the deptt to take action on the de-registration application of the Complainant.

4. The DR stated that after thorough checking of relevant record, he could say that the Complainant or his counsel never gave any reminder regarding their application for de-registration. The DR informed that the Complainant has filed an application for de-registration on 10.02.2015, which was under process with the concerned officer in RTO, Peshawar. The Complainant had also been requested to provide business records for audit which was mandatory for de-registration. Regarding suspension of Complainant's STRN, the DR informed that under para 34 of STGO No.3 of 2004, dated 12.06.2004, a registered person who did not file sales tax return for consecutive six months could be suspended by the system without any notice.

5. The matter has been examined in the light of written and oral arguments of the

parties and the documents on record. The AR and DR, during hearing, were seriously engaged in a controversy regarding receipt of the Complaint's letter dated 25.09.2012 regarding de-registration. The AR produced a copy of his impugned letter which bore Tax Payers Facilitation Division (TFD) stamp dated 25.09.2012, of RTO, Peshawar. He built up his entire case on the receipt of that letter. On the contrary, the DR produced RTO, Peshawar TFD's record of the corresponding period where receipts of letters were duly entered but there was no entry relating to the receipt of the Complaint's letter. The DR also placed on record a few other requests of registered persons for de-registration which had duly been entered in TFD's record and subsequently the same were processed. The AR was asked whether he had given any reminder regarding his de-registration application to which he replied in negative. However, he stated that he had made many visits to RTO, Peshawar for pursuing his case. Non-issue of any reminder through post or courier service with reference to the de-registration application or regarding any meeting with officers of the deptt regarding this issue during almost two and half years, make the receipt of Complainant's letter in RTO, Peshawar doubtful.

6. The issue of suspension of Complainant's STRN also merits consideration. The DR informed that under para 34 of STGO No.3 of 2004, dated 12.06.2004, a registered person who did not file sales tax returns for consecutive six months could be suspended by the system without any notice. However, under para 37 of the said STGO the failure on the part of the Commissioner to issue show cause notice within 07 days of the suspension, makes the order void ab initio. In this case, as per departmental record, procedure for suspension of STRN, in terms of Chapter 1 of Sales Tax Rules, 2006 (the Rules), read with STGO No.3 of 2004, dated 12.06.2004, has not been followed, which makes the suspension of Complaint's STRN, unlawful.

7. The AR and DR agreed that the Complainant had submitted an application for de-registration on 10.02.2015, which was under process and the Complainant had been asked to produce company's records for audit which was mandatory for de-registration of STRN. The AR, accompanied by the Complainant, was explained the process of de-registration. The DR assured that the procedures prescribed for de-registration would be followed. The DR was also asked to convey to the concerned officers of RTO, Peshawar to expedite and facilitate, as per law, the Complainant's de-registration.

Findings:

8. Continuous suspension of the STRN of the Complainant without issuing show

cause notice as required under the Rules, read with STGO No.3 of 2004 tantamounts to maladministration under Section 2(3)(i)(a) of the Ordinance.

Recommendations:

9. FBR to direct the Chief Commissioner RTO, Peshawar to:
 - (i) restore STRN of the Complainant within 7 days and report compliance within 7 days thereafter; and
 - (ii) finalize the Complainant's request for de-registration within 30 days; and report compliance within 7 days thereafter.

Revisit the assessment order passed without considering documents/evidences

(Complaint No.206/KHI/ST(95)/674/2015)

The Deptt at the very outset raised preliminary objection of bar under Section 9(2)(b) of the Ordinance. On merits, the Deptt contended that the Complainant, an AOP engaged in the manufacture and supply of processed leather, was operating under tax concessionary Sales Tax Scheme, issued under SRO 1125(I)/2011 dated 31.11.2011. The inquiry was initiated on the instructions of the FBR vide letter No. MIS/GST/CRO/2014 dated 11.07.2014 and Chief Commissioner-IR (CCIR), RTO-II, Karachi vide letter No.338 dated 21.07.2014. After providing various opportunities the Complainant was issued final Show Cause Notice (SCN) which contained two allegations, one pertaining to zero-rated discrepancy detected by the CREST and the other in respect of sale of Wet Blue skins and hides in the same imported state, in order to facilitate buyers to avoid paying 2% value addition tax due on the same. The Complainant neither provided evidence in support of discrepancies detected by the CREST nor was able to furnish any proof of processing of imported leather at its manufacturing premises. No production documents were submitted. This resulted in impugned O-in-O dated 11.05.2015.

2. The AR reiterated that the Complainant was not involved in commercial imports of leather but actually imported raw as well as semi processed leather and sold the same after further processing in their manufacturing unit. Moreover, the Complainant had submitted entire supporting details in response to SCN. No supplies were made by the Complainant to any person not related to the five export sectors. The Raw Salted and Wet Salted skins were manufactured/processed in the factory using chemicals acid/base Chromium Sulphate, Soap, Formic Acid tc, and changed it into different form viz, that of Wet Blue skins. In the same way Pickle skins were changed into different form viz, Wet

Blue skins and these were again changed through manufacturing process to Crust Skin/Dyed Crust. According to the AR the Deptt passed the assessment order without scrutinizing supporting documents and the huge demand was created unlawfully and with malafide intention.

3. The preliminary objection in terms of Section 9(2)(b) of the Ordinance was found misconceived as grievance of the Complainant did not relate to assessment of income, but it related to failure of the Deptt to consider reply to SCN filed by him. From the investigation it was proved that the Complainant had duly complied with the SCN dated 02.02.2015 and had submitted supporting documents to substantiate the fact that no supplies were made by him to the persons not related to the five export sectors. Even the copies of Sales Tax return of buyers were enclosed which clearly reflected that the purchases were made by the Complainant, and imported semi processed leather was sold after further processing at the manufacturing unit of the Complainant. No sale of leather was made in the same shape/form as received. It was held that finalizing the impugned assessment, without perusing the documents submitted by the Complainant tantamount to maladministration under Section 2(3) of the Ordinance.

Recommendations:

FBR was required to direct the Commissioner-IR to-(i) revisit the impugned Order dated 11.05.2015 in exercise of powers under Section 45A of the Act and decide the matter afresh after providing opportunity to the Complainant, as per law; and (ii) report compliance within 30 days.

Delay of settling sales tax refund claims on account absence of active field/ column in the RCPS software.

(Complaint No.232/KHI/ST(108)/770/2015)

The Deptt conceded that due to non-availability of any mechanism in the RCPS software, the Complainant had no option available to claim refund of 20% sales tax amount withheld by withholding agent as registered exporter. The Secretary (A&R) FBR contended that issue being delicate in nature was taken up with the DG Automation and Member IT/CEO PRAL vide letter dated 26.06.2015 to develop requisite module in the RCPS software.

2. The Complainant, a manufacturer-cum-exporter engaged in supplying taxable goods i.e. "yarn" to the registered exporters claimed in the column of the sales tax returns "sales tax withheld as withholding agent" for the period from May 2013 to February 2015, one fifth withheld amount of sales. As no such column was mentioned in the RCPS, the Complainant claimed the same in the column "input tax claim" in the RCPS which results in

non-acceptance of the claim. The Complainant repeatedly approached the Deptt vide letters and applications dated 29.01.2014, 13.01.2014, 22.12.2014, 08.12.2014, 27.11.2014, 07.11.2014, 21.10.2014, 16.10.2014, 03.09.2014, 08.08.2014, and 04.03.2015, respectively, but no response was received.

3. The investigations established inordinate delay on the part of the Deptt in providing appropriate column in the RCPS software, so that taxpayers, engaged in supplying taxable goods to the registered exporters, could claim sales tax withheld as withholding agents. This resulted in maladministration in term of Section 2(3)(ii) FTO Ordinance, 2000.

Recommendations:

FBR was required to direct the concerned officers to-devise appropriate column in the RCPS software or make some other workable solution to resolve this issue within 45 days; and (ii) within 30 days and para (ii) within 10 days thereafter.

Blacklisting of the Sales Tax Registration without following due process of law.

(Complaint No.237/KHI/ST(111)/787/2015)

The Deptt at the very outset raised preliminary objection stating that signatures of the Complainant on complaint and power of attorney did not match with her signatures on the CNIC and documents available with the Deptt. On merits, the Deptt contended that the Complainant obtained NTN and STRN as manufacturer/importer carrying on business at Plot No.140, Block-C, Toorabad Road, Sher Shah Road Karachi. However at the time of physical verifications, neither the Complainant herself nor any business in the name of M/s Yasin Sons was found there, and no application for change of particulars of registration was submitted as required under Rule 7 of the Sales Tax Rules, 2006 (the Rules). Moreover, the Complainant at Para-2 of the complaint had admitted that she was only commercial importer. The Complainant had also made mis-declaration in GD No.KAPW-HC-173881 dated 07.05.2015. The Complainant also failed to pay sales tax with the returns. Thus STR of the Complainant was suspended vide order dated 05.06.2014 and Show Cause Notice (SCN) issued. As no response was received, her STR was blacklisted in terms of Section 21(2) of the Sales Tax Act 1990 (the Act), read with Rule 12 of the Rules and STGO 35.2012 dated 30.06.2012.

2. The AR, refuting preliminary objection of the Deptt submitted copies of the CNIC and other documentary evidences which matched the signatures of the Complainant on complaint etc. As regards discrepancy in the GD he contended that being a bonafide mistake it was corrected with the permission of Deputy Collector (Group-I) MCC

Appraisement (West), Customs Karachi vide letter dated 21.05.2015. Moreover the Complainant was engaged in manufacturing activities from 1998 to 2002 businesses of only 'commercial importer' was inadvertently mentioned. As regards alleged non-verification of address, he contended that STR of the Complainant was suspended along with 5 other taxpayers vide consolidated order dated 05.06.2014. The Complainant, thereafter, received SCN dated 12.06.2014 surprisingly on the same address on the basis of which STR was suspended "for non-verification of address. The Complainant duly complied with the SCN vide letters dated 07.08.2014 and 15.09.2014 clarifying the position of the address. The Deptt thereafter kept the matter pending and then blacklisted STR of 20 taxpayers; including the Complainant for non compliance of SCN dated 09.04.2014 through a consolidated order dated 17.04.2015. In the impugned order neither SCN dated 12.06.2014 was mentioned nor the replies filed by the Complainant were considered.

3. From the investigation it was noted that Para 38 of the STGO No.3/2014 dated 12.06.2004 (as amended vide STGO No.35/2012) requires CIR to issue show cause notice within 07 days of the order of suspension. Further Para 38E of the same STGO required that blacklisting order needs to be passed within 90 days and if blacklisting order was not issued within 90 days; the suspension becomes void ab initio. Thus in violation of Para 38E (mentioned above) blacklisting order was passed after 90 days as SCN was issued on 12.06.2014 while blacklisting order has been passed on 17.04.2015 which tantamount to maladministration under Section 2(3)(i)(a) of the Ordinance.

Recommendations: FBR: (i) revisit the Commissioner's blacklisting order in terms of Section 45A of the Act; and (ii) report compliance within 30 days.

Delay of restoring status of the Complainant on the Active Taxpayers list (ATL) despite payment of adjudged amount.

(Complaint No.382/KHI/ST(174)/1239/2015)

The Deptt contended that the Complainant's status was deactivated on account of discrepancies pointed out by the Computerized Risk Based Evaluation of Sales Tax (CREST). These discrepancies were resolved vide Order-in-Original (O-in-O) dated 16.06.2015 wherein Complainant was required to pay Rs.1,167,358. After payment of this amount status of the Complainant was uploaded in the system. However, the matter was now pending with CREST domain team of FBR for necessary action at their end.

2. The AR reiterated that even after depositing the sales tax demand in the government treasury the Deptt has failed to activate Sales Tax Profile of the Complainant on web-portal of the FBR in view of Clause (b) of the Rule 12B of the Sales Tax Rules, 2006.

3. The investigations proved that although the Deptt had settled the discrepancy, but the CREST Domain Team has failed to resolve the issue which tantamount to maladministration in terms of Section 2(3)(ii) of the Ordinance.

Recommendations:

FBR was required to- (i) direct concerned officers of RTO and PRAL to take coordinated action for restoring status of the Complainant on ATL within 15 days; and (ii) report compliance within 7 days thereafter.

Declaring the Complainant as “Risky” without intimating the reasons by the Risk Management System (RMS)

(Complaint No.88/KHI/ST(35)/280/2015)

The Deptt contended that Risk Parameters (RPs) were developed by the FBR to ensure verification of the claims and applied to all refund applications across the board without any discrimination. However, the parameters were kept confidential, because if the same were disclosed to the taxpayers, it could be modified to bypass the criteria. It was averred that manual processing of the refund was not coercive action but in accordance with the legal provisions of Section 10 (1) of the Sales Tax Act, 1990 (the Act) and the Rules.

2. The Complainant, a Manufacturer-cum-Importer/Exporter, exported food products to China and other countries, filed refund claims through RMS of FBR for processing through Expeditious Refund System (ERS). The refund claims were not cleared by the ERS and forwarded for normal processing under the Sales Tax Rules, 2006 (the Rules). The reason for non-clearance of refund claims was that the “Claimant was declared Risky” by RMS for which no reason was given by the Deptt.

3. From the investigation it was evident that refund claims of manufacturers-cum-exporters were processed by RMS in terms of sub-Rule (6) of Rule 26A of the Rules, 2006 within two working days of electronic submission of refund claims. The system automatically cleared the amount under no objection. Thereafter electronic advice was issued to the CSTRO and the registered person about the refund amount cleared by the RMS for payment. The objections detected by the system were also communicated to the refund claimant and the concerned RTO/LTU for information. The plea of the Deptt for non-intimation of reasons for declaring the Complainant as 'Risky' was that RPs cannot be disclosed and processing of refund claims under normal Rules cannot be termed as punishment. The action of the Deptt was covered under the Rules but the Deptt was required to finalize action on the refund claims under the normal rules within the period

specified under Section 10 of the Act which was not done. This action tantamount to maladministration under Section 2(3)(ii) of the Ordinance, 2000.

Recommendations:

The FBR was required to direct concerned RTO to finalize action on the refund claim of the Complainant under the normal rules within 15 days and report compliance within 7 days thereafter.

(Note: The Deptt has implemented the Findings/Recommendations)

Customs

Refund of Extra Amount Recovered by Customs

(Complaint No. 60/KHI/CUST(17)204/2015)

The case of the Complainant was that consignments of High Carbon Rod (Non-Alloy Steel) were released under Section 81 of the Customs Act. The Complainant deposited duty and taxes on declared value and for differential amount pay orders were submitted. On receipt of laboratory report, assessment was finalized whereby the Complainant was required to pay additional duty and taxes. The Deptt encashed the pay orders which was more than the amount payable by the Complainant. The Complainant applied for refund of additional amount which was withheld by the Deptt and his GDs were also not cleared in the systems due to which the computer system was imposing late surcharge.

2. In response to the notice of complaint the Deptt issued 02 cheques of Rs.1,671,246/- and Rs.1,827,494/-.
3. The complainant informed that the cheques were for less amount than the amount refundable to him and that the GDs were not being finalized in the computer system due to which surcharge was being imposed.
4. The Deptt submitted report according to which Rs.303,477/- and Rs.516,356/- were refunded to the Complainant. The Deptt reported that both GDs stood finalized and no amount of duty, taxes or surcharge was to be paid by the Complainant in respect of subject GDs.
5. The Complainant expressed his satisfaction about redressal of his grievance through Hon'ble FTO intervention.

Withholding of Refund of Amount unlawfully Recovered from the Complainant

(Complaint No. 97/KHI/CUST(29)308/2015)

The complaint was filed against MCC Appraisement (West), Custom House, Karachi for withholding refund of Rs.1,000,000/- illegally recovered from the Complainant on false charge of non-levy/short levy of duty and taxes on paper products imported by M/s. Ikram Brothers. The Complainant was served with show cause notice, which was annulled by the Customs, Central Excise & Sale Tax Appellate Tribunal Bench-III, Karachi. The Special Judge Customs and Taxation, Karachi had also acquitted the Complainant of the charges. In pursuance of these decisions, the Complainant submitted application for refund of the amount illegally recovered from him.

2. In response to the notice of complaint the Deptt expressed reservation about admissibility of refund claimed by the Complainant in terms of Section 33 and 19A of the Customs Act, 1969.
3. During investigation the complaint was not pressed as with the intervention of the Hon'ble FTO it was settled between the parties that the application submitted by the Complainant for refund would be processed in accordance with law within 30 days after due opportunity of hearing to the Complainant.

Withholding of Pay Order Deposited Under SRO 727(1)2011

(Complaint No. 153/KHI/CUST(41)526/2015)

The complaint was filed against delay inaction and negligence of MCC Appraisement (West) Custom House, Karachi to release post-dated cheque (PDC), submitted by the Complainant at the time of import of machinery in term of SRO 727(1)2011.

2. Responding to the notice of complaint the Deptt informed that under SRO 727(1)/2011, PDC was to be released on submission of first sales tax return, after import of machinery. The Complainant instead of declaring the machinery in sales tax return filed in April, 2013, declared it in sales tax return of May, 2013. The issue, therefore, was referred to the FBR for clarification. The Deptt committed not to encash PDC till receipt of clarification from FBR. Whereupon complaint was not pressed any further.

Delay and Inaction to Dispose of Refund Application

(Complaint No. 155-156/KHI/CUST(42-43)528-529/2015)

The captioned complaints were filed against maladministration on the part of MCC

(Preventive) Custom House, Karachi, on account of withholding refund of duty and taxes recovered from the Complainant, on their consignments of cellular phones, which before its release, were destroyed by the fire at godown of AFU (Gerry Danata), during the terrorist attack on Quaid-e-Azam International Airport, Karachi.

2. After detailed investigation the Hon'ble FTO observed that refund of sales tax/income tax paid for goods which were destroyed in terrorist attack before its release was not specifically covered by provisions of the Customs Act, 1969, or Sales Tax Act, 1990, or Income Tax Ordinance, 2001. FBR's view in a similar case reflects that refund of sales tax on goods destroyed after payment of tax and not used for taxable supplies cannot be allowed. Similarly under Section 148 of the Income Tax Ordinance 2001, income tax withheld at import stage, being final tax, in a subsequent event after payment of tax. The Hon'ble FTO further observed that the view of FBR cannot be commented upon without interpretation of provisions of Customs Act, 1969 and other tax laws which exercise fell outside FTO's jurisdiction. However the Hon'ble FTO held the Deptt as well as FBR responsible for withholding decision on the applications submitted by the Complainants for refund/adjustment of tax paid for the goods destroyed after payment of tax but before its release. The complaint was disposed of with following Findings/Recommendations:

Findings:

3. Delay, negligence and inaction of FBR and the Deptt to dispose of application submitted by the Complainants for refund/adjustment of customs duty, sales tax and income tax establish maladministration in terms of Section 2(3) of the FTO Ordinance.

Recommendations:

4. FBR to direct the Collector Customs, Karachi:-

- (i) that after due opportunity of hearing to the Complainants, decide applications, for refund/adjustment of customs duty and other tax paid by the Complainants, for goods destroyed in fire at godown of AFU (M/s. Gerry Danata), and pass appealable orders,
- (ii) there may be some other identical cases-a policy decisions about such cases may be taken by FBR; and
- (iii) report compliance within 45 days.

Withholding of Tiles Despite Payment of Duty and Taxes

(Complaint No. 276/KHI/CUST(60)883/2015)

The complainant an importer of tiles filed complaint against withholding release of

his goods for which duty and taxes were paid. He was also aggrieved by delay, inattention and negligence of MCC Appraisement (West) failing to respond to his letters submitted for exemption of duty and taxes of damaged warehouse goods and auction of one of consignment on the ground that the Complainant did not get it cleared within the specified period, although, duty and taxes were paid on the day when the bidder deposited bid amount.

2. Responding to the notice of complaint, the Deptt informed that the goods of the Complainant had overstayed in the warehouse as the same were not cleared within the period provided under Section 98 of the Customs Act, 1969. The period was extended till 15.06.2015 by the FBR but the Complainant did not take delivery of his goods. Whereupon one of the consignment was auctioned and the Complainant deposited duty and taxes after auction.

3. With the intervention of the Hon'ble FTO it was settled between the parties that four consignments for which the Complainant had paid duty/taxes and the goods were not removed within the time specified under Section 98 of the Customs Act, the Complainant would submit application to the Deptt for extension of time and release of goods on payment of due charges payable on account of delay in removal of goods. It was further agreed that for the consignment which was auctioned and the Complainant deposited duty and taxes after auction, application would be submitted for cancellation of auction and release of goods to the Complainant. The Deptt will process the applications in accordance with law. The complaint was disposed of accordingly.

Unlawful withholding of Duty and Taxes Paid for Canceled G.D

(Complaint No. 284/KHI/CUST(61)915/2015)

The complaint was filed against delayed inaction and negligence of MCC Appraisement (West) Custom House, Karachi to refund duty and taxes paid for GD which was cancelled due to change of NTN of the Complainant. Fresh GD was filed, whereupon, duty and taxes were paid again. The Complainant applied for refund of duty and taxes paid on the cancelled GD but the Deptt withheld refund without any just cause which was tantamount to maladministration.

2. Responding to the notice of complaint, the Deptt informed that refund claim of duty and taxes was processed, RPO was issued and cheque would be delivered to the Complainant within 10 days.

3. The Complainant expressing his satisfaction, on redress of his grievance with the intervention of the Hon'ble FTO did not press the complaint for further action.

Confiscation of Cloth without Providing Opportunity of Hearing.

(Complaint No. 367/KHI/CUST(76)1201/2015)

The complaint was filed alleging maladministration on the part of MCC Preventive Karachi as well as Collectorate of Customs Adjudication, on the ground that cloth released in pursuance of O-in-O No.13/2014 dated 17.02.2014 passed by Collectorate Adjudication, Customs House, Quetta was illegally seized by MCC Preventive Karachi and confiscated by the Collectorate of Adjudication, Karachi. The Complainant approached the Hon'ble High Court of Sindh at Karachi vide CP No.D-1710/2015, which was disposed of vide order dated 02.07.2015 directing the Complainant to approach the Collectorate of Customs Adjudication Karachi who shall provide opportunity of being heard to the Complainant and if further verification was required it could be obtained to resolve the controversy to the affect as to whether consignment seized by the Deptt was the same which was already agitated upon by the Collectorate of Customs, Quetta. The Complainant submitted application for compliance of the order of the Hon'ble High Court but no response was made.

2. With the intervention of the Hon'ble FTO complaint was disposed of in term of settlement made between the parties that in compliance of order dated 02.07.2015, passed by the High Court of Sindh Karachi, the seizing Collectorate will get necessary information from MCC Quetta about goods being the same which were seized and released vide O-in-O NO.13/2014 dated 17.02.2014 and refer the matter to the Collectorate of Adjudication for order in accordance with law after due opportunity of hearing to the Complainant.

Unlawful withholding Refund of Duty and Taxes for Cancelled GD

(Complaint No. 394/KHI/CUST(80)1252/2015)

The complaint was filed invoking the jurisdiction of Hon'ble Federal Tax Ombudsman against delay, inaction and negligence of MCC Port Muhammad Bin Qasim, Karachi in failing to refund duty and taxes paid in pursuance of cancelled GD wherein inadvertently the name of consignee was mentioned incorrectly and fresh GD was filed in pursuance of which duty and taxes were paid again. The Complainant submitted





Public Feedback

Citizen Report Card Study

Federal Tax Ombudsman Office (FTO) engaged NCBMS Consulting (Private) Limited to carry out the analytical exercise through Citizens Report Card "CRC" to evaluate the performance of FTO.

2. Terms of reference and scope of services relative to this assignment were:
 - i) The collection of Citizen Feedback on the adequacy and effectiveness of services provided by FTO office through CRC;
 - ii) Analysis of efficiency/process of providing services, in accordance with the timeframe specified in respective laws / Acts; and
 - iii) Recommendations for improvement in the office of FTO.
3. The consultants submitted their report in September 2015.
4. The CRC Survey focused on the complaints lodged for the past three years as per the data provided by the FTO Secretariat. The proposed sample size was 1,000 complainants out of a population of 3,000 with the proposed distribution of sample size among all provinces namely: Punjab 50%, Sindh 25%, KPK 20%, and Baluchistan 5%

The survey's results/key findings are briefly described as under:

- i) Analysis related to the FTO operations showed that most taxpayers who lodged complaints against a specific tax department were significantly satisfied with the working and response of the FTO. In summary, 88% of respondents felt satisfied with FTO performance. The FTO decided 82% of the complaints in favor of the taxpayers. The FTO Office is successfully addressing taxpayers' grievances and is more effective in solving tax related problems of small taxpayers.
- ii) The CRC survey revealed that the Federal Tax Ombudsmen offices finalized the findings of 42% of complaints in less than three months, 38% of complaints in three to six months and 20% of the complaints took more

than six months to finalize. It was found that about 81% of the complainants were satisfied about the time taken by the FTO office to finalize the findings.

- iii) Analysis showed that 87% of the complaints/matters were decided while only 13% of the matters were still pending. It was further observed that out of matters decided, 53% pertains to income tax, and 29% to sales tax and 17% pertains to custom duty matters.
- iv) Analytically, data facilitated various dimensions highlighting different aspects of problems. Maladministration in FBR is defined as delay in tax refunds and response to their correspondents, inefficient, arbitrariness, harassment for corrupt motives. All these aspects of maladministration lead to corrupt practices. More precisely that out of 12% of the respondents who were dissatisfied / neutral and having negative experience about the overall performance of the FTO's office; 68% are related to the inefficiency, 12% to Arbitrariness and 14% pertains to harassment for corrupt motives.

5. In overall the study indicated that the FTO is the one of the cleanest public-sector organizations in Pakistan. It's a big achievement for a public organization to have such a positive response from its stakeholders.

Tax Experts and Professionals

6. The FTO Office receives complainants, tax experts and professionals feedback through letters and e-mails appreciating and thanking this office. The excerpts from some of these letters and e-mails are reproduced to through some light on performance of this office :

"We are profoundly thankful to your worthy office for redressal of our complaint for issuance of refund. Larger Tax Payer Unit, Islamabad had issued us refund amounting Rs.157,751,340/- on 8th January, 2015 vide refund voucher No.0375370 book No.0188. Further we are also thankful to the department for showing prompt compliance to the FTO order and our grievance and we also reiterate that we do not have grievance against any individual of the department."

Sardar Shahid Farid, FCA

Parter Muniff Ziauddin & CO, Islamabad.

Dated: 01.01.2015

"Humbly submitted with reference to your Honour's letter No. 3/554/10-Impl dated 06.02.2015, that, the taxpayer has received refund Rs.55480/- for tax year 2005 and 2006, and pays enormous thanks to Your Honour for active and effective role in resolving the issue."

Raashid Umar, Advocate

53(New) Distt Courts, Faisalabad.

Dated: 19.02.2015

"Ref to your letter No.1/423/14-Impl dated 09.04.2015, we have already confirmed you that on your directions FBR has completed/implemented the recommendation in complaint No. 35/ISD/ST(10)423/2014. We once again thank you for your concern and follow-up in this regard.

Dr. Mirza Ikhtiar Baig

Lucky Cotton Mills (Pvt) Ltd.

F.225, St.No.5, Textile Avenue,

S.I.T.E,Karachi. Dated: 11.04.2015

"It is respectfully submitted that all the grievances in our complaints have been redressed as per our entire satisfaction. I am cordially thankful and appreciate the quick and time saving process of proceeding of your office and pray for future success."

Tajammal Hussain Aasi

(Advocate/AR),

Lahore. Dated: 17.04.2015

"It is respectfully intimated that in the wake of recommendations of the Hon'ble FTO in Rectification Order dated 17.02.2015, refund due for tax year 2003 to tax year 2008 stands issued. As such grievance of the Complainant has been redressed. Accordingly it is requested that proceedings of implementation may please be closed. With regards."

Bashir Ahmad

Advocate & Tax Consultants

M/s Newage Industrial Package, Hattar Industrial Estate,
Haripur. Date: 16.05.2015

"In respect of the above we wish to inform you that the tax department, vide order passed under Section 221 of the Income Tax Ordinance 2001 dated 14.04.2015, has fully/correctly complied/implemented the findings / recommendation of the Hon'ble Federal Tax Ombudsman dated 11.06.2013. Thanking you."

Mumtaz Ali Bhatti

Director General Finance
Overseas Pakistanis Foundation
Ministry of Overseas Pakistanis &
Human Resource Development
Government of Pakistan,
Islamabad.
Dated: 18.05.2015

"It is intimated with utmost regard that the refund of the taxpayer has been duly issued by the department through refund voucher mentioned in your previous letter on the subject for which the taxpayer is highly obliged. It is submitted with gratitude that it would not have been possible for us to get the due refund but for the kind intervention of this august forum. Thanking you".

Syed Zahid H. Bukhari

Advocate High Court,
Rawalpindi.
Dated: 19.05.2015

"On behalf of our client we wish to confirm that upon intervention of this august office, the grievance of the Complainant has been resolved and the approval for revision of return was duly issued by the department following which the return has been successfully revised by the Complainant. We hereby express our gratitude for this august forum that has swiftly managed to resolve the long outstanding matter very professionally."

Muddassar Khalid, FCA, FCCA

Partner/AR of the Complainant

Hasan Naseem & Co,
Islamabad.

Dated: 27.05.2015

This is with reference to my complaint against the Federal Board of Revenue date June 12, 2015 to your honourable office with regard to revision of my income tax return for 2013 and processing of refund excess tax deducted at source by my employer. I am pleased to inform you that the matter has been resolved by FBR after your honourable office took the necessary action on my complaint. The refund of excess tax has already been processed and it has been received in my bank account. I would like to take this opportunity to pay my sincere thanks to your honourable office for taking a swift action on my complaint and for ensuring a timely resolution. The office of FTO is indeed a big source of hope and relief for the genuine tax payers of Pakistan in current circumstances."

Umar Nawaz Khan

Emirates Telecommunications Corporation
Group Corporate Finance Department
Etisalat Building A, Level 12, Electra Street
P.O. Box 3838, Abu Dhabi,
UAE

Dated: 10.10.2015

"I highly appreciate your recommendation to issue ITP Registration Certificate as per law, within 21 days. I further appreciate your prompt and free of cost order to accommodate myself as per law. I pray for your good health and prosperity."

Muhammad Usman

332/A, Peoples Colony, Faisalabad

Dated: 14.11.2015

"We are in total agreement with the report sent by Chief Commissioner, Large Taxpayer Unit, Islamabad, vide No.15 dated 05.10.2015. The demand raised against us was in accordance with the findings/recommendations of your good office. Therefore, our grievance has been properly redressed. We feel obliged for your concerns."

Lugman Javaid

MIA Corporation (Pvt) Ltd, Islamabad.

Dated: 15.12.2015

"On the instructions and on behalf of our above named client, we acknowledged with thanks of income tax refund voucher for the tax year 2010 dated 28.04.2015 of Rs.139,685/-, hence the matter has been resolved and benefited with the intervention of Honourable Federal Tax Ombudsman. May Allah give more strengthen to this office and this department is blessing for this area."

Riaz Ahmad Raja

Income Tax Practitioners,

Raja & Company,

Multan

Dated: 10.12.2015

"It is respectfully and humbly submitted that a complaint in the instant case was filed in the good office of the reverend Federal Tax Ombudsman for non-issuance of refund for tax years 2013 of amounting Rs.6338330/- respectively. The refund has been issued and the grievance of the Complainant has been satisfied, hence on behalf of my client, I pray to withdraw the impugned complaint. Acknowledge my humble request, close the complaint file, and obliged. Thanking you in anticipation."

Inayat ur Rehman,
Advocate





How to File a Complaint !

A complaint may be filed in accordance with the provisions contained in Section 10(1) of the FTO Ordinance, 2000 read with Regulation No.2 of the FTO's Regulations 2001 preferably on FTO-Form "A" available free of cost at the Head Office and Regional Offices. Form 'A' can also be downloaded from FTO's website: www.fto.gov.pk. Besides, FTO HQs at Islamabad, complaints can also be filed at the relevant Regional Offices at Karachi, Lahore, Peshawar, Quetta, Faisalabad, Abbottabad, Multan and Sukkur.

2. It is required to be stated in a solemn affirmation in terms of the Affidavit attached with the complaint that-

- (i) Previously no complaint on the subject was filed with the FTO Office; and
- (ii) An application to a senior officer of the Revenue Division or any of its filed Collectorates/Commissionerates in respect of the allegations contained in the complaint was made, but either no reply thereto was given within reasonable time or the application was unjustly turned down, or no representation was made.

3. The territorial jurisdiction of the Head Office and Regional Offices is specified in the Schedule ii of FTO's Regulations, 2001 which may be modified by the Ombudsman by an order in writing from time to time. The FTO may direct that a complaint falling within the territorial jurisdiction of one Regional Office to be investigated at any other Regional Office or the Head Office. For hearing of complaints, venue largely depends on the choice of the Complainant for his convenience.

4. On receipt of a complaint, the concerned official in the Registry enters particulars of the complaint in a daily register giving it a diary number and issue a receipt thereof, if the complaint is present personally, and forward it to the Registrar.

5. The official receiving the complaint can assist the complainant in filling out the FTO-Form "A", if such assistance is requested.

Online Filing of Complaints

6. A complaint may be filed and tracked on line as per following procedure:
 - (i) Open FTO's website www.fto.gov.pk;
 - (ii) Click on 'Online Complaint System';
 - (iii) Click on 'File a New Complaint or Track Already Filed Complaint'; and
 - (iv) Fill in the required fields/data and click on 'Save' button.
7. In order to ensure transparency of complaint management by the FTO Office, a proactive SMS-and-e-mail-based alert system has been put in place. The complainants and their representatives are being automatically given SMS and e-mail alerts by the FTO's Computerized Complaint Management System (FCCMS) on the progress of their complaints.

Who can File a Complaint?

8. Any person aggrieved by an action (decision, process, recommendation, omission or commission etc.) of any functionary of the Revenue Division/FBR which:
 - a) is contrary to law, rules, or regulations or is a departure from established practice or procedure, unless it is bona fide any for valid reasons; or
 - b) is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or
 - c) is based on irrelevant grounds; or
 - d) involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as, bribery jobbery, favouritism, nepotism and administrative excesses; and
 - e) neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities.
 - f) repeated notices, unnecessary attendance or prolonged hearings while deciding cases involving:
 - (i) assessment of income or wealth;
 - (ii) determination of liability of tax or duty;
 - (iii) classification or valuation of goods;

- (iv) settlement of claims of refund, rebate or duty drawbacks; or
- (v) determination of fiscal and tax concessions or exemptions;
- g) willful errors in the determination of refunds, rebates or duty drawbacks;
- h) deliberate withholding or non-payment of refunds, rebates or duty drawbacks already determined by the competent authority;
- i) coercive methods of tax recovery in cases where default in payment of tax or duty is not apparent from record; and
- j) avoidance of disciplinary action against an officer or official whose order of assessment or valuation is held by a competent appellate authority to be vindictive, capricious, biased or patently illegal.

Geographical Locations for Hearing of Complaints

9. The FTO HQ at Islamabad, FTO's Regional Offices at Karachi, Lahore, Peshawar, Quetta, Faisalabad, Abbottabad, Multan & Sukkur and make shift arrangements at Hyderabad & Sialkot are the eleven geographical locations where complaints are heard by the Advisors. The Advisors are either Federal Secretary or Additional Secretary level well-reputed retired officers of the FBR or retired judges of the High Court.

Acknowledgment of Complaints

10. Complaints are promptly acknowledged by the FTO HQs and its Regional Offices online, by courier service or by hand, as the case may be. Deficiencies of requisite documents, if any, are intimated to the Complainants. Parawise comments by the FBR or its field formations are furnished to the Complainants to enable them to file rejoinders and prepare well for hearing, fair opportunity of which is duly provided to the parties.





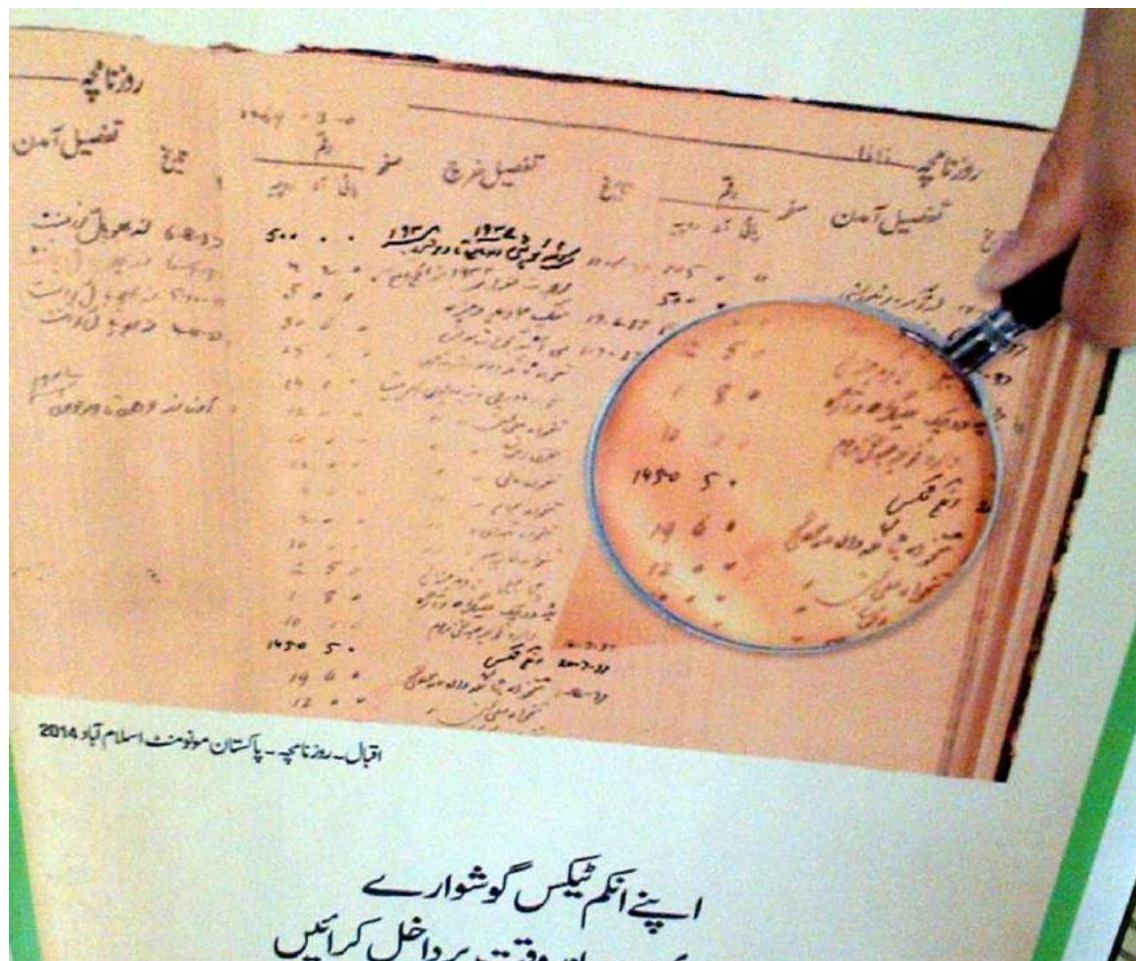
Dr. Allama Muhammad Iqbal
Mufakkir-e-Pakistan



Sanctity of Tax & Our Founding Fathers

Dr. Allama Muhammad Iqbal - Income Tax Return

Dr. Allama Muhammad Iqbal, the Mufakkar-e-Pakistan was very particular in clearing his tax liability. This fact was discovered from the personal diary he maintained during his life time, now placed at Pakistan Monument Museum, Islamabad. It shows payment of Rs.1,450/- paid by him as income tax in July, 1937.



Quaid-e-Azam Mr. Muhammad Ali Jinnah- Income Tax Assessment Form

The following is an image of tax return assessment form for the years 1939-1940 filed by the founder of Pakistan, Quaid-e-Azam, Mr. Muhammad Ali Jinnah, which has been retrieved from the archives. It shows an amount of Rs.8,250/- paid as super tax and income tax by our Quaid in the financial year 1939-1940.

ASSESSMENT FORM

Assessment for 1939-1940 under Section 23 of the Income-tax Act, 1922.

Name of taxpayer *M. A. Jinnah & Co.* District or Area **A WARD COWBAY.**

Status *Individual* Number in General Index **A 2780**

Address *Mulaka Hill* Number of Miscellaneous Receipts *—*

Detailed source of income.	Amount of income.	TAX (SEE LIST, REDUCTIONS AND CREDITS FOR SET OFF)				
		Income tax.		Super tax.		
	Rs.	Rs.	Ps.	Rs.	Ps.	
Salaries						
Interest on securities						
Property	135.04					
Business, Profession or Vocation						
Other sources. (In the case of dividends the gross amount payable to tax and the tax appropriate should be shown.)						
1. <i>Dividend</i>	68.171					
2. <i>in foreign</i>	66.0					
3. <i>—</i>						
Total income	223.35					
Adjusted total income for super tax (total would income* less deductions)						
Income tax payable on Total income				8250		
Super income tax and super tax payable on Total World Income*						
Average rate of income tax <i>36.25%</i> in the income						
Sum included in total income in respect of which income tax is not payable —						
(a) Under section 7(1) or on account of a Provident Fund to which the Provident Funds Act, 1925, applies.						
(b) On account of recognized Provident and Superannuation Funds						
(c) On account of Insurance premiums						
(d) Share from association of persons or from an unincorporated firm the profits of which have been assessed to income tax.						
(e) Interest from tax-free securities of the Central Government or of a Provincial Government.						
Total amount upon which relief is due, and income tax thereon						
Deficit income tax and super tax deducted or otherwise paid at source as shown						
<i>Sum paid</i>				5752		
Net amount of income tax and super tax payable				4498		
Penalties under sections 25(1), 28, 44K, 44V and 46(1)*						
TOTAL SUM PAYABLE						
Rs. 4498 as — (figures) <i>four thousand four hundred and ninety eight</i> paise						
Date <i>11-10-40</i>						

*To be completed in the case of non-residents only.
†Delete inappropriate words or figures.
NFF-127 IT—(M. 183)—15-3-39—300,000.



FTO's Team of Advisors

Federal Tax Ombudsman Secretariat Headquarters, Islamabad

5-A, Constitution Avenue Islamabad. Tel: 051-9212316, 051-9202447,
Fax: 051-9205553, E-mail: info@fto.gov.pk, Web: www.fto.gov.pk



Syed Khalid Akhlaq Gillani

Secretary
FTO Secretariat



Mr. Abdur Rauf Chaudhry

Hon'ble Federal Tax Ombudsman



Mr. Abdul Khaliq

Chief Coordinator



Mr. Asaf Fasihudin Vardag

Advisor Legal



Mr. Mehmood Alam

Senior Advisor



Sardar Irshad Shaheen

Advisor (Income Tax)



**Mr. Arshad
Mahmood Cheema**

Registrar



Mr. Khalid Masood Ahmed

Advisor (Projects)



Mr. M. Siddique

Advisor (I & M)



Mr. Abrar Ahmed Khan

Advisor (Sales Tax)

Regional Office, Karachi

4th Floor, Shaheen Complex, M.R. Kayani Road,
Karachi. Tel: 021-99213586-9, Fax: 021-99213583. E-mail: ftokhi@fto.gov.pk



Mr. Manzoor Hussain Kureshi

Advisor Incharge,
Regional Office Karachi



Mr. Imtiaz Ahmed Barakzai

Advisor
(Sales Tax & Implementation)

Regional Office, Lahore

Bungalow No. 186-A, Scotch Corner, Upper Mall, Lahore.
Tel: 042-99201825, Fax: 042-99201893, E-mail: ftolhr@fto.gov.pk



Mr. Umar Farooq

Advisor
Regional Office Lahore



Mr. Muhammad Munir Qureshi

Adviser **Incharge**,
Regional Office Lahore



Mr. Afzal Nau Bahar Kayani

Adviser
Regional Office Lahore



Mr. Tariq Yousuf

Advisor
Regional Office Lahore



Mr. Mazhar Farooq Shirazi

Adviser
Regional Office Lahore



Mr. Naseer Ahmed

Adviser
Regional Office Lahore

Regional Office, Peshawar

Plot No.33, Sector B-1,
Phase-V, Hayatabad,
Peshawar. Tel: 091-9219507,
Fax: 091-9219506,
E-mail: ftopwr@fto.gov.pk



Mr. Muhammad Younas Khan

Advisor,
Regional Office Peshawar

Regional Office, Quetta

1st Floor, Mashriq Plaza,
Opposite FC HQ, Hali Road,
Quetta. Tel: 081-2863258,
Fax: 081-2823351,
E-mail: ftoqta@fto.gov.pk



Justice (R) Muhammad Nadir Khan

Advisor Incharge,
Regional Office Quetta

Regional Office, Faisalabad

House No. 35, Kanal Park, East Kanal Road, Faisalabad
Tel: 041-9230244, Fax: 041-9230241, E-mail: ftofsd@fto.gov.pk



Mr. Haji Ahmad

Advisor Incharge
Regional Office Faisalabad



Mian Munawar Ghafoor

Advisor
Regional Office Faisalabad.

Regional Office, Abbottabad

House No. CB-531/77, Street No. 1,
Madina Colony, Abbotabad.

Tel: 0992-383079,

Fax: 0992-383080

Email: ftoabbottabad@fto.gov.pk



Mr. Sher Nawaz

Advisor
Regional Office Abbottabad

Regional Office, Multan

House No. 1881-M/I-C,
New Shamsabad, Colony,
Multan.

Tel: 061-9330047, Fax: 061-9330048

E-mail: ftomultan@gmail.com



Mr. Muhammad Daud Khan

Advisor
Regional Office Multan

Regional Office, Sukkur

Bungalow No. 118-, Friends
Co-operative Housing Society Limited,
Airport Road, Sukkur.

Tel: 071-5615189, Fax: 071-5815188

E-mail: ftosukkur@fto.gov.pk



Mr. Aftab Anwar Baloch

Advisor
Regional Office Sukkur



Federal Tax Ombudsman, Pakistan

5-A, Constitution Avenue Islamabad

Tel: 051-9211382, Fax: 051-9205553

E-mail: info@fto.gov.pk

www.fto.gov.pk