



ANNUAL REPORT

2016

Federal Tax Ombudsman
Pakistan

ANNUAL REPORT
2016

Making A Difference



**Federal Tax Ombudsman
Pakistan**



إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ

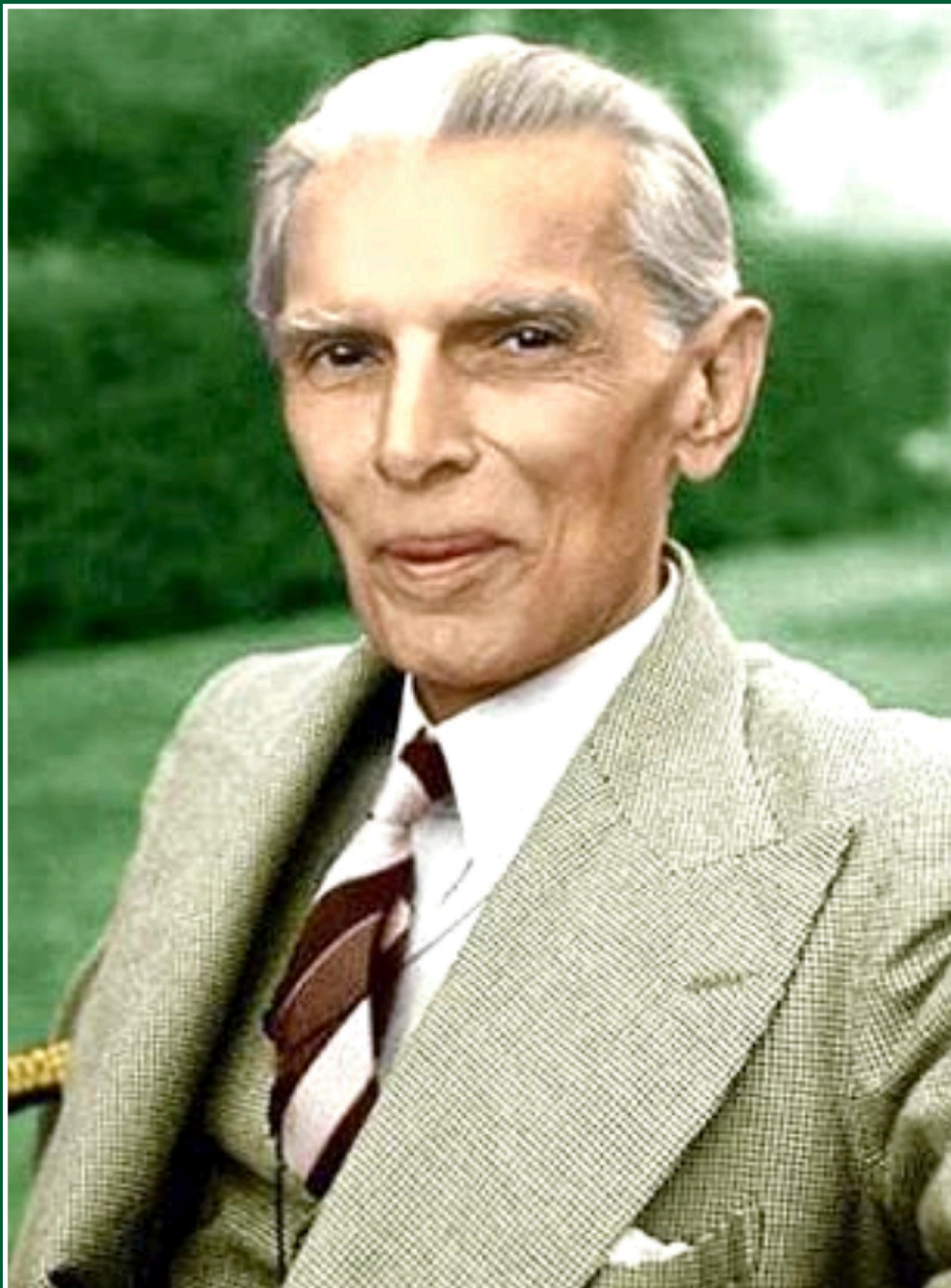
**Indeed, Allah orders
justice and good conduct**

(Surah An-Nahl : Verse No 90)

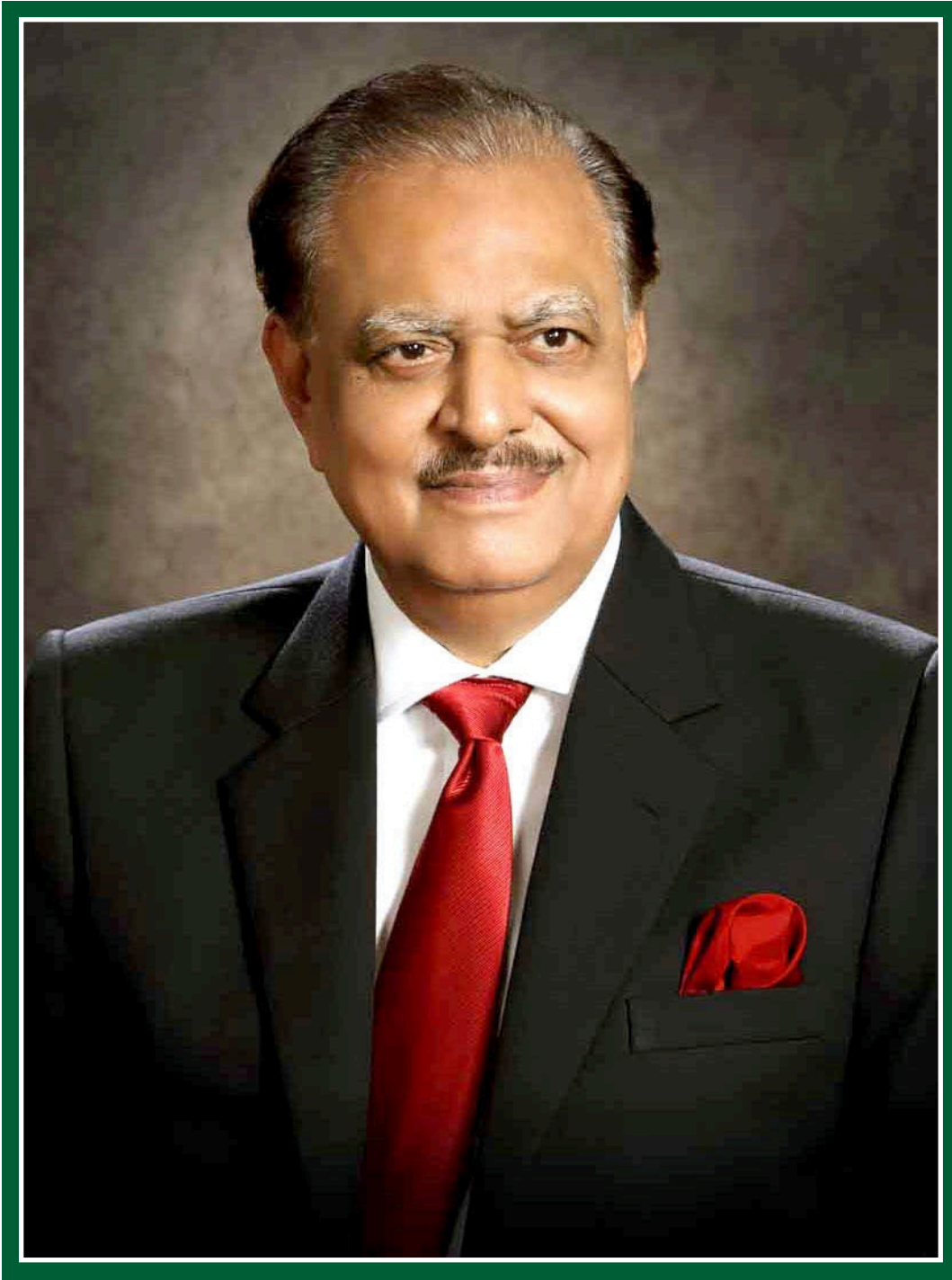
The Constitution of the Islamic Republic of Pakistan makes the State responsible for

“ensuring inexpensive and expeditious justice”

Article 37 (d)



Quaid-e-Azam Muhammad Ali Jinnah
Founder of the Islamic Republic of Pakistan



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

Islamabad

April, 2017

Dear Mr. President

It is a matter of great honour for me to present my fourth Annual Report under section 28 (2) of Federal Tax Ombudsman Ordinance 2000, about the performance of the Federal Tax Ombudsman Office during the year 2016. Though the year remained characterized by unprecedented political activity, yet the Federal Tax Ombudsman (FTO) continued to provide the Taxpayers access to an independent, impartial and inexpensive dispute resolution mechanism which in addition to resolving the disputes, protects the taxpayers' interests. The Tax Ombudsman impartially investigates maladministration which, includes an act of omission or commission which is unjust or biased, oppressive and prejudiced. The Institution provides a framework for enforcing accountability and acts as a deterrent against mis-governance and malfeasance in FBR offices.

In our peculiar circumstances, provision of justice has been a complex phenomenon for numerous reasons, ranging from lack of required skill to the imperfection of legal statutes. Hence, a lot needs to be done for providing prompt and inexpensive justice to the taxpayers. With the grace of Allah Almighty, the FTO office has earned exceptional reputation and all the stake holders including the business community and the tax collecting agencies repose confidence in this Institution. This Institution with a distinct culture and moral beliefs based upon independence and neutrality, helps in bolstering the confidence of the taxpayers. The achievements of the FTO office and feedback received from those who have benefitted from its services provide an astute reflection of its performance.

By virtue of Federal Ombudsmen Institutional Reforms Act 2013, the FTO is now better equipped to act in aid of the taxpayers. Besides its well acknowledged performance in addressing individual complaints against tax collecting agencies, its contributions for systemic improvements are also getting recognition from the stakeholders.

The FTO Office has provided relief to over 1,800 taxpayers during the year 2016. For further improving the complaint redress system and making relief services

more accessible to the taxpayers, new regional offices were opened in the business hubs and frequent visits were arranged to the Chambers of Commerce and Industry, Tax Bars and offices of Trade Associations. In order to improve our interaction with the business community, we have included the Presidents of major Chambers of Commerce and Industry in the FTO's Advisory Committee. Their recommendations are regularly compiled and forwarded to the Federal Government for consideration at the time of finalizing the annual budget.

During the current year (2017), on completion of my four year term, I will be relinquishing the office with the satisfaction that throughout my tenure, I enjoyed unflinching support and highly valued guidance from your esteemed office. I express my sincere thanks for continued encouragement we received from the President's Secretariat for upholding our recommendations whenever challenged under Section 32 of FTO Ordinance 2000 and guidance provided while rectifying our recommendations. This office would always need similar support and guidance for improving service delivery and providing relief to the business community at their doorstep. Such measures are not only essential for building soft image of the government but also for building bridges for moving forward to achieve mutual goals of progress and prosperity.

With profound regards,

Yours sincerely,

(Abdur Rauf Chaudhry)



Foreword

The domain of the administrative judicial system provides several avenues for redress of grievances of the complainants; but the mechanism provided by the federal and provincial ombudsman offices is unique, expeditious and inimitable. Remaining within the overall framework of national judicial system provided in the 1973 Constitution, first ombudsman office (Federal Ombudsman Office popularly known as Wafaqi Mohtasib's office) was established in 1983 by a Presidential Order. The architects of the new system envisaged a dispute resolution platform that was citizen friendly, and was based on cherished societal values of compassion, consideration and sympathy. The new system was convenient, expedient and well suited to the needs of common man. Immediately after its introduction, the ombudsman office started attracting complaints in huge number.

In 2000, the Federal Tax Ombudsman Office was established to provide an exclusive dedicated relief providing system for the taxpayers. The FTO office has now entered into its sixteenth year of service. After its establishment, the nascent FTO office inherited all the characteristics of the Federal Ombudsman; a simple procedure prescribed for filing the complaints, no court fee or mandatory assistance of a counsel so that the complainants do not have to incur heavy costs, no procedural code in order to keep things simple, and disposal of the complaints in the shortest possible time (maximum sixty days). The most important characteristic of the ombudsman system is its effectiveness to implement its recommendations. The acceptance of the FTO recommendations during the past few years has surpassed 90%. The FTO office enhances public confidence in the state policies and saves the citizens from all sorts of highhandedness of federal tax collectors.

Over the years the taxpayers' awareness about the role and mandate of the FTO office is increasing as is evident from the fact that during the year 2016, this Office received 1,768 fresh complaints as compared to 1,509 in 2015. Out of 1,807 decided cases in 2016, 78.9% were decided in favor of the taxpayers as compared to 70% in 2015. The number of complaints rejected in 2016 remained low: 16% complaints were rejected as compared to 20.5% in 2015. Average disposal time of a complaint was reduced to 49 working days as compared to 63 days in 2015. A huge

amount of Rs. 2,672.75 million was got refunded to the aggrieved taxpayers on the basis of the FTO's recommendations during 2016.

During the year under report, the FTO office also embarked upon developing its own customized Complaint Management Information System (CMIS) software. The upgraded CMIS would be helpful for the complainants, who could track every stage of their complaints; hence, saving their time and further enhancing their confidence in the available relief providing system. The CMIS will also ensure paperless coordination/communication with all the FBR regional offices by providing them links for real time access to the record of complaints. An 'Alternate Disaster Recovery Site' for storage of record of complaints to ward off any threat of loss of valuable data due to any human mistake or natural calamity is also under preparation.

In order to further consolidate and augment its achievements, the FTO office continued its efforts to increase awareness amongst the taxpayers. In this regard, an intensive campaign was launched under a project viz: 'Public Awareness & Advocacy about Dispute Resolution Mechanism of Federal Tax Ombudsman Office'. Under new initiatives and programs, teams of the senior advisors were assigned the task of arranging awareness seminars and holding meetings with prominent office bearers of trade bodies, traders associations, and business associations of small and medium entrepreneurs / traders throughout the country. The Federal Tax Ombudsman himself visited several Chambers of Commerce and Industry and explained his role and mandate in resolving taxpayers' problems. All these efforts are producing positive results and the number of complaints received by the FTO office is increasing over the period of time.

The above achievements of the FTO office are the result of a highly dedicated and hard working team of advisors and other staff led by Syed Khalid Akhlaq Gillani, Secretary, FTO secretariat. I take this opportunity to thank all the members of my team for their outstanding work.



Contents

| | |
|-----------------------------------------------------------|-----|
| Letter to the President, Islamic Republic of Pakistan | v |
| Foreword | vii |
| 1 Historical Perspective | 1 |
| 2 Vision, Mission Mandate, and Values | 5 |
| 3 Highlights of 2016 Performance | 7 |
| 4 Details of 2016 Performance | 9 |
| 5 National and International Cooperation | 23 |
| 6 Initiatives for Improvements in Policies and Procedures | 27 |
| 7 Ongoing and New Development Projects | 31 |
| 8 Outreach Initiatives and Advocacy | 37 |
| 9 Complaint Filing Procedure | 47 |
| 10 Selected Findings & Recommendations | 51 |
| 11 Public Feedback | 79 |
| 12 FTO's Team of Advisors | 85 |



Mr. Abdur Rauf Chaudhry
Federal Tax Ombudsman



Historical Perspective

The concept of Ombudsman has its origin in the Holy Qur'an and Islamic history. Taking guidance from the teachings of the Holy Qur'an and *Sunnah* of the Holy Prophet (PBUH), Hazrat Omer Bin Khattab (R.A.), the Second Caliph of Islam, established the institution of *Qadi-al-Qadat*. It enjoyed complete independence and functional autonomy within the framework of an institution called '*Hisbah*'. During the *Abbasids* era (750-847), complaint handling institution called "*Diwan-al-Mazalim*" was established. Its function was to examine complaints brought by the public against government officials. The institution was headed by a senior judge responsible for examining the grievances. The institution of '*Hisbah*' and its functions were also adopted by the Crusaders in Jerusalem; they even used the Arab word '*Mohtasib*' although they changed it into '*Mathessep*'. In Egypt this institution continued to exist up to the middle of the 19th century.

The modern institution of Ombudsman was established in Sweden. During his exile in Turkey, Charles XII, the King of Sweden, observed the working of the *Mohtasib*. On his return from exile, the King ordered establishment of a similar institution in Sweden. This institution was established in Sweden in 1809 with the title of *Justitieombudsman*, popularly known as Ombudsman. The first Swedish Ombudsman was Lars Augustin Mannerheim. For more than 100 years, the office remained confined to Sweden and could hardly create any ripple in other countries. Its contagion effect came out in the twentieth century, when it was adopted in other Scandinavian countries, in Finland (1919), Denmark (1955) and Norway (1962). The introduction of the Danish ombudsman, in 1955, marked the beginning of the worldwide interest in the Ombudsman institution. Later, introduction of an Ombudsman in New Zealand, the first common law country in

1962, sparked off a great deal of interest in the ombudsman concept throughout the world.

The Ombudsman institution was established as a response to the major developments, especially in relation to democratization, human rights and importance of justice for prosperous and just society, taking place during the twentieth century. At present, the Ombudsman offices exist in over 150 countries around the world. Some countries have Ombudsman offices at the national and sub-national levels, such as Australia, Argentina, Mexico, Pakistan, Spain and UK, while others have Ombudsman offices only at the sub national government level, as in Canada, India and Italy.

Ever increasing powers of administrative machinery and its out of proportion size and resultant growth of the concerns of the citizens for a simple independent mechanism of redress have provided impetus to the growth of the institution of ombudsman. The pressure from the civil society is leading to strengthening the democratic structures of governance. Public demand for greater transparency in the process of governance is mainly attributable to the growth of this institution. The complexity of the government processes and the wishes of the people to participate more in decision-making means that citizens shall have complete access to information about policies and procedures.

The role of the Ombudsman is to ensure that all public officials perform their duties honestly and justly. The Ombudsman provides safeguards and avenues to the common man to voice their concerns and grievances. He provides opportunity for seeking remedy before searching solution through costly, cumbersome and backlogged judicial system. The informality, low cost, rapidity of action, flexibility, ability to enforce, freedom from elaborate rules of evidence are its important characteristics, which make the Ombudsman institution an ideal system for the common man to seek relief against administrative excesses. The Ombudsman improves quality of public administration and protects basic human rights. Hence, the Ombudsman goes beyond the approach of 'investigation and report' mode by achieving outcome through conciliation.

In Pakistan, the establishment of Ombudsman institution had been advocated in Article 276 of the Interim Constitution of 1972 which provided for the appointment of a Federal Ombudsman and Provincial Ombudsmen. The

Constitution of 1973 provided for establishment of Federal Ombudsman, and the institution was eventually created through the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 (President's Order No. 1 of 1983). It started functioning on 8th August 1983. Other ombudsman institutions in Pakistan include Provincial Ombudsman offices in Khyber Pakhtunkhwa, Punjab, Balochistan, Sindh and Azad Jammu & Kashmir, Federal Banking Ombudsman, Federal Insurance Ombudsman, Federal Tax Ombudsman, Federal Ombudsman for Protection of Women against Harassment at Workplace and Provincial Ombudsman for Protection of Women against Harassment at Workplace in Punjab and Sindh. All these ombudsman institutions informally collaborate their activities through Forum of Pakistan Ombudsmen (FPO). They also have affiliation with Asian Ombudsman Association (AOA), International Ombudsman Institute (IOI) and OIC Ombudsman Association.

The role assigned to the FTO is only one of its kinds and exceptional in nature considering the complexity and diversity involved in the disposal of public complaints about tax matters which were separated in September 2000 from the Federal Ombudsman Office. He is empowered, under the law, to deal with complaints against officials of Revenue Division / Federal Board of Revenue (FBR), investigate the maladministration pointed out by the aggrieved, prospective and existing 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 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. The FTO office ensures speedy and inexpensive justice to the aggrieved, prospective and existing 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.



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 Rauf Chaudhry
(10-07-2013 - -----)



We Believe & We Serve

Vision

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

Mission

Redress taxpayers' grievances by instituting accountability.

Mandate

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

We Value

- Impartiality
- Integrity
- Transparency
- Accessibility
- Efficiency
- Objectivity



**Participants of Advisors' Conference held on 25-01-2016
with Federal Tax Ombudsman at Islamabad**



Highlights of 2016 Performance

Fresh Complaints

| | | |
|----------|---|--------------|
| 2016 | = | 1,768 |
| 2015 | = | 1,509 |
| Increase | = | +259 (17.2%) |

Disposal

| | | |
|----------|---|---------------|
| 2016 | = | 1,807 |
| 2015 | = | 1,610 |
| Increase | = | + 197 (12.2%) |

Decisions in favour of Tax-payers

| | | |
|----------|---|---------------|
| 2016 | = | 1,426 (78.9%) |
| 2015 | = | 1,127 (70.0%) |
| increase | = | + 299 (26.5%) |

Complaints Rejected

| | | |
|----------|---|--------------|
| 2016 | = | 289 (16.0%) |
| 2015 | = | 330 (20.5%). |
| Decrease | = | - 41 (12.4%) |

Complaints Withdrawn

| | | |
|----------|---|----------------|
| 2016 | = | 92 (5.1%) |
| 2015 | = | 153 (9.5%) |
| Decrease | = | - 61 (- 39.9%) |

Recommendations accepted without contest

| | | |
|----------|---|---------------|
| 2016 | = | 1,515 (83.8%) |
| 2015 | = | 1,375 (85.4%) |
| Increase | = | + 140 (10.2%) |

Number of Findings Challenged

| | | |
|----------|---|-------------|
| 2016 | = | 292 (16.2%) |
| 2015 | = | 235 (14.6%) |
| Increase | = | 57 (24.2%) |

Amount Refunded (Rs. in million)

| | | |
|----------|---|---------------------|
| 2016 | = | 2,672.75 |
| 2015 | = | 734.80 |
| Increase | = | + 1,937.95 (263.7%) |

Average Disposal time for Complaints

| | | |
|----------|---|-------------------|
| 2016 | = | 49 days |
| 2015 | = | 63 days |
| Decrease | = | - 14 days (32.2%) |

Implementation of Recommendations

| | | |
|----------|---|---------------|
| 2016 | = | 1,684 |
| 2015 | = | 1,412 |
| Increase | = | + 272 (19.3%) |

Grievances redressed at investigation stage by FBR

| | | |
|----------|---|--------------|
| 2016 | = | 359 |
| 2015 | = | 452 |
| Decrease | = | - 93 (20.6%) |

Recommendations Pending for Implementation by FBR

| | | |
|----------|---|---------------|
| 2016 | = | 654 |
| 2015 | = | 821 |
| Decrease | = | - 167 (20.3%) |



Details of 2016 Performance

Provision of inexpensive and expeditious justice is a constitutional requirement (Article 37) and the office of the Federal Tax Ombudsman strives to fulfil the constitutional obligation in letter and spirit. Since its inception, the number of complaints received by the FTO is gradually increasing as is reflected in the details of performance discussed below.

Registration of Complaints

2. The complaints received by the Federal Tax Ombudsman fall in four different categories. The category-wise break-up of the fresh complaints received during 2016 and their percentage with respect to total number of complaints is shown in Table-1. It indicates that the complaints received against Income Tax constitute more than 60%. The number of complaints received against Custom Duty (8.30%), Federal Excise Tax (0.40%) and Sales Tax (24.7%) is much less as compared to Income Tax.

TABLE-1

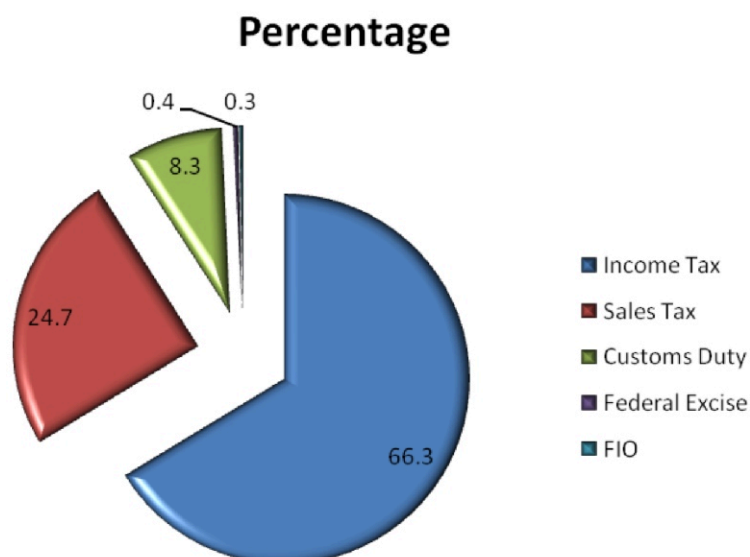
Category-wise Number and Percentage of Fresh Complaints in 2016

| Category | Number of complaints | Percentage |
|----------------------------|----------------------|------------|
| Income Tax | 1173 | 66.30 |
| Sales Tax | 436 | 24.70 |
| Customs Duty | 147 | 8.30 |
| Federal Excise Duty | 7 | 0.40 |
| FOI | 5 | 0.30 |
| Total | 1768 | 100 |

3. Category-wise number of fresh complaints (relative share) received during 2016 is shown in the following figure.

FIGURE

Category-wise receipt of complaints in 2016



4. The head office of the Federal Ombudsman Secretariat is located at Islamabad and its regional offices are located at Karachi, Sukkur, Quetta, Lahore, Multan, Faisalabad, Peshawar and Abbottabad. In order to facilitate aggrieved tax-payers, fresh complaints are received in all the offices. Most of the complaints are received in Lahore, Karachi and Multan offices followed by Islamabad and Faisalabad. Region-wise receipt and disposal of fresh complaints and their percentage-share in total number of complaints during 2016 is reflected in Table-2 below:

TABLE-2**Region-wise Receipt and Disposal of Fresh Complaints in 2016**

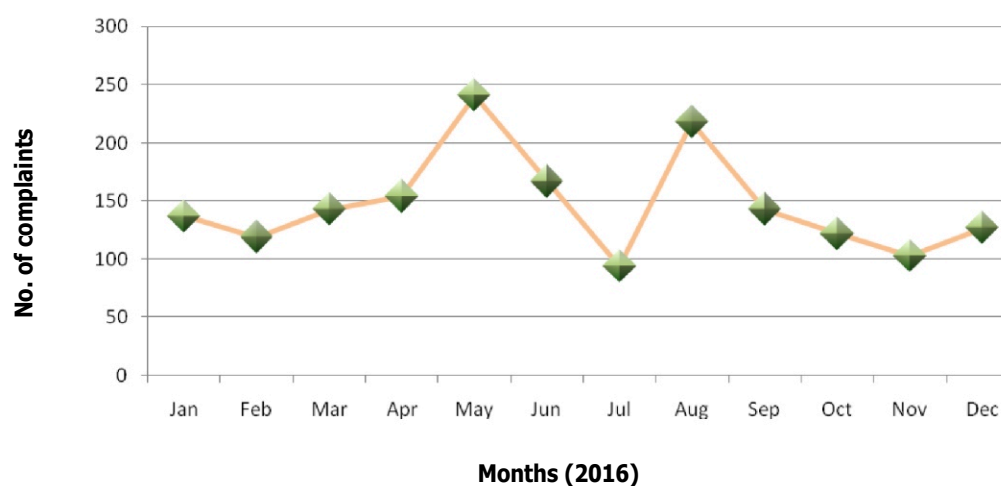
| Region | Receipt | | Disposal | | Balance |
|--------------|-------------|------------|--------------|------------|------------|
| | Nos | % | Nos | % | |
| Islamabad | 178 | 10.07 | 162 | 10.62 | 16 |
| Lahore | 534 | 30.20 | 496 | 32.52 | 38 |
| Karachi | 437 | 24.71 | 393 | 25.77 | 44 |
| Quetta | 21 | 1.19 | 16 | 1.05 | 5 |
| Peshawar | 37 | 2.09 | 35 | 2.30 | 2 |
| Faisalabad | 103 | 5.83 | 84 | 5.51 | 19 |
| Abbottabad | 102 | 5.77 | 93 | 6.10 | 9 |
| Multan | 332 | 18.78 | 228 | 14.95 | 104 |
| Sukkur | 24 | 1.36 | 18 | 1.18 | 6 |
| Total | 1768 | 100 | 1,525 | 100 | 243 |

5. Table-3 below illustrates office-wise monthly receipt of fresh complaints during 2016. The number of complaints received in Karachi and Lahore remained quite consistent, while the number of complaints gradually increased in Multan. The number of complaints received in Peshawar, Quetta, Abbottabad and Sukkur remained on the low side.

TABLE - 3**Office-wise Monthly Receipt of Complaints in 2016**

| Region | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Total |
|-------------------|------------|------------|------------|------------|------------|------------|-----------|------------|------------|------------|------------|------------|-------------|
| HQ Islamabad | 11 | 12 | 16 | 17 | 19 | 8 | 7 | 40 | 8 | 16 | 17 | 7 | 178 |
| Karachi | 41 | 32 | 45 | 44 | 47 | 37 | 34 | 48 | 26 | 25 | 24 | 34 | 437 |
| Lahore | 59 | 31 | 46 | 49 | 70 | 56 | 33 | 47 | 59 | 39 | 20 | 25 | 534 |
| Quetta | 1 | 0 | 1 | 5 | 3 | 4 | 0 | 1 | 0 | 1 | 1 | 4 | 21 |
| Peshawar | 5 | 2 | 2 | 5 | 2 | 4 | 2 | 6 | 5 | 0 | 2 | 2 | 37 |
| Faisalabad | 2 | 7 | 15 | 14 | 16 | 9 | 7 | 16 | 2 | 3 | 9 | 3 | 103 |
| Abbottabad | 4 | 5 | 1 | 5 | 50 | 17 | 0 | 4 | 7 | 2 | 3 | 4 | 102 |
| Multan | 7 | 28 | 17 | 14 | 30 | 31 | 11 | 54 | 34 | 35 | 27 | 44 | 332 |
| Sukkur | 7 | 2 | 0 | 1 | 3 | 2 | 0 | 2 | 2 | 1 | 0 | 4 | 24 |
| No. of complaints | 137 | 119 | 143 | 154 | 241 | 167 | 94 | 218 | 143 | 122 | 103 | 127 | 1768 |

6. The graphic presentation of the trend of monthly filing of complaints in 2016 is given below. The number of complaints peaked in May and August 2016.

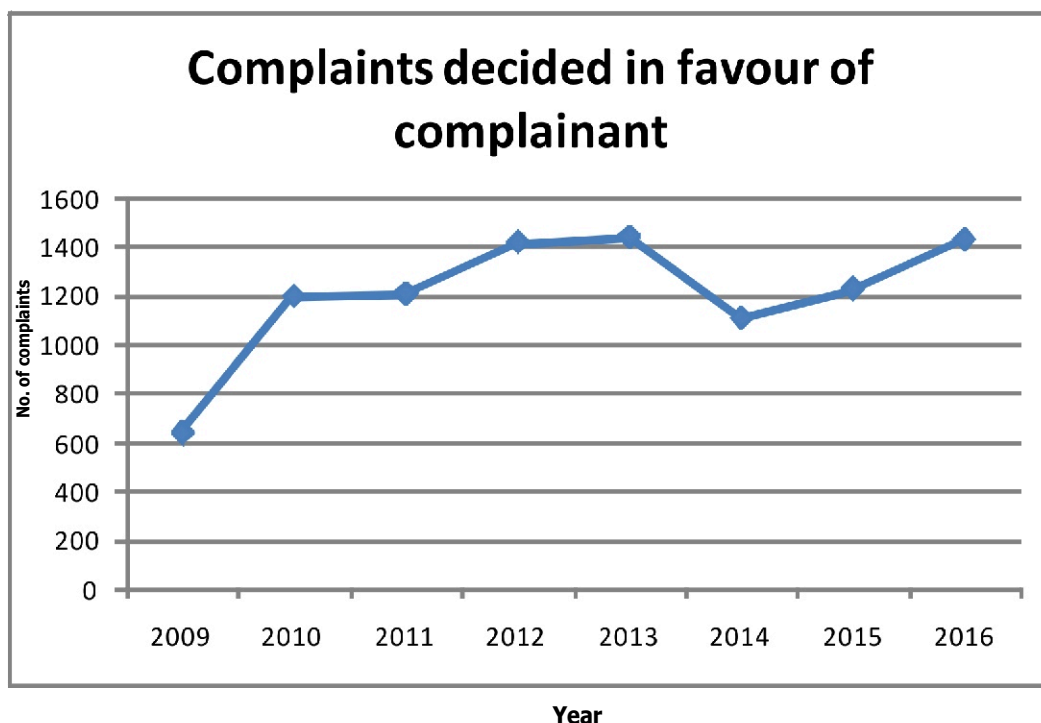
FIGURE**Monthly Receipt of Complaints in 2016**

Disposal of Complaints

7. The FTO Secretariat decided 1,807 cases in 2016 which included 1,525 fresh complaints received during 2016 and 282 complaints carried forward from the previous years. During the year under report, 2,050 complaints remained under investigation.

8. Out of 1,807 decided complaints, 1,426 or 78.9% complaints were decided in favour of the complainants as compared to 1,227 or 76% in 2015; 1,108 or 71.58% in 2014; 1,438 or 77.48% in 2013; 1,414 or 88.54% in 2012; 1,207 or 86.09% in 2011; 1,195 or 83.16% in 2010 and 642 or 76.25% in 2009. The trend indicates that the complaints of the tax-payers are generally based upon solid facts and their dissatisfaction and discontentment from the tax-collectors is not without reasons.

Trend of Complaints during Last 10 Years

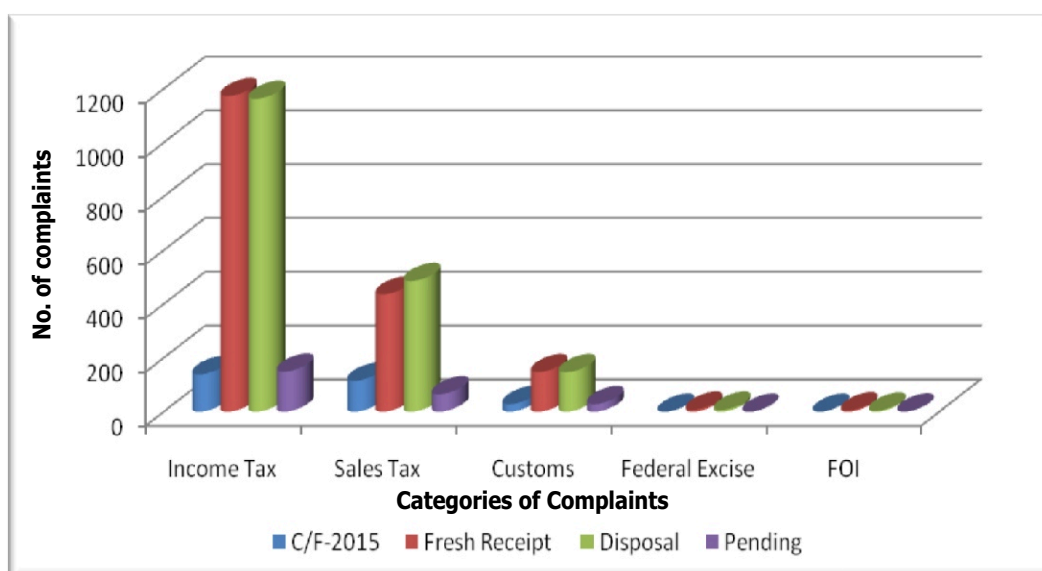


9. Receipt and disposal of complaints, with category-wise breakup, during 2016 is reflected in Table-4 below:

TABLE- 4**Receipt and Disposal of Complaints with Category-wise Breakup in 2016**

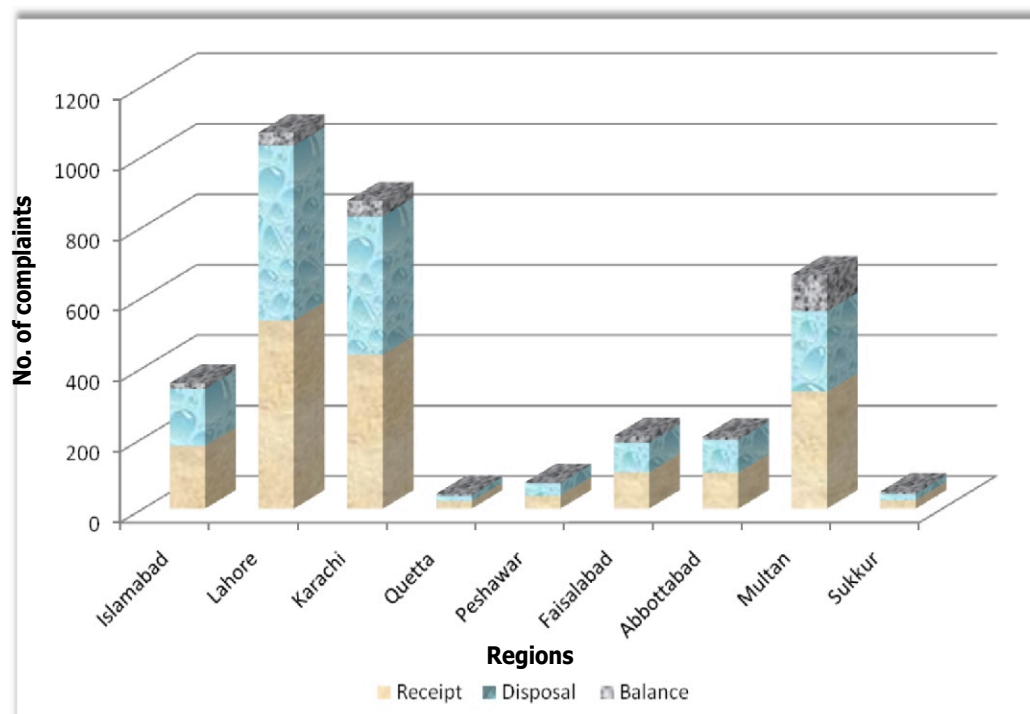
| Type of Tax | Carried forward from 2015 | Fresh Receipt | Total | Disposal of fresh complaints | Disposal of Total complaints | Pending end 2016 |
|-------------------------------|---------------------------|---------------|-------------|------------------------------|------------------------------|------------------|
| Income Tax | 139 | 1173 | 1312 | 1028 | 1163 | 149 |
| Sales Tax | 115 | 436 | 551 | 366 | 486 | 65 |
| Customs | 28 | 147 | 175 | 120 | 147 | 28 |
| Federal Excise | 0 | 7 | 7 | 7 | 7 | 0 |
| Freedom of Information | 0 | 5 | 5 | 4 | 4 | 1 |
| No. of complaints | 282 | 1768 | 2050 | 1525 | 1807 | 243 |

10. Graphic view of the receipt and disposal of complaints during 2016 is presented in the following figure to further elaborate the position given in Table-4.

FIGURE**Receipt and Disposal of Complaints in 2016**

11. Graphic view of Region wise receipt and disposal of fresh complaints during 2016 is shown in the following Figure.

FIGURE
Region-wise Receipt and Disposal of Fresh Complaints During 2016



Average Time Taken for Disposal of Complaints

12. "Justice delayed is justice denied" is a very famous legal maxim meaning that if legal redress is available for a party and it is delayed for a long duration, it eventually means providing no redress at all. The Federal Tax Ombudsman strives to dispose of the complaints of the tax-payers in the shortest possible time. Time taken for disposal of a complaint is counted from the date of filing of a complaint with the FTO 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.

13. The FTO's law provides for disposal of a complaint in 60 days. Keeping in view the difficulties faced by the taxpayers, efforts were made to reduce the time period for disposal. The average time taken for investigation and disposal of

complaints was 49 working days in 2016 as against 63 working days in 2015, 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-5 reflects time taken for disposal of complaints in 2016. Out of 1,807 complaints, 1,508 or 83% were decided in 52 days, while 133 complaints took only 14 days to decide; 788 took 34 days and 587 were finalized in 52 days. The FTO Secretariat plans to investigate reasons attributable for taking 99 days in deciding remaining 299 or 17% complaints.

TABLE-5**Time taken for disposal of complaints**

| Year | Up to 30 days | 31 to 60 days | 61 to 90 days | More than 90 days | Total |
|----------------------------|---------------|---------------|---------------|-------------------|-------------|
| 2016 | 131 | 713 | 506 | 175 | 1,525 |
| 2015 | 2 | 75 | 81 | 124 | 282 |
| Total | 133 | 788 | 587 | 299 | 1,807 |
| Total Days | 1,818 | 26,699 | 30,473 | 29,600 | 88,590 |
| Average days per complaint | 13.7 | 33.9 | 51.9 | 99.0 | 49.0 |

Representations and Review Petitions

14. During 2016, 189 recommendations were challenged through representations under Section 32 of the FTO Ordinance, 2000 and Section 14 of FOIR Act, 2013 and 103 recommendations were challenged through Review Petitions under Section 14 (8) of the FTO's Ordinance read with Section 13 (1) of the FOIR Act 2013. Table-6 provides agency and applicant-wise breakup of representations and review petitions.

TABLE-6**Agency and Applicant-wise Breakup of Representations and Review Petitions Filed in 2016**

| Applicant | Representations | Review petitions | Total |
|------------------|-----------------|------------------|------------|
| FBR | 159 | 30 | 189 |
| Taxpayers | 30 | 73 | 103 |
| Total | 189 | 103 | 292 |

15. Given below Figure A and Figure B further elaborate in graphic form, applicant-wise break-up of representations and review petitions filed in 2016.

Figure –A

Applicant-wise Break-up of Representations and Review Petitions Filed in 2016

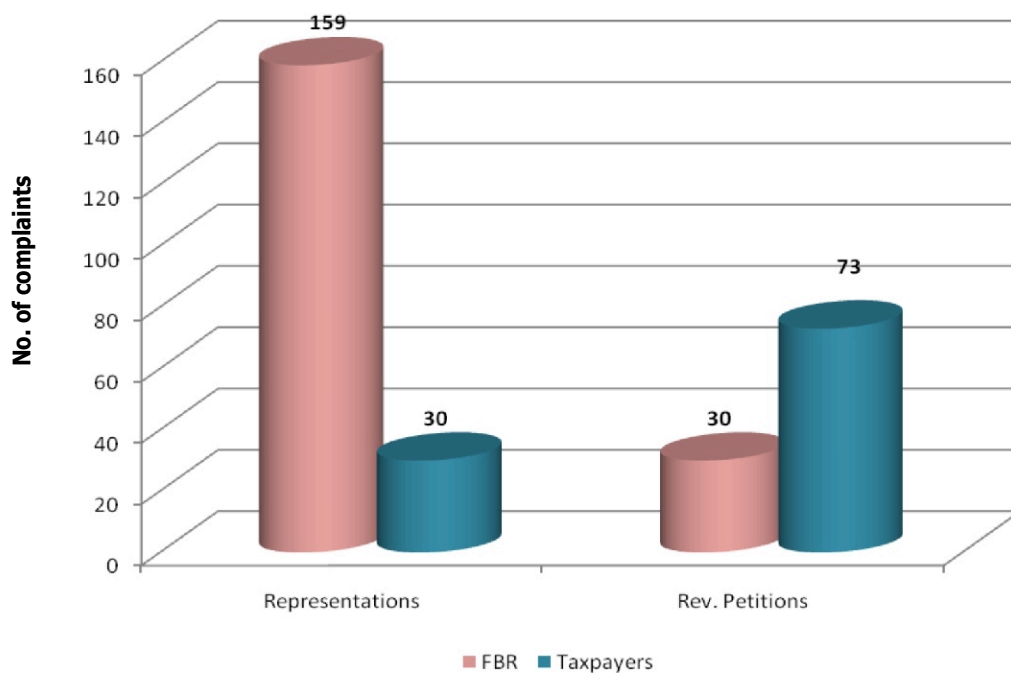
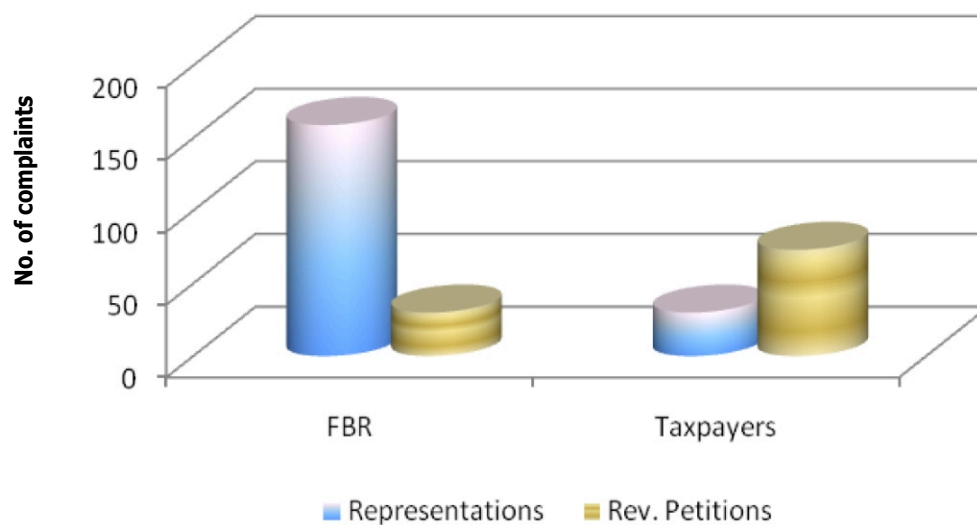


Figure –B



Representations

16. Table-7 below provides summary of the representations decided in 2016.

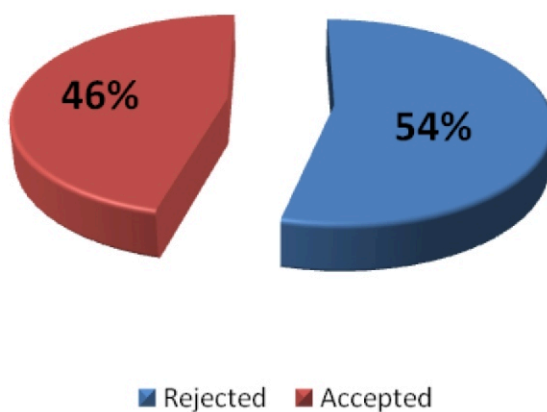
TABLE-7

Representations decided by the President of Pakistan in 2016

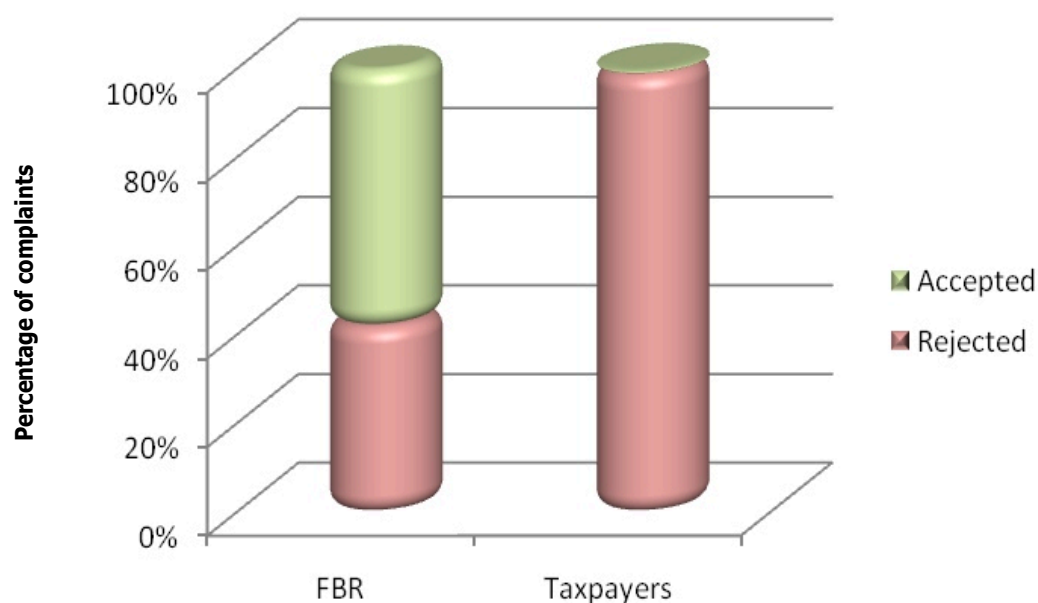
| Representations made by | Rejected | Accepted | Total |
|-------------------------|------------|------------|------------|
| FBR | 122 | 170 | 292 |
| Taxpayers | 78 | 1 | 79 |
| Total | 200 | 171 | 371 |

17. Given below Figure-A provides graphic view of percentage of acceptance and rejection of the representations during 2016. The rejection of 200 out of 371 representations means that in 53.9% cases, the recommendations of the FTO were up-held by the President of Pakistan.

Figure-A



18. The graphic view of stakeholder-wise percentage of acceptance and rejection of representations by the President of Pakistan during 2016 is given in Figure B. It provides a comparison of acceptance and rejection of representations made by the taxpayers vis-a-vis FBR. The acceptance of representations of taxpayers is very low (1.2 %).

Figure-B

19. Year-wise breakup of pending representations since 2001 is given in the table below. The number of pending representations had gone into double digits only in 2014 and 2016.

TABLE-8**Year-wise Breakup of Pending Representations**

| Year | No. of Representations Pending | Year | No. of Representations Pending |
|-------------|--------------------------------|-------------|--------------------------------|
| 2001 | 3 | 2009 | 1 |
| 2002 | 4 | 2010 | 2 |
| 2003 | 5 | 2011 | 1 |
| 2004 | 3 | 2012 | 0 |
| 2005 | 3 | 2013 | 1 |
| 2006 | 0 | 2014 | 21 |
| 2007 | 1 | 2015 | 7 |
| 2008 | 1 | 2016 | 35 |

Review Petitions

20. Apart from 189 representations submitted to the President, 103 review petitions were also received by the FTO office. In addition, 40 review petitions were carried forward from the last year (2015). Most of these review petitions (130) were decided during 2016 leaving a balance of only 13 review petitions. Table-9 reflects receipt and disposal of the review petitions during 2016.

TABLE-9**Receipt and Disposal of Review Petitions in 2016**

| Applicant | Received during 2016 | Carried forward from 2015 | Total | Disposal during 2016 | Balance |
|------------------|----------------------|---------------------------|------------|----------------------|-----------|
| FBR | 30 | 12 | 42 | 39 | 3 |
| Taxpayers | 73 | 28 | 101 | 91 | 10 |
| Total | 103 | 40 | 143 | 130 | 13 |

21. It was noticed that most of the Review Petitions filed by the FBR or the Taxpayers were rejected on reconsideration, which is a manifestation of the fact that initial recommendations were prepared following stipulated laws and regulations and no serious lapse or irregularity was noticed during review proceedings. Acceptance/Rejection ratio of Review Petitions during 2016 is reflected in Table- 10:

TABLE-10

| Applicant | Accepted | Rejected | Withdrawn | Modified | Total |
|------------------|-----------|-----------|-----------|----------|------------|
| FBR | 6 | 32 | 0 | 1 | 39 |
| Taxpayers | 25 | 61 | 5 | 0 | 91 |
| Total | 31 | 93 | 5 | 1 | 130 |

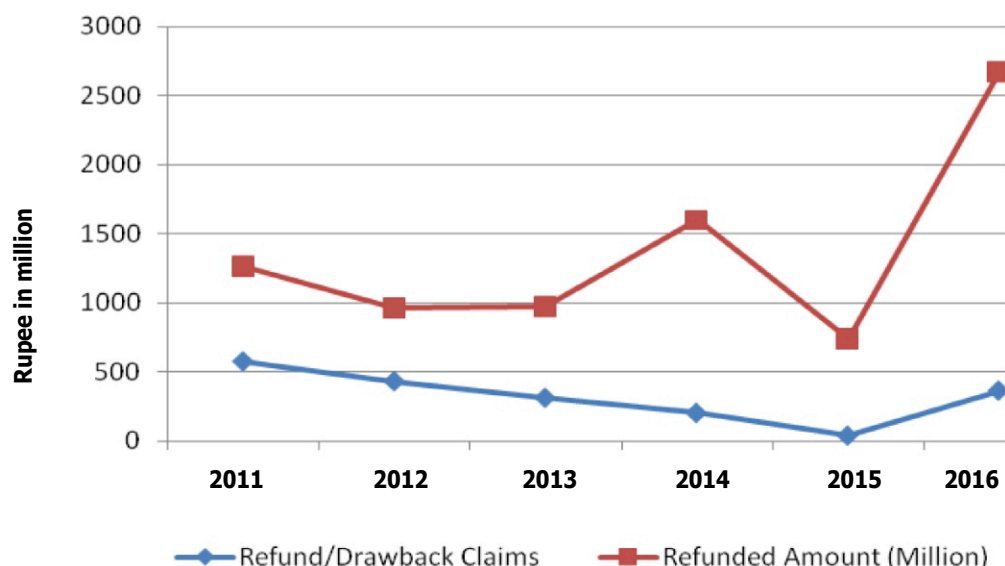
22. Table 10 show that most of the representations were filed by the FBR and review petitions by the taxpayers. As a substantial number of representations were rejected; it indicates that the representations were not based on merit.

23. The FTO's interventions are extremely helpful in expediting settlement of delayed refund cases which promote economic activity. During 2016, a staggering amount of Rs.2,672.75 million, involving 366 complaints, was paid to the aggrieved tax-payers as a result of the intervention of FTO. Table-11 below summarizes the number of refund cases and amount of refund to the tax-payers for the last 6 years:

TABLE-11

| Year | No. of Refund/Drawback Claims | Amount of Refund (Rs. in Millions) |
|--------------|-------------------------------|------------------------------------|
| 2011 | 577 | 1263.04 |
| 2012 | 434 | 959.44 |
| 2013 | 315 | 969.85 |
| 2014 | 205 | 1,596.74 |
| 2015 | 41 | 734.8 |
| 2016 | 366 | 2,672.75 |
| Total | 1,938 | 8,196.60 |

24. The following figure presents the graphic view of Table-11. Both the curves, representing the amount of refund and the number of refund cases, depict a sharp increasing trend during 2016 which is attributable to vigorous follow up at the level of FTO office and interest shown by the FBR, Ministry of Finance and Prime Minister of Pakistan.



Acceptance Ratio of the FTO's Recommendations

25. It is satisfying to note that the ratio of acceptance of FTO's recommendations by FBR is very high. Out of 1,610 cases decided during 2016, only 292 cases were challenged, mostly by the FBR, through representations under Section 32 of the FTO Ordinance, 2000 and Section 14 of the FOIR Act, 2013, or through Review Petition under Section 14(8) of the FTO Ordinance, 2000 and Section 13 of the FOIR Act, 2013. The number of representations (with percentage) filed against FTO's recommendations since 2010 is given in Table-12.

TABLE-12

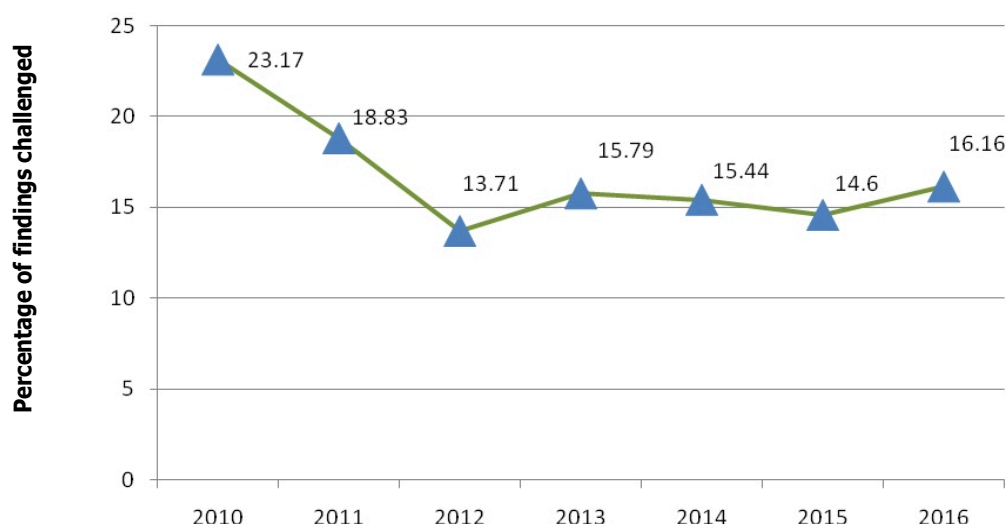
Year-wise Number and Percentage of FTO's Recommendations

| 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 |
| 2016 | 1807 | 189 | 103 | 292 | 16.16 |
| Total No. of complaints | 11257 | 1286 | 589 | 1875 | 16.7 |

26. The following graph shows year-wise trend of recommendations challenged since 2010.

FIGURE

Year-wise Percentage of Findings Challenged During 2010-2016



27. Table-12 and the above Figure show that during 2016 the percentage of representations remained at 16.16% which is slightly lower than the average percentage (16.75%) of the last six years.

28. Most of the recommendations (83.8%) issued by the FTO are straightaway accepted by the FBR and the taxpayers. Acceptance percentage of the recommendations during the last 8 years is provided in Table 13:-

TABLE-13

Year-wise Percentage of Decisions Accepted

| | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|--------------|-------|-------|-------|-------|-------|-------|------|------|
| Acceptance % | 77.79 | 76.82 | 81.86 | 86.29 | 84.21 | 84.56 | 85.4 | 83.8 |

Implementations of Recommendations

29. During 2016, the recommendations issued by the FTO in 1,684 complaints were implemented by the FBR which is higher than the previous years (1,412 complaints in 2015; and 1,374 in 2014). Out of 1,684 recommendations implemented during 2016, grievances of the complainants were redressed in 359 cases during the

investigation stage as against 452 cases in 2015 and 396 cases in 2014. Table-13 reflects year-wise implementation of the FTO's findings and redress of grievances in complaints during the investigation phase:

TABLE-14**Year-wise Redress of Grievances at Investigation and Decision Stages**

| Year | Grievances Redressed at Investigation Phase | Grievances redressed after FTO Decision | Total Recommendations implemented |
|-------------|---------------------------------------------|-----------------------------------------|-----------------------------------|
| 2009 | 151 | 170 | 321 |
| 2010 | 367 | 331 | 698 |
| 2011 | 399 | 760 | 1,159 |
| 2012 | 493 | 927 | 1,420 |
| 2013 | 524 | 684 | 1,208 |
| 2014 | 396 | 978 | 1,374 |
| 2015 | 452 | 960 | 1,412 |
| 2016 | 359 | 1,325 | 1,684 |

TABLE-15**Recommendations Pending for Implementation with FBR**

| Description | 2015 | 2016 |
|----------------------------------------------------------------------------|-------|-------|
| Carried over stock of Recommendations | 993 | 821 |
| Fresh implementable recommendations added during the year | 1,127 | 1,370 |
| Recommendations/representations/ review petitions received during the year | 113 | 147 |
| Total stock during the year (1+2+3) | 2,233 | 2,338 |
| Recommendations implemented during the year | 1,412 | 1,684 |
| Stock of Recommendations pending on end of the year | 821 | 654 |

TABLE-16**Year-wise Breakup of Recommendations Pending for Implementation With FBR**

| Year | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|-------------|------|------|------|------|------|------|------|------|-------|
| 2016 | 3 | 7 | 6 | 18 | 36 | 66 | 125 | 393 | 654 |

30. The number of recommendations pending during 2016 (393) has significantly increased as compared to last seven years. The FBR authorities need to pay more attention to expeditiously implement the recommendations.





National and International Cooperation

National and International Collaboration

Mr. Abdur Rauf Chaudhary, Federal Tax Ombudsman, who is also Chairman of OIC Ombudsman Association Steering Committee and President of Forum of Pakistan Ombudsmen and senior advisors of his team participated in several national and international events and sponsored many activities during the year under report. Some of the important activities are briefly discussed below:

18th Annual Meeting of the Board of Directors of Asian Ombudsman Association followed by IOI Asian Region Meeting held on 7th March, 2016 in Tokyo, Japan

2. Asian Ombudsman Association (AOA) organized 18th Annual Meeting of the Board of Directors on 7th March, 2016 in Tokyo, Japan. The meeting was presided over by Mr. Muhammad Salman Faruqi, Federal Ombudsman and President, AOA. Mr. Abdul Khaliq, Chief Coordinator, FTO Office / Executive Secretary of the Association coordinated the proceedings. The delegates from Pakistan, Azerbaijan, Hong Kong, Iran, Peoples Republic of China, Indonesia, Japan, Malaysia, and Tatarstan participated in the meeting. The meeting approved Annual Report of the Association for the year 2014-15 and Report of the Conference held on 25-26th



Participants of 18th Annual meeting of the AOA Board of Directors, Tokyo, Japan

November, 2015 at Islamabad. The meeting also examined issues relating to grant of full membership to Jordan Ombudsman Bureau and life-time membership to Mrs. Panit Nitithanprapas, former AOA President and Chief Ombudsman of Thailand.

15th Meeting of the Forum of Pakistan Ombudsmen held in Karachi on 20th April, 2016

3. Mr. Abdur Rauf Chaudhry chaired 15th meeting of the Forum of Pakistan Ombudsman (FPO) on 20th April, 2016 at Karachi. The meeting was attended by 11 Ombudsmen and representatives of ombudsman offices.



The meeting took important decisions on several agenda items including adoption of FOIR Act, 2013 for legislation by the Provinces; issues of Ombudsman offices jurisdiction; international collaboration; review of activities of AOA, sustainability of the FPO; outreach of the Mohtasibs' institutions beyond Provincial Headquarters; election of Regional President of I.O.I., Asian Region etc.



President FPO and Federal Ombudsman presenting Souvenir to outgoing Federal Insurance Ombudsman



Another view of the 15th Meeting of the FPO

19th Meeting of AOA Board of Directors held on 10th August, 2016 in Kazan, Tatarstan

4. The 19th Annual Meeting of the Board of Directors of Asian Ombudsman Association (AOA) was held on 10th August, 2016 in Kazan, Tatarstan. The meeting was presided over by Mr. M. Salman Faruqi, Federal Ombudsman of Pakistan and coordinated by Mr. Abdul Khaliq, Chief Coordinator, FTO Office / Executive Secretary of the Association. The delegates from Pakistan, Azerbaijan, Hong Kong, Iran, Peoples Republic of China, Indonesia, Japan, Malaysia and Tatarstan attended the meeting. Several agenda items including the following

were considered and approved:

- i. Procedure for election if any vacancy fall vacant during the tenure of the Board.
- ii. Full Membership of AOA to Georgia and Dagestan (Russian Federation).
- iii. Functioning of the Academy established by the General Inspection Organization, Iran.
- iv. Use of Funds and Resource Mobilization for the Association.
- v. Expansion of the Association.
- vi. Improvements in the working of AOA Secretariat and launching of e-Newsletter.



Members of AOA Board of Directors with President of Kazan, Tatarastan



Participants of 19th Meeting of AOA Board of Directors at Kazan, Tatarastan

Meeting of Forum of Pakistan Ombudsmen (FPO)

5. The 16th meeting of the FPO was held on 19th October, 2016 at Islamabad Club, Islamabad. Mr. Abdur Rauf Chaudhry chaired the meeting which was attended by almost all other Federal and Provincial Ombudsmen. After opening remarks, Mr. Abdul Khaliq, Secretary, FPO gave a briefing on agenda items. The Forum was apprised that a 'Working Paper' was being forwarded to the IOI General Secretariat for evolving a common strategy in the forthcoming meetings of IOI, BoD and the General Assembly scheduled in Bangkok. The event was important because Pakistan had proposed that the number of directors be increased from three to five on IOI Board from Asian Region and that the election of the IOI President be held on rotation basis. Another significance of the event was that Mr. Asad Ashraf Malik, Ombudsman of the province of Sindh was contesting election for the post of President for Asia Region to replace Wafaqi Mohtasib, Pakistan.

6. The Ombudsman of AJK apprised the members that Government of AJK was considering a proposal for merging Ehtisab Bureau, AJK Mohtasib Office and Anti Corruption Establishment. The Forum resolved to take up the matter with AJK President, Prime Minister and other dignitaries to highlight the necessity for retaining Ombudsman institution as a separate entity.



A view of the 16th Meeting of Forum of Pakistan Ombudsman

Federal Tax Ombudsman Attended 11th IOI Conference at Bangkok

7. On the invitation of International Ombudsman Institute (IOI), Federal Tax Ombudsman and Federal Mohtasib attended 11th World Conference held at

Bangkok, Thailand from 14 – 19 November 2016. The theme of the Conference was “The Evolution of Ombudsmanship”. The Conference was divided in eight sessions, where following sub-themes were discussed;

- ⊙ Assessment and evaluation of Ombudsman work
- ⊙ Human rights based approach to the Ombudsman’s work
- ⊙ Multiple jurisdictions of Ombudsman offices
- ⊙ Innovative ideas in the Ombudsworld
- ⊙ Challenges due to multiple mandates
- ⊙ Collaboration with civil society - benefits and challenges
- ⊙ Freedom of information and the Ombudsman
- ⊙ Ombudsman in times of crises or under threat

8. During the Conference, IOI Asian Region meeting was held on 14th November, 2016 for discussing regional issues. The elections of the Regional President were also held and Mr. Asad Ashraf Malik, Provincial Ombudsman, Sindh was elected as IOI Asian Region President for the next four years. Mr. Salman Faruqi presented IOI Asian Region Report for the last four years. He gave a presentation on “Expansion of IOI in Asian Region”. A proposal was also discussed to appoint IOI President on rotational basis, on the pattern of the United Nations.



IOI Board of Directors Meeting

9. IOI Board Meeting was also held on 14th November, 2016 in Bangkok and during the meeting, on the recommendations of Regional President, the Board decided to recommend the following for membership:-

- a. Syed Pir Ali Shah, Provincial Ombudsman Sindh for Protection against Harassment of Women at Workplace.
 - b. Mr. Mumtaz Hussain Naqvi, Ombudsman of Azad Jammu & Kashmir-Pakistan.
 - c. The Ombudsman (Commission) of Gangwon Province , Republic of Korea.
10. The following were elected members of the Executive Committee of IOI:
- IOI President: Mr. Peter Tyndall (Ireland)
 - IOI 1st Vice-President: Ms. Diane Welborn (USA)
 - IOI 2nd Vice-President: Mr. Chris Field (Australia)
 - IOI Treasurer: Mr. Viddhavat Rajatanun (Thailand)

Federal Tax Ombudsman Visited Office of Provincial Ombudsman, Punjab

11. Mr. Abdur Rauf Chaudhry and Mr. M. Salman Faruqi visited the office of the Ombudsman, Punjab on 04.10.2016 for discussions on the matters of mutual interest. Mr. Najam Saeed, Provincial Ombudsman, Punjab expressed his gratitude for their visit and valuable technical support for operationalizing 'Complaint Management Information System' (CMIS) used in the Ombudsman Punjab Office.

12. During the meeting, Mr. Najam Saeed apprised the visitors that he had cleared all pending complaints. He further informed that he had introduced several important initiatives for strengthening the complaint handling process of his office aiming to introduce 'Public Friendly' environment. He informed that a 'Compendium' of provincial laws, regulations, guidelines and instructions was being compiled by his office for use as a ready-reckoner and for bringing consistency in processing of cases.





Initiatives for Improvement in Policies and Procedures

Call on Honorable President of Pakistan by Federal Tax Ombudsman

Mr. Abdur Rauf Chaudhry called on Honorable Mr. Mamnoon Hussain, President of the Islamic Republic of Pakistan in the President House, Islamabad on 21st July, 2016. He briefed the President about the working of the FTO Secretariat and apprised him about recent measures introduced to resolve the income tax and sales tax refund cases. Issues relating to implementation of the FTO's findings and ways and means to improve the complaint handling mechanism to provide speedy justice to the tax-payers were also discussed.



Federal Tax Ombudsman Forms a Committee to Resolve Issues of Delay in Tax Refund Claims

2. Mr. Abdur Rauf Chaudhry in exercise of powers vested under Section - 18 of 'Establishment of the Office of Federal Tax Ombudsman Ordinance' 2000, constituted a seven members Committee to investigate and probe into the issues relating to inordinate delay in payment of Tax Refund Claims and recommend appropriate measures to clear the backlog. Dr. Ikramul Haq, Advocate Supreme Court and known tax expert was appointed Chairman of the Committee. Other four Members of the Committee were selected from the business community. Senior Member of the FBR was also included in the Committee. The Committee finalized its recommendations which were forwarded to the Finance Minister for consideration

Federal Tax Ombudsman Secretariat sent Budget Proposals to the Finance Minister

3. The Federal Tax Ombudsman Secretariat made a positive contribution for the Finance Bill 2016-17 by forwarding budget proposals to the Finance Minister for improvement of taxation system. These proposal were based on the recommendations received from the FTO's Advisory Committee, feedback gathered from the Business Community (in response to tax policies) and general conduct of the tax authorities. The suggestions were:-

I. Institutional Reforms for Tax Policy, Collection and Adjudication

In order to make the Taxation System more effective and transparent, globally accepted principle of separation of Tax Policy, Collection of Revenue and Adjudication should be introduced by adopting following measures:

- i. For Policy Formulation and providing mechanism for effective oversight, Revenue Division needs to be made functional as an independent body with adequate participation from the private sector.
- ii. The role of FBR may be restricted to revenue collection within the policy frame work set out by the Revenue Division. The FBR should have independent members instead of the FBR employees.
- iii. For providing fair and effective adjudication system, departmental adjudication level and Commissioner of Appeals may be dispensed with, and an independent National Tax Tribunal (NTT) may be constituted under the Ministry of Law or the Supreme Court of Pakistan. The NTT may also have provision for intra court appeals.
- iv. The proposed NTT should consist of a Judicial Member (qualified to be appointed as a judge of the High Court) and a Chartered Accountant.

II. Integrated Information System for Taxation

The FBR should establish a Taxpayers' Integrated Information System linked with CNIC/NTN. All major transactions involving banks, utility bills, purchase of moveable & immoveable property, air travel tickets, payment of educational institutions fees, etc. may be linked with the proposed system. By the end of year, electronic income tax statement should be sent to the individual taxpayer with the amount of tax calculated.

III. Irregular Practice of SROs

The practice of issuing SROs without the approval of the Parliament is a gross violation of Article 77 of the Constitution. Such constitutional

violations with respect to adjustment of taxes with SROs and Public Spending in terms of Supplementary Grants without prior parliamentary sanctions should be stopped forthwith.

IV. Remedial Measures to Clear Backlog of Refund Cases

The most recurrent issue brought to the notice of the Federal Tax Ombudsman is the delay in payment of refund claims. This tendency not only causes inconvenience to the tax payers, especially the Business Community, but is also counterproductive for economic development. In view of the sensitivity of the issue the following recommendations are proposed:-

- i. Updated data regarding 'Blocked Refunds' may be placed on the FBR's website on monthly basis starting from 31.08. 2016 containing disclosure of following information:
 - Accumulated Refunds pending as on 1st August, 2016.
 - Refunds added during the month.
 - Refunds paid during the month.
 - Closing balance as on 31.08.2016.
- ii. FBR should expeditiously pay all outstanding refunds where electronic Refund Payment Orders (e-RPOs) have been issued.
- iii. FBR should pay compensation in all cases where cheques for admissible refund claims under Section 10 of the Act are not paid within 45 days of filing or 07 working days of issue of e-RPO whichever is later.





Ongoing and New Development Projects

Creating awareness among citizens, and introducing user-friendly and easy-to-access information technology to facilitate the tax-payers has always been the cornerstone of the working of the Federal Tax Ombudsman office.

2. In line with the laid down work-policy, the office continued to successfully implement the on-going projects, and conceiving new projects so that the chain of activities is not disrupted. During the year under report, the FTO's office pursued the following projects:

1. Projects Started last year

- a. Public Awareness & Advocacy about Dispute Resolution Mechanism of Federal Tax Ombudsman Office at an approved cost of Rs. 59.40 million.
- b. Construction of Official Residence for Federal Tax Ombudsman at Sector F-5/2, Islamabad at an approved cost of Rs.53.06 million.
- c. Construction of Office Building of Federal Tax Ombudsman in Admn. Centre Area close to the Prime Minister's Secretariat at an estimated cost of Rs.324.00 million.

2. Project Initiated During 2016

- a. Strengthening Federal Tax Ombudsman's System of Administrative Justice and Development/Expansion of Online Complaint Management Information System at a cost of Rs. 56.83 million.

3. Project Completion Report (PC-IV)

The office also prepared Project Completion Report of the following

project on the prescribed format of PC-IV and submitted it timely to the Planning Commission immediately after completion of the project.

- a. Enhancing Countrywide Outreach, Up-gradation and Computerization of FTO's Office

3. The progress achieved so far in implementing the above projects along with some brief introduction of the projects highlighting their importance for the FTO Secretariat is briefly discussed below:

4. Projects Started last year

Public Awareness & Advocacy About Dispute Resolution Mechanism of Federal Tax Ombudsman Office.

The project was approved at a cost of Rs.59.40 million by the DDWP held under the chairmanship of the Federal Tax Ombudsman on 18th November 2015. The project would be implemented in thirty (30) months starting from 1st January, 2016. The overall objective of the project is to raise awareness about the mandate of the FTO office. Specific objectives of the project are:

- Carry out a 'Knowledge Attitude and Practice' (KAP) Survey 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.
- Increase the number of complaints by raising awareness among the existing and prospective tax-payers by educating them about the role of Tax Ombudsman's relief providing mechanism.
- Build the confidence of the prospective tax-payers to become part of the tax-net by removing their fears that once registered as tax-payers they would be exploited by tax-collectors.
- Inculcate tax-paying culture by creating compliant taxpayers.

An allocation of Rs. 15.00 million has been earmarked for this project during current year's PSDP (2016-17). During 2016 a number of outreach and advocacy activities were carried out

including the following:

- Visit to Customs House, Karachi on 19th April 2016
- Visit to Chamber of Commerce and Industry, Sialkot, on 05th October, 2016
- Awareness Session Held at Lahore on 29th December, 2016
- Visit to Federation of Chambers of Commerce & Industry, Islamabad on 01st December, 2016.

4. The FTO's Advisors from Head Office and In-charge Regional Offices held extensive meetings during 2016 with small traders and office-bearers of the trade bodies for creating awareness. Leaflets, brochures and hand-outs highlighting mandate and services of the FTO mechanism were developed and distributed amongst the participants. Details of these awareness activities have been provided in a separate Chapter on 'Outreach Initiatives and Advocacy'.

5. In addition, the services of one Media Advisor and one Media Manager along with support staff were hired under the project. Necessary office equipment and furniture were also procured as provided in the project.

Construction of Official Residence for Federal Tax Ombudsman in Sector F-5/2, Islamabad

6. A plot of land measuring about two kanals for construction of official residence of the Federal Tax Ombudsman was provided by the Prime Minister in the year 2011. The project remained stalled due to delay by the CDA.

7. The Project was reactivated and following activities were completed :

- i) The CDA was approached to convey cost of land and CDA's demand letter was obtained
- ii) Approval of the CDA Board of Directors for handing over the plot to the FTO's office was obtained
- iii) PC-I of the project was completed in collaboration with Pak. PWD and placed before the DDWP
- iv) The project was considered for the first time by the DDWP in its meeting held on January 28, 2016 but was deferred with some technical observations
- v) Necessary amendments were incorporated in the project proposal and

the modified PC-1 was placed before the DDWP on 16th February, 2016. The project was approved, in principle, but the members of the DDWP made a few more observations. The project remained under revision by the Pak. PWD till it was re-submitted for reconsideration on 09th October, 2016.

- vi) The project was finally approved by the DDWP in its meeting held on 1st December, 2016 at a cost of Rs. 53.241 million. The project has been included in the current year's (2016-17) PSDP with an allocation of Rs. 30.00 million and is under implementation. It will be completed by the end of the year 2018.

Construction of Building for Office of Federal Tax Ombudsman at Islamabad

8. The FTO office is presently housed in two separate rented buildings which are insufficient to cater for office 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 and its availability in two separate buildings is seriously impeding automation and reducing efficiency.

9. A summary was submitted on 17th February, 2016 to the Prime Minister with the request that Capital Development Authority may be advised to allot a suitable plot of land measuring about 3,000 square yards for the construction of office building of the FTO Secretariat at Islamabad. The summary for the Prime Minister was supported by the Ministry of Housing Works and Capital Administration and Development Division.

10. The Board of Directors of CDA has identified and approved a plot measuring 97'x270'=2910 Sq. yards in the Admin Centre Area, close to the Prime Minister's Secretariat, Islamabad. The proposal for allotment of this plot of land to the Federal Tax Ombudsman office has now been re-submitted to the Prime Minister's secretariat. An allocation of Rs. 25.00 million is available in the PSDP (2016-17) for this project. The tentative cost of the project has been estimated at Rs. 324.00 million as reflected in the PSDP (2016-17).

Strengthening Federal Tax Ombudsman's System of Administrative Justice and Development / Expansion of Online Complaint Management Information System (CMIS).

11. The project was designed to upgrade and enhance existing I.T. facilities in the FTO secretariat. It was approved by the DDWP in a meeting held on 30th August, 2016 at a cost of Rs. 56.827 million. An allocation of Rs. 10.00 million has been provided for this project in 2016-17 PSDP budget.

12. The project envisages to provide a reliable Computerized Management Information System capable of bringing efficiency, effectiveness and performance improvements. There was a dire need of customizing various work-processes of the FTO's complaint redress system which at present faces serious limitation because of dependence on the CMIS operated and maintained by the Wafaqi Mohtasib (WM). Non-availability of source codes from WM and storage of their own huge data has restricted customization and efficiency of FTO's CMIS. Due to huge volume of the data and geographical stretch, there are frequent connectivity issues for the FTO's IT team and users at all levels.

13. A provision for establishing an alternate disaster recovery site has also been included as one of the major objectives of the project which would facilitate recovery of data in case of any natural calamity or man-made disaster.

14. After introduction of the new CMIS software, the FTO office would be able to ensure fast communication at both ends i.e. Complainant and FBR, to keep them informed of the status of complaints at every stage of the Investigation. Upgraded CMIS will be able to send SMS to complainant on his/her mobile phone about every progress on the complaint more efficiently, in addition to facilitating following activities:

- Complaint Registration
- Hearing of the Complaint
- Adjournment of the Complaint
- Disposal of the complaint.
- Implementation Proceedings
- Review, Revision and other litigation

15. The upgraded CMIS would also ensure a paperless communication environment by providing direct linkage with the FBR through its interface to CMIS. This linkage would provide direct access to the FBR at following four levels:-

- Complaints at Registration
- Under Process Complaints (at Investigation)

- Complaints at Implementation
- Implementation Proceedings

16. Specific objectives of the project as provided in the Project PC-1 are:

- Consolidating, strengthening and up-grading of the existing CMIS for enhanced utility to achieve the goal of speedy justice and e-governance. In this regard, a rapid status assessment study of the existing CMIS would be undertaken for identifying weaknesses, designing improvements and finally developing new CMIS software indigenously.
- Replacing existing old processors/hardware/office equipment with such equipment which could fulfill the needs of the FTO office for the next at least five years. The existing equipment has now fallen prey to the technology shifts and not capable of managing online processing of complaints, coordination with the FBR and further automation for achieving the objective of paperless offices. Existing software (dot Net Framework 4.0/SQL Server 2008) is facing difficulty in making enhanced clustering.
- Ensuring paperless coordination/communication with all the FBR regional offices by linking them with the CMIS for real time access to the record of complaints.
- Establishing an 'Alternate Disaster Recovery Site' for storage of record of complaints to avoid irreversible data loss of small or big magnitudes and thwart serious vulnerabilities as a result of day to day systemic threats and/or natural calamity.
- Providing advance training and building capacity of the key personnel engaged in redressing public complaints.
- Preparing a group of master trainers who could further train and introduce new technology to officers/officials of FTO secretariat and other Ombudsman offices.





Outreach Initiatives and Advocacy

During 2016, the FTO secretariat adopted an integrated approach for creating awareness about its mandate amongst the existing and prospective tax-payers. The exercise commenced with a review of the previous endeavors and culminated with strengthening and reinvigorating new initiatives. In order to create awareness among members of the business associations and trade bodies, senior officers were deputed to hold meetings and seminars in provincial headquarters and other major cities. Resultantly, Chief Coordinator, Advisor Implementation & Monitoring (I&M) and Advisor In-charge of the Regional Offices remained constantly in touch with members of prominent trade bodies, traders' associations, and business associations of small and medium enterprises. As a part of above program, all Advisors (In-charge of the Regional Offices) were also directed to remain in contact with the local Chief Commissioners/Chief Collectors, Customs, as well as, the members of local Chambers of Commerce and Industry and trade bodies. The campaign was led by the Federal Tax Ombudsman, who visited the following places:

- i. Customs House, Karachi
- ii. Chamber of Commerce and Industry, Sialkot
- iii. Awareness Session Held at Lahore
- iv. Federation of Chambers of Commerce & Industry Islamabad.

Federal Ombudsmen Jointly Visit Karachi Chamber of Commerce and Industry

2. Mr. Abdur Rauf Chaudhry, Federal Tax Ombudsman; Mr. M Salman Faruqui, Federal Ombudsman; Mr. Anisul Hasnain Moosvi, Banking Ombudsman and Justice (Rtd) Yasmin Abbasey, Federal Ombudsman for Protection against Harassment of Women at Work Places jointly on 3rd February, 2016 attended a meeting at Karachi Chamber of Commerce and Industry. Speaking on the occasion Federal Ombudsman explained the role of the Wafaqi Mohtasib as a 'poor man's court, where nobody is required to spend any money'. He elaborated his institutional plans

to launch a campaign to decide cases within 15 days by sending teams of Advisors to about 500 districts and tehsils across Pakistan. He was of the view that such a unique initiative had not been delved into by any Ombudsman around the world before. He advised business community to submit their complaints pertaining to genuine refund claims to Federal Tax Ombudsman, who disposed of all such complaints within a meager timeframe of 60 days.

3. The meeting was also addressed by Mr. Siraj Kassam Teli, former President KCCI, who lauded the services of Federal Ombudsmen. He lamented that FBR officials on one hand drive sadistic pleasure by harassing small taxpayers and on the other hand were hesitant to take action against big tax evaders. He recalled that FBR had identified around three million such individuals, who live in huge villas, drive luxurious cars, use credit cards, and frequently travel abroad but were not part of the tax net. He said that FBR was not bothered to take action against such elements and continued to squeeze and harass the existing taxpayers. He requested the Federal Tax Ombudsman to look into this serious matter and order the FBR to publish details of such tax evaders.

4. Mr. S.M. Muneer, Chief Executive of Trade Development Authority of Pakistan expressed his concern over declining exports and attributed it to recession. He said that billions of rupees of refund claims had been pending since long and if these refund amounts were released, Pakistan's exports could enhance by US\$4 to US\$ 5 billion.

5. Mr. Younus Muhammad Bashir, President KCCI underscored the need for raising awareness about the role of Federal Ombudsmen, especially Federal Tax Ombudsman, as a vast majority of the people, including businessmen and industrial community were unaware of such relief providing mechanisms. He added, "There is a dire need to ensure access to Federal Ombudsmen at grass-root level, preferably at district level, so that common man could easily understand their role and benefit from this facility." He suggested that social



media should be used by Federal Ombudsmen for creating awareness about their roles as it had been observed that people feel comfortable in highlighting their grievances on social media websites.

Visit to Customs House, Karachi

6. The Federal Tax Ombudsman visited Customs House, Karachi on 19th April, 2016 along with a team of Advisors, in order to be apprised about the functioning of Customs Collectorate and Import / Export Clearance System at Karachi Port.

7. He was received by the Director General, Afghan Transit in Custom House, Karachi. Chief Collector, Appraisalment (South) gave a presentation about the working of various Collectorates. Similar presentations were given by Chief Collector, Enforcement, (South) and Director (Reforms & Automation). During the visit, the FTO addressed the officers of the Customs Department and stressed upon them the need to implement his recommendations in letter and spirit.



FTO Chaired a Seminar Organized by the Provincial Mohtasib, Baluchistan on Role of Ombudsman in Safeguarding Public Rights

8. Mr. Abdur Rauf Chaudhary was the chief guest at a one day seminar organized on 30th May, 2016 in Quetta by Mr. Muhammad Wasay Tareen, Provincial Mohtasib, Baluchistan. Other participants of the seminar were Syed Mumtaz Hussain Naqvi, Mohtasib Azad Jammu & Kashmir, Mr. Akbar Ali Baloch former Provincial

Mohtasib, Baluchistan and Mr. Baz Muhammad Kakar, President, Baluchistan Bar Association. Mr Justice Muhammad Noor Maskanzai, Chief Justice, Baluchistan High Court and Mohtarma Yasmin Lahri, Member, Provincial Assembly attended the last session of the seminar as guests of honor.

9. Addressing the participants, Mr. Muhammad Noor Maskanzai, Chief Justice said that the institution of Mohtasib was a very old institution and it was formally established in the era of second Caliph Hazrat Umer (R.A). The institution was distinguished for taking prompt decisions for redressing public complaints and grievances. Mr. Abdur Rauf Chaudhry in his address said that our whole cycle of life is guided by the words of God and public rights and obligations have been granted equal importance viz-a-viz our obligations to our Creator. Dispensation of justice for safeguarding public rights and fundamental rights is the core message of our Holy Quran. He further said that Islamic concept of Qadi-al-Qadat was traditionalized under different names and in modern era it is called Ombudsman.



Federal Tax Ombudsman Receives Sialkot Tax Bar Association Delegation

10. A delegation of Sialkot Tax Bar Association visited the office of Federal Tax Ombudsman on 27th July 2016. The delegation was headed by Mr. Shakil Ahmed Khan, President. Other members of the delegation were Mr. Sajad Ahmed Butt, Senior Vice President, Mr. Shahid Mahmood, Vice President, Mr. Arshad Noor Zaman, General Secretary, Mr. Jawad Sarwar Butt, Senior Member and Mr. Kaiser

Mehmood, Senior Member. Mr. Shakil Ahmed Khan complained that more than 4,500 refund cases involving a staggering amount of Rs.1,800 billion of the Sialkot business community were pending with the tax authorities. He further informed that Sialkot industry was being badly effected due to that problem.

11. Mr. Abur Rauf Chaudhry appreciated the role of industrialists and trader of Sialkot in the development of the country. He explained that he was striving hard to resolve income tax and sales tax refund cases and hoped that those efforts would bring positive results.

12. The members of the delegation appreciated the efforts of the FTO in redressing tax related grievances. They remarked that the FTO's office was taking prompt action on complaints of maladministration, and abuse of power by tax officials and providing every possible relief.

13. The Federal Tax Ombudsman assured the delegates that his office would continue to play active role in providing relief to the business community by upholding rule of law.



Awareness Meeting with Sialkot Chamber of Commerce and Industry Members

14. Federal Tax Ombudsman and his Advisors visited Sialkot on 05th October, 2016 on the invitation of Sialkot Chamber of Commerce & Industry (SCCI). Earlier, a team of Advisors of FTO's office comprising Mr. Abdul Khaliq, Chief Coordinator, and Mr. Mohammad Siddique, Advisor (I&M) visited Sambrial Dry-port and discussed matters of mutual interest with the Collector of Customs, Sialkot and his officers.

15. During his visit to Sialkot, the Federal Tax Ombudsman visited Regional Tax Office, on 5th October 2016 and discussed various issues pertaining to Income Tax and Sales Tax with the Chief Commissioner and his team. The meeting at Sialkot Chamber of Commerce and Industry was attended by the members of the Chamber, Advisors of FTO office, Chief Commissioner (IR), Collector (Customs) and their officers. The FTO was welcomed by the Senior Vice President and other office holders of the Chamber.

16. Mr. Muhammad Siddique, Advisor (I&M) gave a presentation about the working mechanism of the FTO office. He explained the historical perspective of the ombudsman office and stated that at present about 150 ombudsman offices were working in the world.

17. Mr. Adnan Arshad Sethi, Senior Vice President in his welcome address highlighted various issues faced by the exporters of Sialkot which needed attention of the Federal Board of Revenue. He explained the development of Sialkot industry and its contributions to the national exchequer in terms of exports and revenue generation. He said the exporters from Sialkot were playing a vital role in



strengthening the economy by earning foreign exchange to the tune of US\$2 billion annually. He stated that 2,862 factories in Sialkot were preparing sports goods and contributing to the world of sports, 430 firms were engaged in leather garment manufacturing, while 500 firms were registered as gloves manufacturers. Around 165 Sialkot-based entrepreneurs were engaged in exporting their products to Europe, USA, Canada, Argentina, Brazil, Chile and Japan. Sialkot was the only city of Pakistan from where 99 percent of the manufactured products were exported. Mr. Sethi said that exporters from Sialkot were perturbed as their duty drawback, sales tax and income tax refund claims (amounting to Rs.2.5 billion) were pending for the last several years. He said inordinate delay in the payment of refund claims was causing

financial constraints for the exporters from Sialkot; besides creating hurdles in the smooth cash flow. He demanded early resolution of the pending refund claims. He urged the FTO to issue directions to the FBR to address the matter of delay in issuing Refund Payment Order. Mr. Adnan Sethi also demanded early exemption of the Sialkot's export industries from Withholding Tax levied by the Punjab Revenue Authority (PRA). He added that the FBR had exempted five big industries of Pakistan from Sales Tax but the packing material used in surgical and sports industry had neither been exempted nor included in zero rating categories. He demanded inclusion of packing material and its raw material industry in zero rating categories.

18. Several other members of the SCCI and Tax Bar raised questions about delayed refund cases. They urged the FTO to take up the issue at the highest level. They also demanded opening of a regional office of FTO at Sialkot on priority basis enabling them to lodge complaints and pursue the same easily.

19. Replying to various issues raised by the members of SCCI, Mr. Abdur Rauf Chaudhry, Federal Tax Ombudsman said that non-payment of refund claims was a serious issue which was paralyzing the industrial activity. He explained that on the directives of Mian Mohammad Nawaz Sharif, Prime Minister all Income Tax and Sales Tax refund claims would be disposed of by the end of October or in early November this year. He added that the FTO offices are receiving as many as 1,500 complaints annually and hectic efforts were made to ensure that these complaints were disposed of within the stipulated period of 60 days. He emphasized the need for bringing improvement in tax collection system for providing maximum relief to the tax payers and the exporters. The FTO assured the exporters from Sialkot, resolution of their tax-related problems on priority. He informed that there was a record 60 percent decline in smuggling between Pakistan and Afghanistan due to effective measures taken by the office of FTO, which was indeed a great success. He announced that FTO's regional offices would soon be established at Sialkot and Gujranwala in order to facilitate the local exporters/complainants.

20. Malik Muhammad Ashraf, Chairman Sialkot International Airport Limited (SIAL), extended an invitation to Mr. Abdur Rauf Chaudhry to visit Sialkot International Airport. He told the Federal Tax Ombudsman that the Air Freight Unit (AFU) established at Sialkot International Airport in 2010 had been lying non-operational for the last six years due to non-availability of required staff by the Customs officials.

Awareness Seminar for Traders of Rawalpindi

21. The FTO Secretariat, Islamabad organized an awareness workshop in

Rawalpindi on 15th November, 2016 for medium and small scale enterprises. A large number of traders and representatives of the trade bodies attended the seminar.

22. Mr. Muhammad Siddique, Adviser (I&M) briefed the participants. He said the mandate of FTO office was to ensure prompt and inexpensive redress of taxpayers' genuine grievances against maladministration of the tax employees of the FBR. He explained that the tax-payers could file their complaints through courier, by hand, online or through e-mail. He said the services of FTO offices were free of cost and citizens friendly. The complaints could be settled in the shortest period of only 60 days. He said Form-A for filing the complaints was available on the website of the FTO office. The form could also be obtained from the FTO Secretariat, Islamabad and its regional offices.

23. The traders' representatives gave useful feedback to the FTO's team. Sheikh M. Siddique, President, Central Anjuman-e-Taajran, Rawalpindi, Mr. Malik Arshad Awan, President, Anjuman-e-Taajran Rawalpindi, Chaudhry Iqbal Ahmed, President, Central Anjuman-e-Taajran, Moti Bazaar Rawalpindi, Mr. Sharjeel Meer and others also addressed the event.

24. Mr. Muhammad Sadaqat, President, Kohati Bazaar Anjuman-e-Taajran said that every year such new laws were enacted, which were grossly unfair. Mr. Shaukat Aziz, former Prime Minister imposed one percent Withholding Tax on traders which was a blatant victimization. He demanded relaxation in stringent tax laws, as they find it difficult to continue doing their businesses due to heavy taxes.

25. Mr. Naveed Qamar, a trader, emphasized the need for conducting more awareness sessions. Mr. Afzaal Saeed Butt and Chaudhry Iqbal Ahmed thanked the FTO team for creating awareness among the traders. He said before implementing new policies, such sessions should be arranged in order to create awareness about government policies.

26. Mr. Taimoor Ejaz, a trader suggested that whoever was paying full taxes, he should be provided with complete civic amenities (i.e., education and health benefits) as were provided elsewhere abroad. If the trust of taxpayers was established in government policies, they would willingly join the tax net.

27. Mr. Abdul Waheed, a trader, said that they deal in imported goods and the trucks carrying such imported items were stopped on their way and the ultimate sufferer in that illegal practice was the retailer. He demanded suo moto action in that regard in order to bring an end to such an exploitation of traders.

28. Mr. Tahir Taj Bhatti, a trader, lauded the efforts of the FTO team for

conducting awareness workshops for traders and providing valuable information. He suggested that all information relating to creating awareness among traders should be printed in Urdu language and be properly displayed in the Income Tax offices so that maximum people could benefit. He demanded relaxation in stringent tax laws. He asked that gulf between the traders and the tax authorities should be bridged by holding awareness sessions. He further said that income tax return form should be made simple so that even a layman could easily fill it. Such workshops must be conducted prior to implementing new policies.

Awareness Seminar for the Traders of Peshawar

29. The FTO secretariat organized an awareness seminar for medium and small scale enterprises and representatives of the trade bodies on 30th November, 2016 at Peshawar. About 200 traders and representatives of the trade bodies attended the interactive seminar.

30. Mr. Muhammad Siddique, Adviser, FTO Secretariat, Islamabad, briefed the participants about their mandate explaining that the office was established to provide prompt and inexpensive grievance redress mechanism to the taxpayers against maladministration by the tax employees of the FBR.

31. He said the tax payers could file their complaints by using several means i.e. through courier, by hand, or online through e-mail. He said the services of FTO offices are free of cost, citizens friendly and the complaints were decided within 60 days. Mr. Khalid Masood Ahmed, Adviser, Mr. Ghulam Kazim Hussain, Adviser Incharge FTO Peshawar office, Mr. Sharafat Ali Mubarak, President, Central Tanzeem-e-Taajran, Khyber Pakhtunkhwa also addressed the participants.

32. Mr. Sharafat Ali Mubarak highlighting the problems of the traders informed the traders that the FTO office dealt with the issues relating to sales tax, customs, income tax and federal excise duty. He lauded the role of the traders and said that these traders never avoided taxes, even in the worst circumstances, because they think this is our country and the traders should strengthen its economy. He said that his province was inflicted with social and economic issues due to Afghan refugees. People say terrorism in Pakistan came after year 2001 but terrorism came to his province (Khyber Pakhtunkhwa) in 1979. The residents of KP were entangled in such problems since Russia invaded Afghanistan. He admitted that before the seminar, majority of traders from Peshawar were not aware of the working of the FTO office and its complaint redress system for taxpayers. He demanded that the presentation made by the FTO office should be prepared in Urdu instead of English. He was of the view that due to heavy percentage of the withholding tax, people had withdrawn large amounts from

the banks.

33. Mr. Waqar Ahmed, General Secretary, Saddar Road, Peshawar Cantt said that the FTO office was established in year 2000 and after a lapse of 16 years they had come to know about it. He demanded simplification of the form for filing income tax return as they needed a counsel to fill it. He said tax collection should be made people-friendly and it could be done only when the tax payers get facilities in return for paying taxes. Mr. Ansar Ahmed, Provincial Secretary, Tanzeem-e-Tajraan, Khyber Pakhtunkhwa, said every single person who was using electricity, gas, telephone or any other thing was paying tax. He further said that such awareness sessions must continue in future to provide knowledge to the traders on the tax relief measures provided by the Government.

Federal Tax Ombudsman Attended Meeting in FPCCI, Islamabad

34. Mr. Abdur Rauf Chaudhry along with senior officers of the offices of Wafaqi Mohtasib and Federal Tax Ombudsman and office holders of Federation of Pakistan Chambers of Commerce and Industries (FPCCI) attended a ceremony on 1st December, 2016 at Islamabad. Mr. M. Salman Faruqi, Federal Ombudsman during the ceremony appointed five Commissioners for prompt redress of complaints of the Business Community. These Commissioners would hear the complaints in the provincial headquarters of the FPCCI. The speakers emphasised the need for enhancing cooperation between the Ombudsman offices and FPCCI in order to provide every possible relief to the business community. They were of the view that such a cooperation would help in swiftly resolving problems of the business community. The speakers advised the business community to obtain



representation in the World Trade Organization (WTO) because WTO's membership would open new trade avenues ultimately strengthening the national economy.

35. On this occasion, an MOU was signed between the FPCCI and ombudsman offices. Mr. M Salman Faruqi, Federal Ombudsman, Mr. Abdur Rauf Chaudhry, Federal Tax Ombudsman and Mr. Abdur Rauf Alam, President, FPCCI signed the MOU on behalf of their respective organizations.

Awareness Seminar for Traders at Lahore

36. The FTO Secretariat organized an awareness seminar about its dispute resolution mechanism in Lahore on December 29, 2016. More than two hundred (200) office bearers of the traders' associations belonging to Lahore attended this awareness seminar.

37. Mr. Muhammad Asif, Director General, FTO Secretariat, explained the objectives of the workshop. He stated that the tax revenue was a fundamental source of state income required to run a country. In developed countries, tax to GDP ratio ranges between 20%-50% whereas in Pakistan it was still at 13%. Every citizen is willing to pay tax but he is scared of the cumbersome procedure involved in documentation. A promising tax-payer has a common perception that once he becomes part of the tax net formally, he would be exposed to the maladministration of the tax collection machinery. He further explained that the FTO organization had been established to save the tax payers from the illegal actions of the FBR machinery. Therefore, the citizens should pay tax to the state treasury and not to the tax collection machinery. Any case of malpractice which included issuance of illegal notices, delayed disposal of refund cases, unfriendly and rude behavior of tax collectors or any other act of harassment on the part of FBR officials constitute a cognizable malpractice.

38. Mr. Muhammad Siddique, Adviser (I&M) in his presentation explained complaint filing process. He said the mandate of the FTO office was to ensure prompt and inexpensive redress of taxpayers' genuine grievances against maladministration of tax employees of FBR. He informed that the services of the FTO offices are free of cost and citizen friendly. All the complaints are decided in less than 60 days.

39. Mr. Naeem Meer, General Secretary, All Pakistan Anjuman-e-Taajran; Mr. Ashraf Bhatti, President Anjuman-e-Taajran; Mr. Mehboob Ali Sarki, President Punjab Anjuman-e-Taajran; Haji Farrukh Iqbal, Chairman Crockery Merchants Association; Shah Alam Market and Mr. Safdar Butt, President, Lahore Trade Alliance also addressed the audience.

40. Mr. Mehboob Ali Sarki, President Punjab Anjuman-e-Taajran said their members gave useful suggestions to the officials of FBR and were willing to jointly formulate policies but the FBR officials ignored their sincerity. He expressed his remorse that the number of taxpayers has reduce from 1.5 million to 0.4 million. From this one could judge that FBR's policies were not right. He said that the time had come that the FBR should also work in harmony with the traders. He condemned the raids by the intelligence team of FBR after midnight.

41. Haji Farrukh Iqbal, Chairman Crockery Market, Shah Alam, said that before coming into the seminar many people were not aware of working of the FTO organization and how to approach it. He said if the FTO office wanted to increase the tax net, then it should eliminate the fear of FBR's tax collectors otherwise the tax net could not be broadened. He further said that people were paying withholding tax but they did not want to become part of the tax net because of fears. He said such awareness sessions must continue in future. Simple and hassle free system should be devised for filing tax returns and submitting withholding tax. He further said that in order to broaden tax net, basic amenities including concession in school fees, health and other utilities should be provided free of cost or on subsidized rates. A taxpayer who was paying taxes for the last 10-15 years, should be exempted from audit.

42. In the end, the office-bearers of Anjuman-e-Taajran presented a commemorative shield to Mr. Muhammad Asif, D.G. FTO Secretariat.



Commemorative Shield Being Presented to D.G. FTO Secretariat at Lahore



Complaint Filing Procedure

The complaints filing procedure of the FTO Office is very simple. The complaint may be filed on Form "A" available free of cost in the Head Office and Regional Offices. The Form may also be downloaded from the website: www.fto.gov.pk.

2. The complainant is required to fill an affidavit along with the complaint stating on oath the following:-

- (i) That he had not previously filed a complaint on the subject.
- (ii) That an application to a senior officer of the Revenue Division or any of its Collectorates/Commissionerates in respect of the allegations contained in the complaint was filed, but either no reply thereto was given within a reasonable time or the application was unjustly turned down.

3. The jurisdiction of the Head Office and Regional Offices is specified in the Schedule of FTO Regulations, 2001. The FTO may direct that a complaint falling within the territorial jurisdiction of one Regional Office be investigated at any other Regional Office or the Head Office.

4. On receipt of a complaint, a diary number is allotted and the complaint is forwarded to the Register.

5. The complainant is assisted in filing the complaint by the FTO staff.

Online Filing of Complaints

6. The procedure for filing and tracking on line complaints is as under:

- i) Open FTO website www.fto.gov.pk
- ii) Click on Online Complaint System
- iii) Click on File a New Complaint or Track Already Filed Complaint
- iv) Fill in the required fields/data and click on Save button

7. A proactive SMS-and-e-mail-based alert system has been put in place to inform the complainant. The complainants and their representatives are being automatically given SMS and e-mail alerts by the FTO Complaint Management information System (CMIS).

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 may file a complaint. It is essential that such an act of omission or commission:

- a) is contrary to law, rules, or regulations or is a departure from established practice or procedure, unless it is bona fide for any valid reason; 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 complaints may be heard at the FTO HQ at Islamabad, Regional Offices at Karachi, Sukkar, Lahore, Multan, Faisalabad, Quetta, Peshawar and Abbottabad.

Acknowledgment of Complaints

10. All the complaints are promptly acknowledged by the FTO HQs and its Regional Offices online, by courier service or by hand, as the case may be. The deficiencies of requisite documents, if any, are intimated to the Complainants. Parawise comments of the FBR or its field formations are obtained and forwarded to the Complainant to enable him to file rejoinder and prepare his complaint. During the hearing of the complaint, fair opportunity is provided to the complainant as well as the agency, so that the complaint could be disposed off in the light of laws, rules and regulations and no injustice is done to any side.





**Training Sessions on CMIS Organized for the Employees of
FTO Secretariat, Islamabad on 16-03-2016**



Selected Findings & Recommendations

The FTO complaint redress mechanism provides relief to the existing and prospective aggrieved taxpayers through its recommendations. These recommendations have multiplier effect triggering relief to thousands of taxpayers. During the year under report, the FTO disposed of more than 1800 complaints of the tax year. The summaries of a few complaints and findings issued during 2016 are given below for the interest of the taxpayers and for guidance of FBR's employees.

INCOME TAX

Complaint No.53/ISD/IT(39)/648/2015

President upholds Federal Tax Ombudsman's Order-in-Review rejecting cross representations by Complainant Company (M/s Master Tiles and Ceramic Industries Ltd, Gujranwala) and FBR's Intelligence & Investigation Directorate, Islamabad.

This complaint was filed before the Federal Tax Ombudsman by M/s Master Tiles & Ceramic Industries Ltd, Gujranwala, alleging departmental highhandedness that was tantamount to maladministration as defined in section 2(3) of the FTO Ordinance. The Complainant was aggrieved by the issuance of a show cause notice (SCN) for tax year 2009 by the field formation/Dept confronting him with information provided by the Intelligence and Investigation Directorate (I&I), the principal investigative arm of FBR, that suggested that the Complainant Company had evaded due payment of income tax by concealment of heavy investment of some Rs.673.60 million in the tax years 2009 to 2015 in real estate and built up

properties by three directors of the Company. The investment was not declared in their respective wealth statements/wealth reconciliation statements. I&I also drew attention to alleged unexplained discrepancies between the declared and revised wealth statements / wealth reconciliation statements. On departmental interrogation, the Company directors claimed receipt of gift amounts of Rs.230.30 million from two persons who were not related to them and were alleged by I&I to be benami bank account holders of the Company. These two persons were identified by I&I as employees of the Company with minimal financial worth that did not allow them to make gifts on that scale to the three Company directors. The sale transactions appearing in the bank accounts ostensibly operated by these two persons aggregated to Rs.10 billion odd and as advised by I&I, the transactions represented the undeclared sales of Master Tiles & Ceramic Industries Ltd.

2. Complainant alleged that (a) in the relevant period I&I for lack of statutory cover, did not have jurisdiction to conduct enquiries involving tax evasion and (b) I&I officials, especially one Mr. Omar Mahmood Butt, Asstt Director, I&I Lahore, had deliberately and malafidely defamed the Complainant Company by placing sensitive information involving the Company's business transactions in public domain. This was evident from news reports that, in the Complainant's view, were based on information provided by I&I officials entrusted with conducting investigation in the Company's case. Such information was required to be handled discreetly and was meant exclusively for departmental use. Complainant alleged that the news reports appearing in the press-media highlighting Company's alleged tax evasion adversely affected its reputation and goodwill.

3. The FTO was requested to take cognizance of the same as there was no statutory sanction for such acts that were in the nature of maladministration and needed to be curbed with an iron hand. The Complainant Company further stated that the Company had filed affidavits on various pertinent aspects of the complaint that were required to be rebutted by Dept through counter affidavits. Complainant acknowledged that Dept did file the required affidavits but he stated that they were filed belatedly on 28.10.2015 instead of 27.10.2015 on which date the investigation proceedings statedly stood closed. Resultantly, as per the Complainant, the late filed departmental affidavits had no evidentiary value and the Complainant Company's affidavits would hold field.

4. When confronted with the complaint, the Dept filed a written reply that

denied the allegations levelled and affirmed unequivocally that I&I legally constituted and conducted enquiries strictly as per its charter in a transparent manner. It further stated that there was no question of I&I passing on any information pertinent to the Company surreptitiously to the press with a view to defame the Company.

5. After conducting detailed investigation, the FTO did not find any evidence to support the Complainant's allegations and concluded in his order dated 15.12.2015 that departmental maladministration was not established. In the context of alleged lack of I&I jurisdiction to conduct enquiries in the case of the Company, the FTO found that the Complainant had failed to establish conclusively that SRO 351(I)/2014 conferring powers on Intelligence & Investigation Directorate (I&I) officials under specific provisions of the Income Tax Ordinance, 2001 had ever been suspended by FBR. Complainant also did not establish that there was a period after its alleged suspension in which enquiries were conducted by I&I without any legal sanction. As for the alleged defamation of the Company by I&I officials, the FTO pointed out that defamation did not fall within his jurisdiction. Although there was no evidence to suggest that I&I officials had deliberately leaked any information to the press, the FTO observed in his concluding remarks that FBR ought to enquire into this aspect as well as the quantum of powers invested in I&I officials so as to rule out commission of any possible excesses by the functionaries during investigation. The Complainant's contention regarding affidavits allegedly filed late by the Dept was examined by the FTO and he found that the counter affidavits in question were filed by Dept on 28.10.2015 after dealing officer on 27.10.2015, expressly directed the Dept to file the counter affidavits. The Dept complied with the direction and the very next day, on 28.10.2015, Dept filed the counter affidavits on stamp paper purchased on 27.10.2015. The Complainant Company was found to be misconceived in its view that the FTO investigation proceedings came to a close on 27.10.2015 and the counter affidavits filed on 28.10.2015 had no evidentiary value. In any investigation conducted by the FTO on a complaint filed before him, the investigation proceedings come to a close only when the final order is passed by FTO and in Complainant Company's case that happened on 15.12.2015. Prima facie therefore, the departmental counter affidavits filed on 28.10.2015 were well in time.

6. Both Complainant and Respondent/Dept were not satisfied with the FTO's Findings / Recommendations and filed review petitions **(No's 03 & 05/2016 in**

C.No.53/ISD/IT(39)648/2015) before him. The Complainant reiterated the allegations levelled earlier in the complaint that between alleged suspension of SRO 351(I)/2014 and issuance of SRO 115(I)/2015 there was a void in which no legal sanction was available for the enquiries carried out by I&I officials. As regards alleged illegal disclosure of confidential information gathered during investigations by I&I officials, Complainant alleged that one Mr. Omar Mahmood Butt, Asstt Director I&I Lahore, who had been entrusted with conduct of enquiries in Complainant's case, was responsible for disclosure of confidential information that had, statedly, adversely affected Complainant's reputation and goodwill. The Dept/Respondent objected to the FTO recommendation that FBR/I&I enquire into possible illegal disclosure of confidential information by I&I officials in Complainant's case and also take remedial action to ensure that these officials were not invested with excessive and even unbridled powers. Dept contended that as the FTO had held that I&I officials were not guilty of maladministration in Complainant's case, there was no cause to make these observations as they appeared to contradict his earlier finding.

7. The FTO heard the petitions at Regional Office, Lahore and concluded that the Complainant's review petition did not adhere to the parameters laid down by the Courts for filing such petitions. He pointed out that in review, the FTO enjoyed only limited jurisdiction, mainly to rectify any readily discernible mistakes of omission or commission that may have crept into his earlier order disposing of the complaint. In review, the FTO had no authority to re-hear a complaint in its entirety. Furthermore, the Complainant cannot introduce fresh grounds in the review petition, not taken earlier in the complaint. The FTO held that the Complainant had actually made every attempt to re-argue the complaint in its entirety and had raised new grounds in the petition. Thus although FTO had held in his order disposing of the complaint that his office was not the right forum to investigate defamation allegations, the Complainant again raised this issue before him in the review petition. Moreover, in the review petition the Complainant identified one Mr. Omar Mahmood Butt, Asstt Director in the I&I Directorate as the person responsible for the alleged unauthorized disclosure of sensitive information pertaining to the Company. There was no mention of this person in the complaint earlier disposed of by the FTO. Defamation evidently does not fall within the FTO's purview. The Defamation Ordinance, 2003 is relevant in defamation matters and it finds no mention in section-6 of the FTO Ordinance, 2000 under

'Relevant Legislation.' As for the jurisdiction issue pertaining to the I&I, the FTO reiterated his earlier finding that no evidence had been led by Complainant to establish that SRO-351 had ever been suspended and that there was actually an inexplicable gap between its alleged suspension and issuance of successor SRO-115 in which period enquiries were conducted by I&I in the Company's case. As stated above, this issue had been raised and disposed of earlier in the complaint and ought not to have been raised again in the review petition as a definite finding had been recorded by the FTO on the basis of available facts and no mistake or anomaly had been established therein.

8. As for the Dept, it appears that there was no cause to file a review petition as the FTO had already rejected the Complaint filed by the Company. This meant that the assessing officer could continue with the assessment proceedings started on the basis of the definite information provided by I&I. The FTO's observations with regard to enquiries required to be conducted to rule out any wrong doing by I&I officials and his observations regarding an evaluation of the quantum of authority invested in them have evidently been made only by way of abundant caution. These observations do not clash with or override the FTO's main finding that there was nothing on record to establish that I&I officials had no jurisdiction to conduct enquiries in the relevant period in Complainant's case. There was also no reason to hold that I&I officials, including Mr. Omar Mahmood Butt, had deliberately, and with malafide intention, disclosed evidence unearthed during enquiry that was detrimental to the Complainant Company.

9. Under the law the assessing officer is not bound to blindly follow I&I recommendations regarding detection of tax evasion in the case of a taxpayer. The normal routine is that on receipt of I&I report the competent authority in the field formation issues a SCN to the taxpayer reported on by I&I and seeks the taxpayers' response. It is only after a reply is filed by the taxpayer that a decision is reached by the assessing officer on how far I&I recommendations are relevant to his case and assessment is then finalized accordingly. Of course, where no reply is filed without reasonable cause the assessing officer may draw an adverse inference and follow I&I recommendations in their entirety. However, if after receiving the taxpayers response the assessing officer is of the considered view that I&I recommendations

are of no relevance in the taxpayers case, he may reject the I&I report outright.

10. **In this case it has been the Company's objective all along to stop the assessing officer from proceeding further to frame assessment after issuing SCN consequent to receipt of I&I report/recommendations.** This was the Company's objective in the complaint filed before FTO, in the review petition before FTO and in the representation filed before the President. The Complainant Company failed in its stated objective before all three fora.

11. Complainant Company and I&I filed representations against FTO order- in-review dated 15.04.2016 before the President reiterating their respective earlier stance before FTO and the President as per his order dated 31.08.2016 rejected their representations on all counts thereby upholding the FTO order that has now attained finality.

Complaint No. 52/ISD/IT(38)/639/2015

NON-ISSUANCE OF REFUND

The complainant in this case was an AOP who contested non-issuance of refund for tax year 2009 and 2010.

2. The Complainant dealt in projects of installation of cooling and heating systems with Ministry of Defence and claimed that refund applications were filed for tax years 2009 and 2010 on 10.09.2011 and 11.01.2011, followed by many visits but no action was taken by the Deptt which tantamount to maladministration. The Complainant prayed that the Deptt be directed to issue refund without further delay.

3. During the course of hearing of the case, the DR reiterated the written comments filed by the Chief Commissioner contending that manual refund applications were not acceptable and the Complainant was required to e-file refund application as prescribed under Rules 73(2E) of Income Tax Rules 2002. The DR did not object to late filing of complaint and agreed to consider the Complainant's refund claim in case relevant documents were submitted and refund application e-filed. The Complainant claimed that refund application was e-filed on 24.06.2015 and he undertook to assist the Deptt in verification of tax payments and completion of legal formalities to settle the issue. Both the parties were directed to assist each other to resolve the refund claim within one month.

4. The complaint stood disposed of in above terms. However, the matter could not be resolved due to non-verification of income tax deductions from the deducting authority. Therefore, the tax deducted at source remained un-verifiable. Meanwhile, the Complainant met a tragic accident in which his hipbone was fractured and he remained hospitalized for many months. He therefore, requested the FTO Secretariat to intervene and help him in this regard.

5. The matter was, therefore, taken up with the Chief Commissioner, RTO, Rawalpindi, who dealt with it sympathetically, at his level, and got the requisite verification from the relevant departments by sending his concerned officers personally. Accordingly, refund amounting to Rs.2,491,766/- for tax years 2009 & 2010 was issued on 27.07.2016. The position was got confirmed from the Complainant and thereafter the file was closed.

Complaint No.654/IT/2016

Commissioner-IR has to revisit the impugned Order dated 31.05.2016 in terms of Section 122A of the Income Tax Ordinance, 2001.

The complaint was lodged under Section 10(1) of the FTO Ordinance 2000 against Order dated 31.05.2016 passed under Section 122 (1) (5) of the Income Tax Ordinance, 2001 (the Ordinance) for the tax year 2014.

2. The Complainant's case for tax year 2014 was selected by FBR through Computer random ballot in terms of Section 214C for audit under Section 177 of the Ordinance. The Complainant claimed to have made compliance of notice dated 15.03.2016 and submitted to the Assessing Officer (AO) various details vide letter dated 21.03.2016. The AO, however, without issuing statutory notice required under Section 122(9) of the Ordinance, passed the impugned order dated 31.05.2016. As the mandatory notice was not served on the Complainant, a request was made vide letter dated 18.06.2016 to provide attested copy of the alleged notice along with evidence of its service which he failed to respond.

3. In response to the notice of complaint issued to the Secretary, Revenue Division, the Commissioner-IR Zone-IV, RTO-II, Karachi submitted parawise comments dated 23.08.2016 raising preliminary objection of bar under Section 9(2)(b) of the FTO Ordinance. On merits, the Complainant made partial compliance of earlier notices dated 15.03.2016 vide letter dated 21.03.2016. After considering

the details, a notice dated 05.05.2016 under Section 122(9) of the Income Tax Ordinance 2001 was served on the Complainant for filing of remaining documents. When the Complainant failed to submit the remaining documents, the appealable order dated 31.05.2016, was passed and properly served on the Complainant through TCS vide No. 3006614881 dated 08.06.2016.

4. During the investigation, case record produced by the DR was examined. The DR conceded in writing that no such evidence was available on the record from which it can be inferred that notice under Section 122(9) of the Income Tax Ordinance 2001 was served on the Complainant. Thus evidently subject proceedings have been finalized without providing opportunity of hearing.

5. The arguments of both the parties were given due consideration and record perused. The preliminary objection of bar raised by the Deptt in terms of Section 9(2)(b) of the FTO Ordinance was miscounted as the matter did not relate to assessment or determination of tax liability but was regarding completing the proceedings under Section 122(1)(5) of the Ordinance without providing opportunity of being heard as envisaged under Section 122(9) of the Ordinance. The preliminary objection was accordingly overruled and the Commissioner-IR was directed to revisit the impugned order dated 31.05.2016 in terms of Section 122A of the Ordinance.

Complaint No.709/KHI/IT/2016

The department has to complete verification and settle refund claims for tax years 2009, 2010 and 2012 and allow appeal effect to Appellate Order dated 20.11.2015 and 31.12.2015 within 30 days under Section 124 (4) of the Income Tax Ordinance, 2001.

This complaint was filed under Section 10(1) of the FTO Ordinance 2000 against non settlement of refund for tax years 2009, 2010 and 2012 and failure to allow appeal effect to the Commissioner-IR (Appeals) orders for tax years 2011 and 2013 dated 31.12.2015 and 20.11.2015.

2. The Complainant, a private limited company and a corporate member of the Karachi Stock Exchange, filed refund claims for tax years 2009 to 2013 claiming refund of Rs. 2.483 million, Rs. 1.030 million, Rs. 4.553 million, Rs. 0.111 million and

Rs. 0.595 million respectively. The refund applications for tax years 2009, 2010 and 2012 were filed on the prescribed format on 10.05.2011, 23.09.2011 and 28.02.2013 respectively. The Deptt, however, amended assessments for tax years 2011 and 2013 under Section 122(1) and 122(5) of the Income Tax Ordinance 2001 against which the Complainant preferred appeals. The Commissioner-IR (Appeals) annulled both the amended assessments vide separate orders dated 31.12.2015 and 20.11.2015. The Deptt however failed to allow appeal effect to Appellate orders, as required under Section 124 (4) of the Income Tax Ordinance 2001 and also did not settle the refund claims for tax years 2009, 2010 and 2012 within the stipulated time.

3. In response to the notice of complaint issued to the Secretary, Revenue Division the Commissioner-IR Zone-I, Corporate RTO, Karachi submitted para wise comments dated 21.09.2016. Preliminary objection of bar under Section 9(2)(b) of the FTO Ordinance was raised on the ground that failing to pass order under Section 170(4) of the Ordinance could be contested by filing appeal under Section 127 of the Ordinance. On merits, it was contended that the Complainant had filed refund applications for tax years 2009, 2010 and 2012 quite late which were barred in terms of Section 170(2) of the Ordinance. However, the Complainant was required to furnish necessary details, documents and explanation so as to pass the refund orders in accordance with law.

4. The AR argued that the Complainant e-filed returns for tax years 2009 to 2013 on 29.09.2009, 18.10.2010, 06.09.2012, 29.9.2012 and 07.12.2013 respectively, but the FBR's e-system was not functional. The Complainant initially submitted refund applications for tax years 2009 and 2010 manually on 10.05.2011 and 23.09.2011 which were duly acknowledged by the Deptt. As soon as system became functional, the Complainant e-filed refund applications for tax year 2009 and 2010 on the prescribed format on 28.02.2013 as per confirmation issued by the FBR's TaxSys (Official Area), dated 10.04.2016. However, no objection was raised by the Deptt regarding alleged late filing of refund applications. The refund application for tax year 2012 was filed electronically on 28.02.2013 as per confirmation issued by the FBR's TaxSys (Official Area) dated 10.04.2016.

5. During the investigation the DR stated that refund for tax years 2009, 2010 and 2012 was under process. The annulled proceedings for tax years 2011 and 2013 were also under process.

6. The arguments of both the parties were given due consideration and record perused. The DR did not contest preliminary objection of bar raised under Section 9(2)(b) of the FTO Ordinance as the DR had agreed to process the Complainant's refund claims. The record revealed that right from the date of filing of refund applications, not a single communication of the Complainant was responded by the Deptt. Such negligence, inattention and delay fall under the ambit of maladministration. This view gained support from the Hon'ble President's Order dated 04.03.2016, in Representation No.88/LHR/IT(56)177/2014. Moreover, refund applications for tax years 2009 and 2010 were initially submitted manually within time as at the time of filing the system was not functional and thereafter the same were e-filed on 28.02.2013. The Deptt, at no occasion raised objection regarding their delayed filing. Even otherwise refund of a taxpayer could not be denied on account of mere technicality as held by the Hon'ble Supreme Court of Pakistan in the case M/s Pfizer Laboratories Ltd Vs Federation of Pakistan cited as PLD 1998 SC 64. The Deptt excessive delay in allowing appeal effect to the Appellate orders dated 31.12.2015 and 20.11.2015 for tax years 2011 and 2013 as required under Section 124(4) of the Ordinance was also evident. The Commissioner-IR was thus directed to complete the verification process and settle refund claims for the tax years 2009, 2010 and 2012 and also allow effect to the Appellate Orders dated 31.12.2015 and 20.11.2015, within 30 days.

Complaint No.710/KHI/IT/2016

The department reconstitute the case record for tax years 2006, 2007 and 2010, complete verification and settle refund claims for tax years 2006, 2007, 2008, 2010, 2011, 2013 and 2014.

The complaint was filed in terms of Section 10(1) of the FTO Ordinance for non issuance of balance refund for tax years 2006, 2007 and 2010 and failure to pass orders under Section 170(4) of the Income Tax Ordinance 2001 and as a consequence non-issuance of refund for tax years 2008 and 2011 to 2014.

2. The Complainant, a private limited company, filed returns of income for tax years 2006 to 2008 and 2010 to 2014 under Section 114 of the Ordinance, and claimed Rs. 0.560 million, Rs. 0.506 million, Rs. 0.949 million, Rs. 1.243 million, Rs. 0.970 million Rs. 0.499 million Rs. 0.853 million and Rs. 1.540 million as refund. The

Deptt settled part refund for tax years 2006, 2008 and 2010 amounting to Rs. 0.331 million, Rs. 0.233 and Rs. 0.928 vide cheques dated 29.08.2011 and 08.06.2013 respectively. However, no justification was given for withholding the balance refund. The Complainant also e-filed refund applications for tax year 2011 to 2014 on the prescribed format, on 10.04.2013, 30.08.2016, 06.04.2016 and 02.04.2016 respectively. However, the Deptt, despite repeated efforts of the Complainant, not only failed to issue balance refund for tax years 2006, 2007 and 2010 but also did not settle refund for tax years 2011 to 2014 under Section 170(4) of the Income Tax Ordinance 2001, within the stipulated time.

3. In response to the notice of complaint issued to the Secretary, Revenue Division the Commissioner-IR (CIR) Zone-IV, Corporate RTO, Karachi submitted para wise comments on 21.09.2016, and raised preliminary objection of limitation for tax years 2006 to 2008 and 2011 under Section 10(3) of the FTO Ordinance, 2000. On merit, it was contended that the refund applications filed by the Complainant for the tax years 2010, 2012 and 2013 were hit by limitation prescribed under Section 170(2)(c) of the Income Tax Ordinance 2001 as the same were submitted after two years from the date on which the Commissioner-IR issued the assessment orders for the years to which refund relate. The refund application for tax year 2014 was not on the proforma prescribed under the law/rules.

4. The AR contended that after issuing part refund for tax years 2006 and 2007, the Complainant repeatedly approached the Deptt to either issue balance refund or give reason for withholding the balance. Likewise, for tax year 2008, 2011 and 2014 the Complainant had repeatedly approached the Deptt to settle the claim but in vain. Thus the Deptt failed to settle balance refund for tax years 2006 and 2007 and also failed to pass orders for tax years 2008, 2011 and 2014 under Section 170(4) of the Ordinance within stipulated time. The objection that refund application for tax year 2010 was filed late was not correct. In fact the refund application for tax year 2010 was submitted well within time, that is why major part of the refund amounting to Rs.0.928 was issued vide cheque dated 29.08.2011. Thus balance refund for tax year 2010 amounting to Rs.97,496 was admittedly pending without any justification. For tax years 2012 and 2013 though the refund applications along with evidence of tax deductions/payments were filed late on 30.08.2016 and 06.04.2016, yet the Complainant could not be deprived of this genuine claim of refund. In support of contention, the AR cited case law reported as PLD 1998 SC 64 (M/s Pfizer

Laboratories Limited vs Federation of Pakistan) wherein the Hon'ble Supreme Court of Pakistan had ruled that 'the Government functionaries had no right to withhold a citizen's money on the ground of limitation or for technical reasons'.

5. During the hearing, the DR categorically stated that despite his best efforts case record of the Complainant could not be procured. The AR undertook to facilitate re-constitution of the case record by providing to the Deptt whatever documents were available with Complainant along with relevant evidence of tax deductions/payments. The DR on his part undertook to complete the verification and settle pending refund claims expeditiously, as per law.

6. The averments of both the parties were given due consideration and record perused. The preliminary objection of limitation for tax years 2006 to 2008 and 2011 raised in terms of Section 10(3) of the FTO Ordinance was misconceived as despite repeated efforts of the Complainant, the department had failed to settle the refund claims. Moreover, Section 10(3) of the FTO Ordinance empowered the FTO to entertain the complaint even after initial period of six months in the interest of justice. The preliminary objection was thus overruled. The objection regarding late filing of refund application for tax year 2010 was also not correct as the Deptt itself had issued major part of the refund through cheque dated 29.08.2011, a manifestation that application was within specified time. The refund application for tax year 2012 was however, admittedly filed late on 30.08.2016, whereas the instant complaint was lodged on the very next day i.e. 01.09.2016 hence premature in terms of the Section 170(4) of the Income Tax Ordinance, 2001. The refund application for tax year 2013 was filed on 07.04.2016 which the Deptt was required to have disposed of in terms of Section 170(4) of the Ordinance. The refund application for tax year 2014 was admittedly filed by the Complainant online on the FBR's e-portal, as per available format. As for time limitation, in addition to the Hon'ble Supreme Court's judgment cited above, the Hon'ble President, in the Order No.13/2008-Law (FTO), dated 28.07.2008 has held that "it is trite law that rules are intended to advance remedy and not to take away substantive rights..." The time limit for complying with the requirements of rules relating to production of evidence and documents is always considered as directory and not mandatory". Likewise, in the order No.131/2006-Law (FTO), dated 30.07.2007, it was held that "it is trite rule of law that where inaction on the part of the public functionary within the prescribed time is likely to

affect the rights of a citizen, the prescription of time is deemed directory, but a public functionary is empowered to create liability against the citizen only within the prescribed time limit, it is mandatory”.

7. The Commissioner-IR was therefore required to reconstitute the case record, complete the verification process and settle refund claims for the relevant period within 30 days.

Complaint No.795/KHI/IT/2016

Chief Automation PRAL was directed to upload case of the Complainant on CREST within 15 days and the Commissioner-IR directed to restore his status on ATPL once data was uploaded.

The complaint was lodged in terms of Section 10 (1) of the FTO Ordinance for inordinate delay in restoring the Complainant’s status on Active Tax Payer’s List (ATPL).

2. The status of the Complainant was made non-active due to discrepancies pointed out by the CREST regarding short payments pertaining to July 2013, August 2013 and October 2013. The Complainant thereafter removed CREST discrepancies by depositing short tax payments vide challans dated 13.11.2013, 28.06.2014 and 12.09.2014 and approached the Deptt for restoring his status in FBR’s e-portal. However, despite repeated efforts of the Complainant, the Deptt failed to restore his status on the ATPL.

3. In response to the notice of complaint issued to the Secretary, Revenue Division, the Commissioner-IR (CIR) Zone-IV, RTO-II, Karachi submitted parawise comments dated 20.01.2017. It was contended that after receiving evidence of payments, case of the Complainant was recommended to PRAL to upload the case on FBR’s e-portal so that his status could be restored on ATPL. It was averred that PRAL had been repeatedly requested to do the needful but of no avail.

4. The arguments of both the parties were given due consideration and record perused. Evidently, the Complainant had discharged his onus by making good the short payments as pointed by the CREST vide challans dated 13.11.2013, 28.06.2014 and 12.09.2014. However, despite repeated efforts his status was not restored. The Chief Automation PRAL was directed to upload the case on CREST folder within 15 days and the Commissioner-IR was required to restore status of the Complainant on the ATPL once data was uploaded on CREST.

Complaint No.760/KHI/IT/2016**The Complainant feeling satisfied with the outcome of investigation, submitted application requesting permission to withdraw the complaint .**

The complaint was lodged in terms of Section 10(1) of the FTO Ordinance for inordinate delay in settling refund for tax year 2015.

2. The Complainant, a private limited concern engaged in flour milling, filed return of income for tax year 2015 under Section 114 of the Income Tax Ordinance 2001, and claimed Rs.13.107 million as refund. The Complainant e-filed refund application on the prescribed format on 23.07.2016. However, despite repeated efforts of the Complainant, the Deptt failed to pass order under Section 170(4) of the Ordinance, within the stipulated time.

3. The complaint was referred for comments to the Secretary, Revenue Division, in terms of Section 10(4) of the FTO Ordinance. In response, the FBR vide letter C. No. 4(0760)TO-I/2016 dated 15.12.2016 submitted parawise comments of the Commissioner-IR Zone-IV, LTU-II, Karachi dated 09.12.02016. The Deptt contended that entire refund for tax year was adjusted against the demand amounting to Rs.15.725 million created under Section 161/205 of the Income Tax Ordinance 2001 vide Order dated 08.12.2016.

4. When the matter was investigated, it was found that after the instant complaint was lodged and comments were sought, the Deptt instead of passing order under Section 170(4) and settling refund for tax year 2015 passed in haste order under Section 161/205 of the Income Tax Ordinance 2001 and adjusted unlawfully entire refund claim against the same. The highhandedness and arbitrariness of the Deptt was palpable as the above order, whereby huge demand was created was passed completely disregarding the evidence of tax deductions submitted by the Complainant, which was found available on the case record.

5. The Additional Commissioner-IR concerned who was specifically assigned the task to examine the matter not only conceded the above facts but got the unlawful order, which was passed evidently to withhold the refund, rectified in terms of Section 221 of the Income Tax Ordinance 2001 vide Order dated 18.01.2017. Subsequent to rectification, the refund for tax year 2015 was restored, which the DR undertook to issue within 30 days, positively. The Complainant, feeling satisfied, submitted an application on 19.01.2017 requesting permission to withdraw the complaint. The complaint was accordingly closed.

CUSTOMS

COMPLAINT NO. 67/ISD/CUS(10)980/2013

Delay in Clearance of an old and used Hino Sprinkle Truck - amendment in Import Policy Order, 2016

On receipt of a complaint regarding inordinate delay in clearance of an old and used, 1998 Model, Hino Sprinkle truck, the matter was investigated and following recommendations were issued, vide Findings dated 02.04.2014:

“The FBR to direct the Collector of Customs, MCC Appraisement, Karachi, to-

- (i) get this matter investigated to determine the extent of maladministration by each of three Customs officials involved in this case; and proceed against those found responsible for these irregularities;
- (ii) compensate the Complainant's loss to be determined by the Collector;
- (iii) get the demurrage and storage charges remitted by the Container Terminal Operator; and
- (iv) report compliance within sixty days”.

2. The Collector Customs, MCC Appraisement, Karachi, vide his implementation report, contained in letter dated 02.06.2014 confirmed implementation of above recommendations and the Complainant was also satisfied with the Collectorate's efforts, which ended well to the satisfaction of the aggrieved party. The recommendations stood implemented to that extent and the complainant was satisfied.

3. During the investigation of the case, it was also observed that there was an ambiguity in para-9(II)(5) of the Import Policy Order, 2009 which required clarity by making an amendment in the text of the Import Policy Order. The unambiguous meanings of the aforesaid provisions of the Import Policy Order were that either the mandatory certificate can be obtained from the competent authorities of exporting country or it can be obtained from any of the pre-shipment inspection companies in Pakistan as listed in Appendix-H of the Import Policy Order. Accordingly, a reference was made to Ministry of Commerce for removing ambiguity.

4. FTO Secretariat kept on pursuing the matter with the Ministry. Finally, the Ministry, vide their O. M. dated 10.06.2016 intimated that the requisite amendment has been made vide Para-9(II)(5) of Import Policy Order, 2016. The previous and existing position is as under:-

| Clause (5) under sub-para(ii) of Para-9 of Import Policy Order, 2009 | Para 9(II)(5) of Import Policy Order, 2016 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Construction companies, mining, oil, gas and petroleum sector companies are also allowed to import specialized vehicle-mounted machinery and transport equipment such as moveable transit mixture, concrete pumps, crane lorries, concrete placing trucks, dumpers designed for off highway use, cement bulkers and prime movers 380 HP and above, etc. Specified in Appendix-I. However, import of such items will be subject to certification by the competent authority of exporting country or a recognized pre-shipment inspection company listed in Appendix-H to the effect that the said machinery/transport equipment (a) is compliant which (Euro-II or Pakistan Emission Standards) (b) is in good working condition/has a remaining productive life of five years".</p> | <p>"Construction companies, mining, oil, gas and petroleum sector companies are also allowed to import specialized vehicle-mounted machinery and transport equipment such as mobile transit mixer, concrete pumps, crane lorries, concrete placing trucks, dumpers designed for off highway use, cement bulkers ad prime movers 380 HP and above, etc. Including those specified in Appendix-I. Import of said specialized machinery or transport equipment as mentioned above shall however be subject to prior pre-shipment inspection in the exporting country from any of the internationally recognized pre-shipments inspection companies listed as Appendix-H to the effect that the said machinery or transport vehicles are (a) Euro-II compliant (b) manufactured as such by Original Equipment Manufacturer (OEM); and (c) not older than five years."</p> |

5. The afore-stated amendment has clarified that import of specialized machinery or transport equipment will be subject to prior *pre-shipment inspection in the exporting county*. Thus it has paved the way for smooth clearance of such consignments by the Customs and the importers will need not to approach Ministry

of Commerce for one time special permission. This case is also part of the exercise conducted for diagnosing the systemic issues and their redressal like plugging of black-hole of evasion by misuse of provisional release mechanism under Section 81 of the Customs Act, 1969. It will also save the importers of such equipment/machinery from undue hassle and resultant delays/complications in getting it cleared from the ports.

Complaint No.16/KHI/CUST(02)47/2016

Extension in the Utilization Period of DTRE Approval

The Complainant sought indulgence of the Federal Tax Ombudsman against refusal of the FBR to extend utilization period for DTRE approval whereby duty/tax free import of Ethyl Acetate, ISO Propyle alcohol and Solvesso was allowed. The Complainant was required to export output goods within stipulated period of two years, but he failed to do so. Subsequently he approached for extension of utilization period, but his request was regretted twice by the FBR.

2. The Department responding to the notice of the complaint justified the refusal in extending the utilization period contending that the Complainant was required to use imported materials and export output goods within a period of two years, whereas he exported only 7% of output goods. It was further contended that each case of extension for utilization of DTRE approval is examined on the basis of export performance of the manufacturing unit and the rationale of exceptional circumstances, if any. The Complainant had advantage of having two years at his disposal to utilize duty/tax-free imports, but he failed to meet the obligation.

3. After investigation, it was observed that grant or refusal to allow extension in DTRE approval was within jurisdiction of the FBR which was exercised with regard to law, facts and circumstances of each case. The Complainant was unable to justify non utilization of imported goods within stipulated period of two years and failed to make out case for extension, as he could not bring on record any export order for supplies.

4. The complaint was accordingly dismissed.

Complaint No. FTO – KHI/0000586/2016**Wrongful Demand For Payment of Duty and Taxes.**

The complaint was filed against the Order passed by the Deputy Collector, (Adjudication-I), Karachi, directing to deposit duty and taxes in respect of Goods Declarations not related to the Complainant.

2. The Directorate of Post Clearance Audit, during the scrutiny of record observed that the Complainant had imported consignments of old and used clothing and had illegally availed benefit of concessionary rate of sales tax and income tax under SRO1125(I)/2011 dated 31.12.2011. On the basis of audit observation, the case was adjudicated by the Deputy Collector vide Order-in-Original No.620/2015-16 dated 08.04.2016. The Complainant was directed to deposit the evaded amount of duty and taxes amounting to Rs.165,140 alongwith personal penalty of Rs. 20,000.

3. The Deptt accepted that due to omission and inadvertence, the demand was wrongly raised against the Complainant. The Deptt accordingly issued a Corrigendum and withdrew the show cause notice. The AR filed statement that since Corrigendum has been issued by the Deptt, his grievance has been redressed with the intervention of FTO and hence he would withdraw the aforesaid complaint. The complaint was closed accordingly.

Complaint No. FTO – KHI/0000572/2016**Delay in the Release of Security Deposit**

The complaint was filed against MCC Appraisement (East) Karachi for failure to release / refund of duty and taxes secured, under Section 81(3) of the Customs Act, 1969. The goods were allowed provisional release under Section 81 of the Act, subject to test for confirmation whether the goods are 'alloy steel billets or 'non-alloy steel billets'. The Complainant regularly reminded the Deptt to pursue the test report, pending for more than one year and eight months.

2. Responding to the notice of complaint, the Deptt informed that test report in case of one GD bearing No.HC-4468 dated 04.06.2015 was received and the security furnished by the Complainant at the time of provisional assessment of duty released. After filing of complaint with FTO, the matter was pursued. M/s. KRL, Islamabad informed that the subject sample has been misplaced. During hearing, the Deptt was

directed to locate the sample as three samples were drawn at the time of examination and get it tested. Subsequently, the sample was located and sent for test. However, despite remainders, test report was still awaited. The DR, nevertheless committed to pursue the matter and to take necessary action upon receipt of the report.

3. It is evident that the Deptt did not pursue the matter of pending laboratory reports in the normal course. It was only after filing of the complaint and FTO's intervention that the required action was initiated. The complaint was disposed of with following Findings/Recommendations:

4. Failure of the Deptt to pursue the pending test reports caused inordinate delay in finalization of the provisional assessment which tantamount to maladministration in terms of Section 2(3)(ii) of the Ordinance.

5. FBR to direct MCC Appraisalment (East) to –

- i) pursue the pending test report with KRL Islamabad;
- ii) decide the case within 10 days of the receipt of the report;
- iii) evolve a mechanism to monitor pending test reports in all other cases of provisional assessment to avoid inordinate delay in finalization of such cases; and
- iv) report compliance within 10 days thereafter.

Complaint No.FTO – KHI/0000635/2016

Delay in the Finalization of Provisional Assessment and Absence of Review Module under WeBOC system

The Complaint was filed against Model Customs Collectorate (MCC) Appraisalment (East) & MCC Appraisalment (West), Karachi for not releasing the security deposited at the time of provisional assessment under Section 81(3) of the Customs Act, 1969.

2. The Deptt disputed the declared HS Code of the imported consignment and allowed provisional release by securing differential amount of duty and taxes. The

matter was then referred to the Classification Committee for decision.

3. The contention of the Complainant was that the Deptt failed to finalize the provisional assessment within the prescribed time limit, and therefore, the provisional determination had attained finality. Consequently, the differential amount of duty and taxes secured through pay order was to be refunded. The Deptt did not respond to their request for release of security deposit despite numerous reminders.

4. The Deptt agreed that the matter was pending with the Classification Committee for final determination of classification and hence the security deposit could not be released. It was further averred that the Committee was regulated under Customs General Order No.12 dated 15.06.2002 and there was no time limit for finalization of decision in the said Order.

5. During the investigation it was revealed that the Deptt did not pursue the matter of pending classification resulting in delay in the final determination of leviable duty and taxes as well as the decision regarding release of security deposit. It was so established that Section 81 of the Act, prescribed a time limit for completion of final determination, and hence the Deptt was required to finalize all such cases of provisional assessment within the time limit prescribed under the law.

6. Failure of the Deptt to pursue the pending classification matter with the Classification Committee resulting in inordinate delay in finalization of the provisional assessment established maladministration in terms of Section 2(3) of the Ordinance.

7. The FBR was, therefore, directed to advise MCC Appraisement (East) and MCC Appraisement (West) to –

- (i) pursue the pending classification matter with the Classification Committee and finalize provisional assessment within 15 days; and
- (ii) evolve a mechanism to monitor the pending classification disputes so as to avoid inordinate delay in such cases in future.

C.No.12/QTa/CUS(11)505/2016**Unlawful Withholding of Refund of Sale Proceeds of goods illegally auctioned by MCC, Quetta**

The goods of the Complainant consisting of body spray, air fresheners, perfumes and toothpastes seized on the charge to be smuggled were released by adjudicating authority but MCC, Quetta had already auctioned the goods. The Complainant approached the Deptt for refund of sale proceeds but his request remained unattended.

2. The FTO taking cognizance of inattention and negligence of the Deptt issued notice whereupon the Deptt released Rs.50,582 being sale proceeds of the goods and grievance of the Complainant was redressed on the intervention of FTO.

C.No.15/QTa/CUS(14)508/2016**Short Delivery of goods purchased in Auction.**

The complaint was filed against inattention negligence of MCC, Quetta to redress grievance of the Complainant arising out of short delivery of 880 tubes for light vehicles. According to the Complainant, his bid of Rs.3,091,000/- for miscellaneous goods including 1200 tubes for light vehicles was accepted by MCC, Quetta but he was delivered only 320 tubes. He repeatedly approached the Deptt but his request for delivery of remaining 880 tubes valuing Rs.528,000/- remained unattended. Responding to the notice of complaint, the Deptt explained that quantity of tubes was erroneously mentioned as 20 cartons each containing 60 tubes whereas actually each carton contained 16 tubes.

2. The Deptt agreed to allow refund of 880 tubes after submission of refund application where after refundable amount would be worked out.

3. The Complainant expressed his satisfaction on redress of his grievance with the help of FTO.

SALES TAX

Complaint No.05/KHI/ST(05)/05/2016

Complete verification process and settle pending refund claims, issue refund cheques in respect of refund already sanctioned through RPOs along with compensation for delayed refund and allow appeal effect to Appellate orders No. 16, 17, 18 and 19 of 2014, as per law

The complaint was referred to the Secretary, Revenue Division for comments in terms of Section 10(4) of the Ordinance. In response, the FBR raised preliminary objection that the Complainant had failed to submit required 'affidavit on oath' along with the complaint. Further that the Complainant had filed different suits and petitions in the Hon'ble High Court of Sindh, seeking stay orders against various audit proceedings, thereby restraining the Deptt from determining actual tax liability. It was added that those claims which had been validated by STARR would be processed and sanctioned through RPOs. It was further contended that the Deptt had never refused to adjust refund of sales tax against income tax liability under Section 147 of the Income Tax Ordinance 2001. A refund amounting to Rs.3.540 billion was already adjusted against the anticipated income tax liability of the Complainant. The appeal effect to the Os-in-A could not be given as the Complainant, had preferred CPs and suits before the Hon'ble High Court of Sindh, and the matter had been stayed by the Hon'ble High Court. As regards compensation for delayed refunds under Section 67 of the Sales Tax Act, 1990 (the Act), it was averred that as sales tax refund was pending on account of STARR objections and ongoing litigations, such claims in terms of Section 67 of the Act was preposterous. The Chief, Centralized Sales Tax Refund Office (CSTRO) in his comments dated 19.01.2016 contended that after sanctioning of refunds through RPOs, the cheques were to be issued on first come first serve basis as per issuance dates of the RPOs. It was averred that queue system was introduced by the FBR to bring uniformity and transparency in the system. Accordingly the cheques against

the pending RPOs would be issued in due course of time.

2. Both the parties were heard and record perused. The preliminary objection of limitation raised by the Deptt was found to be misconceived as the Complainant had fulfilled requirements in accordance with the Ordinance. On merit, it was evident that the refund claims filed by the Complainant for the tax period April 2014 to July 2014, August 2014, October 2014 to December 2014, January 2015 to June 2015 and September 2015 were kept unduly pending by the Deptt in clear violation of Section 10 of the Act. The Chief CSTRO had also failed to follow the provisions of the Act and the Rules and instructions issued by the FBR vide Circular C.No.1(1)CSTRO/FBR/2013 dated 25.09.2013 whereby issuance of cheques on account of Court/FTO orders were required to be given priority in queue. The inordinate delay in allowing appeal effect to the Appellate Orders No. 16, 17, 18 and 19 of 2014 was also established. The responsibility of delay in settling/issuing refund claims and payment of compensation on delayed refunds within time as prescribed under the Act and the Rules lay with the Deptt. Similarly issuance of cheques in respect of claims which were already settled through RPO's was also unduly delayed. The issue of facility allowed to the Complainant by waiver of STARR system, raised by the Complainant had been examined. It is noted that this issue was also raised in complaint No.264/KHI/ST(145)/960/2014. This Office vide Findings/ Recommendations dated 31.10.2014 had already held that the facility of processing refunds on the basis of invoices submitted by the Complainant was subsequently withdrawn by the FBR, thus the claims were rightly being processed under STARR.

3. The FBR was required to direct the Chief Commissioner-IR to complete the verification process and settle pending refund claims of the Complainant, along with compensation for delayed refund, issue refund cheques in respect of refund sanctioned through RPOs alongwith compensation for delayed refund, and allow appeal effect to Appellate orders No. 16, 17, 18 and 19 of 2014, after providing opportunity of hearing to the Complainant, as per law.

Complaint No.36/KHI/ST(22)/124/2016**Commissioner-IR was directed to revisit Rectification Order passed under Section 45A of the Act.**

The complaint was filed against the Chief Commissioner-IR RTO, Karachi in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 for failure to refund amount recovered by rectifying the Order-in-Original (O-in-O) dated 30.06.2015 after the supplier of the Complainant became active taxpayer on FBR Web portal.

2. The complaint was referred to the Secretary, Revenue Division for comments in terms of Section 10(4) of the Ordinance. At the outset preliminary objections of bar were raised in terms of Section 9(2)(b) and limitation under Section 10(3) of the Ordinance. On merit, it was contended that the impugned O-in-O dated 30.06.2015 was passed after providing sufficient opportunity of being heard to the Complainant vide letters dated 05.05.2015, 12.05.2015, 19.05.2015, 25.05.2015, 01.06.2015, 08.06.2015 and 22.06.2015. The Complainant admitted during course of proceedings that entire tax demand amounting of Rs.0.467 million pertained to the purchases from a registered person. At the time of passing of the order, the seller appeared non active/suspended on Active Taxpayers List (ATL). It was averred that input tax of Rs.0.467 million was declared inadmissible as per the provisions of Section 21(3) of the Sales Tax Act, 1990 (the Act) and was accordingly recovered along with penalty and default surcharge in accordance with law. It was further averred that the Complainant filed application for rectification of O-in-O in terms of Section 45A of the Act. After considering facts of the case, the request of the Complainant for rectification was rejected vide letter dated 19.08.2015.

3. The AR argued that supplier was inactive due to non filing of its monthly sales tax return for a single month, while the purchases of the Complainant were not related to that tax period. He further argued that the Deptt had promised to rectify the order as a when the concerned supplier became active on FBR's Web-portal.

4. Both parties were heard and record perused. The preliminary objections raised in terms of Section 9(2)(b) and 10(3) of the Ordinance were examined. The

Complainant had applied for rectification of impugned O-in-O on 17.08.2015 which was rejected by Deptt on 19.08.2015 so filing of Complainant was covered under Section 10(3) of the Ordinance as it was filed within 6 months. Regarding the other objection relating to bar of jurisdiction under Section 9(2)(b) of the Ordinance, the contention of the Complainant was that Deptt did not fulfill its promise of rectification of impugned O-in-O after supplier's name was restored on Active Taxpayers List. The same was accepted and objection over-ruled. Evidently, the Deptt had rejected rectification application in terms of Section 45A of the Act vide letter dated 19.08.2015 without affording hearing to the Complainant in violation of Supreme Court's orders in case reported as 2002 SCMR 1034.

5. The Commissioner-IR was directed to revisit the Rectification Order passed under Section 45A of the Act and report compliance.

Complaint No.29/KHI/ST(16)/93/2016

FBR to revisit the blacklisting order under section 45A of the Act

The complaint was filed in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance 2000 for allegedly blacklisting the Complainant's Sales Tax Registration (STR) arbitrarily on the plea that the Unit did not file monthly returns although as CNG station, the requirement under Chapter IV of the Sales Tax Special Procedures Rules, 2007 (Rules, 2007) was to file quarterly returns.

2. The complaint was referred to the Secretary, Revenue Division for comments in terms of Section 10(4) of the Ordinance. In response, the FBR contended that the registered person was non filer of the sales tax returns since long. In order to prevent the misuse of sales tax, STR of the Complainant was suspended vide letter dated 09.09.2015. Subsequently, a Show Cause Notice (SCN) dated 14.09.2015 followed by reminder dated 25.11.2015 was served on the Complainant requiring him to explain why the STR of his unit not be blacklisted in terms of Section 21 of the Sales Tax Act, 1990 (the Act) read with Rule 12 of the Sales Tax Rules, 2006. However,

despite service of notices in terms of Section 56(1)(b) of the Act through TCS, the Complainant failed to make compliance, resultantly his STR was blacklisted vide impugned order dated 08.12.2015.

3. The AR argued that in terms of Chapter IV of the Rules, 2007, the responsibility to charge, collect and deposit sales tax payments lay with Sui Southern Gas Company. The Complainant, being a CNG Station, had just to e-file sales tax returns on quarterly basis as there was no involvement of tax on the part of CNG station. The Complainant had e-filed quarterly returns on regular basis within due date upto June 2014, with the exception of last six months when option of filing was deactivated due to technical problem occurring in the e-portal. The Complainant approached PRAL authorities through e-portal for necessary action but till date the system was not updated. Meanwhile, in order to keep his ATL status alive, the Complainant e-filed his tax returns on monthly basis and this position was apprised to the DCIR Mirpurkhas on 10.06.2015. Moreover the Complainant filed a detailed reply on 07.12.2015 in the office of the CIR stating all these facts which was duly acknowledged by the Deptt. The Complainant was, however, shocked when he received a combined blacklisting order dated 08.12.2015 whereby the Complainant's STR along with 54 other taxpayers was blacklisted.

4. Arguments of both the parties were considered and record perused. It was evident that the Deptt passed blacklisting order as the Complainant had failed to furnish reply by the due date i.e on 04.12.2015 by treating the Complainant as a normal taxpaying unit, which was required to file monthly returns. However the case of the Complainant was different and it was covered under Chapter IV of the Rules, 2007 whereby quarterly returns were required to be filed. The tax was not due from the Complainant as he was unable to file quarterly returns within time due to some technical problems in computer system which he had brought to the notice of Deptt. The FBR was thus required to revisit the blacklisting order under Section 45A of the Act and report compliance.

Complaint No.45/KHI/ST(26)/151/2016

Commissioner-IR to take decision on the request of the Complainant within a week; and field formations to provide correct online information to the FTO Secretariat after confirmation from concerned trained staff; and report compliance.

The complaint was filed in terms of Section 10(1) of Federal Tax Ombudsman Ordinance, 2000 (the Ordinance) for failure to allow revision of return for the month of December 2015.

2. The complaint was referred to the Secretary, Revenue Division for comments in terms of Section 10(4) of the Ordinance. In response, the FBR vide letter C.No.1(151)/TO-II/2016 dated 16.03.2016 submitted parawise comments. It was contended that as per Section 26(3) of the Sales Tax Act 1990 the Complainant was required to file online request for revision of return which she did not file, therefore, complaint was not maintainable.

3. The AR argued that the Complainant filed online request to allow her to file the revised sales tax return for the month of December 2015. Further the AR moved applications dated 25.01.2016 and 01.02.2016. The latest position was that the Complainant vide letter dated 25.03.2016 had provided the documents as required by the Deptt. During hearing, the DR undertook to allow revision request of the Complainant, as per law.

4. The averments of both the parties were given due consideration and record perused. It was noticed that the contention of department that Complainant had not made online request was not valid. The computer print dated 05.03.2016 provided by the Complainant confirmed that online request was made on 14.01.2016 and was under process. It proved that the FBR field offices required training to enable them to see and process online requests made by taxpayers. The Commissioner-IR concerned was therefore, required to take decision on the request of the Complainant within a week.

C.No.04/QT/ST(01)449/2016**Non-acceptance of Sales Tax at Dukki from coal miners of Dukki**

The Complainant a coal mine owner of Dukki invoked the jurisdiction of FTO under Section 9(1) of the FTO Ordinance against negligence and inattention of FBR and RTO, Quetta, to authorize NBP Dukki Branch to collect sales tax. According to the Complainant carrying cash to Quetta causes great hardship, risk of embezzlement/robbery and burdens the coal mine owners with extra expenses.

2. FTO taking cognizance of the matter issued notice to FBR and RTO, Quetta. In response, the Deptt explained that FBR had not withdrawn collection of sales tax from NBP Dukki Branch. According to the Deptt, the staff of NBP Dukki Branch was not well trained to generate the payment slip identification. The Deptt informed that already steps/measures had been taken to redress the grievance of the Complainant.

3. During hearing it was informed that the staff of NBP Dukki Branch had been trained. The Complainant and other coal mine owners of the area could deposit sale tax at NBP Dukki Branch. However the AR informed that staff of NBP Dukki Branch was not receiving sales tax where upon notice was issued to the Manager NBP Dukki Branch who appeared and explained that an officer of the Branch had been nominated whose personal details were provided to the FBR for provision of user ID and password. On issuance of the same and availability of representatives of FBR, collection of sales tax would start.

4. Subsequently, the Deptt informed that user ID and password had been issued to the nominated officer who had also been trained by the representative of the Deptt. The AR informed that collection of sales tax had started at NBP Dukki Branch and grievance of the Complainant was redressed with the intervention of FTO.





Public Feedback

The FTO Office receives letters and e-mails of appreciation and thanks from taxpayers, whose grievances are redressed. Following are excerpts from some of these letters and e-mails.

"We are thankful to the learned Federal Tax Ombudsman and his staff for fixing the hearing date well in time and evaluating judicially the arguments rendered by both parties. We also appreciate the follow up of order passed by the learned FTO in this case."

Ijaz Akber, FCA

Senior Partner
Ijaz Tabussum & Co.,
Islamabad
Dated: 06.01.2016

"The Petitioner/Complainant has received refund voucher in the instant case and order/recommendation of the Hon'ble FTO has been implemented as well, so, the Complainant seeks withdrawal of his petition for contempt of court. It is, therefore, humbly requested to drop the proceedings against the Respondent for contempt of court, if initiated, and dispose of the complaint accordingly. The Complainant is highly indebted to your Honour and pray for your long life."

Raashid Umar

Advocate/AR
205, 3rd Floor, Subhan Centre,
Mauj Draya Road,
Lahore.
Dated: 15.02.2016

"Findings/Recommendations in Complaint No.125/ISD/IT(95)/1154/2015 given by Hon'ble FTO as contained in para-4 of Order dated 09.11.2015 has been implemented by the Federal Board of Revenue. We

have received the letter from RTO, Rawalpindi regarding cancellation of impugned order and de-attachment of Bank Accounts.”

Khurram Shazad,

Authorized Representative,
Shazad Adil & Co., Office No. 12, 2nd Floor,
Ahmed Centre, Sector I-8 Markaz,
Islamabad. Dated: 22.02.2016

“We would like to thank you for your best efforts/directions from your good office and may Allah bestow upon you more strength to extend justice and relief to tax payers.

“The taxpayer who invariably complained of highhandedness and harsh treatment at the hands of the tax officials have taken a sigh of relief and have acclaimed it as an appreciable gesture provided to us in the shape of an institution not only for ventilation of our grievances but redressal thereof expeditiously and at no cost.

“Once again, May Allah Almighty blesses you and your near and dear ones happy, healthy and prosperous longevity.”

RAJA & COMPANY,

Income Tax Practitioners,
Raja & Company, 25-A, Ahmad Centre,
Suraj Miani Road, Multan. Dated: 03.03.2016

“We are profoundly thankful to your worthy office for redress of our complaint. Deputy Commissioner IR, Audit III, Zone II, Large Taxpayer Unit, Islamabad had withdrawn the impugned notice issued u/s 122(5) of Income Tax Ordinance, 2001 through his letter No. 33 dated 16.12.2015. We are also thankful to the department for showing compliance to the FTO’s Findings and redressing our grievance.”

Sardar Shahid Farid, FCA,

Partner, Muniff Ziauddin & Co.,
508, Block A, Abu Dhabi Tower, F-11/1,
Islamabad. Dated: 04.03.2016

"We convey the thanks of the complainant for your gracious directions to the Income Tax Department. Consequently the department complied with the directions of the Hon'ble FTO and completed the following actions:-

- (1) The bank account of the complainant has been detached.
- (2) After obtaining necessary proof of foreign remittances, final order under section 122C has been passed by the assessing officer at income as BTL.

"In view of the foregoing facts and circumstances of the case, the complainant again thanks you for your kind directions and now he is mentally satisfied and has no complaint against the department."

Imran Abid

Advocate

For Noman Sharif, Off. 3-4, 1st Floor,
United Centre, Shamasabad,
Murree Road, Rawalpindi.

Dated: 28.04.2016

"I would like to pay my heartfelt gratitude and thanks that your prestigious office has provided me relief and justice like thousands of other fellow countrymen. I have received the amount of Rs.193,747/- from FBR through cross cheque No. A283531 dated 14.03.2016 and the above said cheque has also been duly credited in my account. Hence from my side now this case is finalized. Again I am paying my thanks and regards."

Muhammad Khalid Ishaq

(Ishaq & Sons)

POF shopping Complex, Wah Cantt.,
Rawalpindi.

Dated: 19.05.2016

"We are grateful to you for looking into the matter and providing us the relief. We are pleased to inform you that with your kind efforts and strict follow up of our case, we have received the relief from the tax department. A refund

voucher No. 1 amounting to Rs.4,922,365/- was received from department, which has been credited into our account. Really thankful to you for your extended support.”

Mohsin Siddiqui, Manager Finance

AKSA Solutions Development Services
Ground Floor Software Technology Park,
5-A, Constitution Avenue, Islamabad.

“It is stated that the grievance of M/s AGCN (PVT) Ltd. has been redressed by the Hon’ble FTO and it has also been implemented under the directions of concerned desk in FTO Office. Thus, the complaint No. 830/2015 M/s AGCN (PVT) Ltd., is liable to be disposed. I am very thankful to the Hon’ble FTO for implementation of the complaint.”

Faisal Naseer Rana & Others

Ahmad Lawyers Constellation,
Suite # 26-29, 4th Floor, Al-Murtaza Centre,
2-Moznag Road, Lahore. Dated: 30.05.2016

“The Chief Commissioner, Regional Tax Office, Rawalpindi has implemented the findings/recommendations of the Hon’ble FTO given in the subject complaint. I am extremely thankful to the Hon’ble FTO for redressing my grievance against the Tax Department.”

Abdul Waheed

House No. 1-87, Happy Valley, Hussain Shah Shaheed Road,
Kohat Cantt. Dated: 09.06.2016

“We wish to bring to your kind knowledge that complainant has received principal amount of refund amounting to Rs.19,676,750/- to its satisfaction and complainant has no grievance against the respective responsible officers.”

Muddassar Khalid, FCA, FCCA

Partner / AR of the Complainant
Hasan Naseem & Co, Islamabad. Dated: 17.06.2016

"Gratefully it is intimated that grievances requested in my complaint have now been fully redressed. I shall always remain grateful for this kind action and sympathy of Hon'ble FTO."

Sarfraz Khan, Junior Auditor
Office of the CLA (DP), Saddar, Rawalpindi
Dated: 22.07.2016

"We are thankful for prompt resolution of maladministration of Federal Board of Revenue by your Honourable Institution."

Faisal Latif & Co.,
Chartered Accountant,
Suite 202, First Floor, Khasif Blair Plaza,
G-8 Markaz, Islamabad.. Dated: 27.07.2016

"Undersigned has received payment from FBR for the refund of income tax paid in excess. I am very thankful to the Federal Tax Ombudsman for the quick and efficient response."

Usman Akhtar
House No. D-78, KCP Colony
Girote Chowk, Rawalpindi. Dated: 19.08.2016

"We are very thankful for your best efforts for redressal of grievance of my client. It is to inform you that the findings/recommendations of the Tax Ombudsman have been implemented by the Regional Tax Office, Islamabad. We are highly obliged for the best efforts of your office and high prestige of Tax Ombudsman."

Muhammad Habibullah Khan, Advocate,
Office No. 11, First Floor, Islamabad.
Dated: 22.08.2016

"We are very pleased to inform you that cheque amounting to Rs.5,155,782/- has been issued by the department by settling our complaint, filed in your office. Your office has indeed served the justice in true letter and

spirit for which I express my sincerest thanks and gratitude to you.

Muhammad Afzal

CFO, Everfresh Farms (Private) Ltd.,
Lahore. Dated: 24.08.2016

"It is hereby informed and confirmed that we have received the refund voucher which has been cleared by the State Bank of Pakistan and now we have no other grievance in this complaint."

Saleem Aziz,

Senior Manager Taxation,
UHY Hassan Naeem & Co.,
Chartered Accountants,
West Lower Ground, Pak Plaza (19-A),
Fazal-e-Haq Road, Blue Area,
Islamabad. Dated: 22.09.2016

"I am extremely grateful, obliged to your office for decision on merit, pursuance of case and feed back."

Farah Habib

H. No. 9, St No. 36, Sector C (Orchard)
DHA I, Rawalpindi. Dated: 29.09.2016

"It is respectfully submitted that your office has always been very kind and remained cooperative with Janjua Life Trust for which we are grateful. After hearing notice u/s 9(2) of the Federal Ombudsmen Institutional Reforms Act, 2013 on dated 17.11.2016, our complaint No. C. No. 80/ISD/IT(57)/857/2015 has been resolved with your kind co-operation and consideration. Our two drafts/pay orders which were given as a security have been refunded. We are very obliged and thankful to your good-self."

Raja Muhammad Younus

Chairman
M/s Janjua Life Trust, Raja Market, Kallar Syedan Road,
Rawalpindi. Dated: 08.12.2016



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