FEDERAL TAX OMBUDSMAN SECRETARIAT

C.No.0011/OM/2021 Dated: 09-09-2021

To,

The Advisor Media & Awareness,
FTO, Secretariat,
Islamabad.

Copy of Findings/Recommendations in C.No.0011/OM/2021 is enclosed herewith for Publication.

(Arshad Mahmood Cheema)
Registrar
Federal Tax Ombudsman Secretariat
Islamabad
051-9214348

Encl: As above
Copy to:

1. MIS Manager, FTO, Secretariat, Islamabad.
2. Secretary to FTO.
3. Office copy.

BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

0011/OM/2021
Dated: 26.02.2021* HQ, Islamabad

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

Dealing Officer : Ms. Mahbooba Razzaq, Advisor

Appraisal Officer : Mr. Manzoor Hussain Kureshi, Advisor

Departmental Representatives : i) Ms. Baseerat Memraiz, Secretary, HRM-IR-I
ii) Mr. Amanullah, Secretary, HRM-Customs-II,
iii) Mr. Khalid, Second Secretary
FBR, Islamabad.

FINDINGS/RECOMMENDATIONS

This is an Own Motion (OM) investigation initiated while exercising powers conferred under Section 9(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) on the basis of news clipping published in daily 'Dawn' whereby it was reported that:-

> "Since 2015, around 180 officials of the FBR are facing enquires on the charges of corruption and inefficiency but the enquiry officers are delaying the completion in connivance with the delinquent officials. The unwarranted delay in completing such important enquires, where the FBR's very public image was at stake, adversely reflected on the internal accountability of the country's premier revenue generating agency".

2. Comments of the Secretary, Revenue Division, Islamabad were requisitioned in terms of Section 10(4) of the FTO Ordinance read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. The Deptt submitted comments vide letter dated 12.07.2021, contending that enquiries were initiated against the officials of Inland Revenue and Customs on account charges of corruption and inefficiency levelled against them under:-

(i) **Government Servants (E&D) Rules, 1973; and**

*Date of registration with FTO Secretariat

(ii) Civil Servants Efficiency and Discipline (E&D) Rules, 2020.

It was further contended that under the E&D Rules, 1973 no timeline for completion of enquiry proceedings had been specified, except that Inquiry Officer/Committee, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorized officer, submit findings thereof to the Authorized Officer. However, under Civil Servants (E&D) Rules 2020 sixty days' time line was specified but still Inquiry Officer could obtain extension from the Authority, giving reasons for extension. Number of pending disciplinary proceedings initiated against various officials of BS-16 and above under the E&D Rules, 1973 and E&D Rules 2020 were detailed as under:

Total enquiries pending	Under E&D Rules 1973	Under E&D Rules 2020	Total
	60	17	77

It was reiterated that the Deptt was pursuing the Inquiry Officers to submit inquiry reports within the given timelines. As soon as enquiry reports were submitted further proceedings would be completed expeditiously, as per law.

3. The contention has been considered and produced record examined.

4. In E&D Rules, 1973 no specific time limit for completion of an inquiry is provided. However, the law has not left open ended field for the inquiry officers to keep the inquiries unduly pending/unattended as prescribed under Rule 6 of the E&D Rules, 1973 which reads as under:-

> ***"Procedure to be observed by the Inquiry Officer and Inquiry Committee.-***
>
> ***(1) Frame a charge.....***
>
> ***(2) Require the accused within a reasonable time, which shall not be less than seven days or more than fourteen days from the day the charge has***

been communicated to him, to put in a written defence and to state at the same time whether, he desires to be heard in person.

(3) The Inquiry Officer or the Committee shall enquire into the .....

(4) Inquiry Officer or the Committee, as the case may be, shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing. However, every adjournment, with reasons therefor shall be reported forthwith to the authorized officer. Normally no adjournment shall be for more than a week.

(5) Where the Inquiry Officer or the Committee, as the case may be.....

(6) The Inquiry Officer or the Committee, as the case may be, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorized officer, submit his or its findings and the ground thereof to the authorized officer.

5. Plain reading of Rules 2, 3, and 6 of the E&D Rules, 1973 intention of the law to complete the inquiry proceedings expeditiously, is crystal clear. It was provided that the inquiry proceedings should not only be held on day to day basis but the findings are also required to be submitted within ten days of the conclusion of the proceedings. Although adjournments of day to day proceedings, with not more than a week, by recording reasons can be allowed and the period can also be allowed by the authorized officer in submitting report is given in the rules but these concessions are exceptional and not permissible and to be allowed by default, as a matter of rule. One of the inquiries was pending since 2007, i.e. for the last almost more than 14 years, which amounts to bury the allegations against a corrupt or inefficient official.

6. The E&D Rules, 2020 were framed on 11.12.2020, whereby the E&D Rules, 1973 were repealed. However, under Rule 21 sub-Rule (2) of E&D Rules, 2020 prescribes that all the proceedings pending immediately before the commencement of rules, 2020 against any Civil Servant under the repealed Rules, shall continue. Under Rule 10(7) of the E&D Rules, 2020 the inquiry Officer is required to complete the inquiry proceedings within sixty days or within such extended period, which the authority may allow on the request of the Inquiry Officer or Inquiry Committee, as the case may be. It is

observed from the chart drawn above that in all the inquires, pending under E&D Rules, 2020 the stipulated period of sixty days had already elapsed. No serious effort appears to had been made to complete the inquires and bring the delinquent officials to book as a result thereof internal accountability of the FBR has suffered adversely. The inordinate delay, inefficiency and incompetence in concluding/deciding inquiry proceedings initiated under E&D Rules,1973 and E&D Rules, 2020 is, thus, evident.

FINDINGS:

7. Delay, inefficiency and incompetence in concluding inquiry proceedings initiated under E&D Rules,1973 and E&D Rules, 2020 is tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance.

RECOMMENDATIONS:

8. FBR to-

(i) call for explanation of all the inquiry officers or the inquiry committee as the case may be and take appropriate action against them for causing inordinate delay in conclusion of inquiry proceedings;

(ii) direct the inquiry officers to complete all the pending inquiries initiated against the officials under E&D Rules,1973 and E&D Rules, 2020, expeditiously, as per law;

(iii) evolve a centralized monitoring mechanism at the FBR level to ensure that the disciplinary proceedings are completed within the time limit provided under (E&D) Rules, 2020; and

(iv) report Compliance within 45 days.

(Mushtaq Ahmad Sukhera)
Federal Tax Ombudsman

Dated: 01/09/2021

MH/HUK

Certified to be True Copy

Deputy Registrar
FTO Secretariat
Islamabad