

**BEFORE  
THE FEDERAL TAX OMBUDSMAN  
ISLAMABAD**

**Complaint No.0013/OM/2022**

Dated:25.03.2022\* RO Lahore

The Secretary,  
Revenue Division,  
Islamabad.

...Respondent

Dealing Officer	:	Dr. Sarfraz Ahmad Warraich, Advisor
Appraising Officer	:	Mrs. Sarwat Tahira Habib, Sr. Advisor
Authorized Representative	:	Mr. Akhtar Ali, Advocate
Departmental Representative	:	Mr. Ali Noor, DCIR, LTO Lahore

**FINDINGS/RECOMMENDATIONS**

This is an Own Motion investigation initiated while exercising powers conferred under Section 9(1) of the Federal Tax Ombudsman Ordinance, 2000 to investigate the delay in processing/sanctioning of long pending refund claims of Tractor Industry.

2. According to a report published in Daily Dawn dated 5<sup>th</sup> March 2022, entire tractor manufacturing industry is facing severe liquidity crunch as the industry's over Rs.8 billion Sales Tax refunds are stuck up with FBR for last two years. The industry pays 17% Sales Tax to its vendors from whom it purchases parts. It is allowed to pass on only 5% Sales Tax to the buyers and FBR has to refund rest 12% to the Tractors Manufacturers. This differential, in case of one unit alone i.e. M/s Millat Tractors (Claimant), touched Rs.6 billion. This scenario left no choice for the manufacturer but to suspend operations to save itself from future losses. M/s Millat Tractors Limited approached Federal Tax Ombudsman Secretariat



for redressal of this systemic issue with the request that FTO may intervene in this matter for expeditious disposal of long pending refund claims of Tractor Industry.

3. The Own Motion Complaint was referred to the Secretary, Revenue Division, Islamabad in terms of Section 10(4) of the FTO Ordinance, read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. In response thereto, Chief Commissioner-IR, LTO Lahore, vide letter dated 15.04.2022, submitted the following status of pending Sales Tax refund claims of M/s Millat Tractors Limited:

Sr. No.	Name of Unit	Refund amount claimed	Refund amount sanctioned	Reasons of delay regarding pending amount
1	Millat Tractors Ltd	350,781,823	321,829,823	The said amount of Sales Tax refund represents deferred amount. However, the said refund claims are not yet available in refund portal. The instant deferred amounts will be processed after the sanctioned refund is credited into claimant's bank account
2	Millat Tractors Ltd	400,787,770	380,648,980	-do-
3	Millat Tractors Ltd	728,490,780	727,527,578	-do-
4	Millat Tractors Ltd	320,306,868		The Hon'ble President of Pakistan has decided the representation in Complaint No.1293 against the Department vide Order No.94/FTO/2021 dated 25.03.2022, received at LTO Lahore, on 01.04.2022. The processing of verification of claims has been initiated
5	Millat Tractors Ltd	292,726,236		-do-
6	Millat Tractors Ltd	506,368,963		The said Sales Tax refund has been replicated through the system. Due to technical issues at PRAL, the processing of Refund Payment Order (RPO) is pending. The department is in liaison with technical team of PRAL for its quick resolution. As soon as the technical issue is resolved Refund Payment Order will be issued



7	Millat Tractors Ltd	837,249,318		The said Sales Tax refund will be processed in due course after disposal of refund claim mentioned above
8	Millat Tractors Ltd	960,123,798		-do-
9	Millat Tractors Ltd	588,730,598		Manual refund claim has been received from the claimant, however, same claim is not appearing in System as the claimant has not filed claim through ERS
	Total	4,985,565,957	1,430,006,381	

4. Case was fixed for hearing on 23.04.2022. DR did not attend hearing despite issuance of notice. However, AR appeared and submitted a rejoinder dated 23.04.2022, stating therein that procedure for payment of refund was provided in Rules 2 to 5 of the Rules. Rule 3 provides that refund of admissible excess input tax shall be allowed to recognized tractor manufacturers within three days of receipt of refund application by the CIR having jurisdiction. Further stated that Claimant filed refund applications, alongwith documents prescribed under Rule 2, for different sixteen tax periods i.e. April 2020 to February 2022 but same were not processed/sanctioned by CIR (Enforcement), LTO Lahore within three days as prescribed in law. Due to Deptt's persistent non-compliance with the law, Claimant filed two complaints, bearing Nos.945&1293/LHR/ST/2021 which were decided in its favour. Against FTO's recommendations, Department filed representations which were rejected. Despite the fact that FTO's order attained finality, Department has still not sanctioned full amount of refund to Claimant in respect of sixteen tax periods. In many of these months, RPOs were yet to be issued and, in other cases, RPOs have been issued but payment was not transferred into bank account. Further stated that reasons, provided by Department for



delay in payment of refunds, against serial No.1-8, do not require any response from Claimant. However, reasons, provided against serial No.9 (refund application for tax period December 2021 for Rs.588.730 million), was against the facts. Claimant was trying to file application online through ERS for quite some time, however, months of December 2021 and February 2022 were not appearing for selection in ERS. Claimant informed the Department about the issues several times with the request to enable the Claimant to file its refund application for said months but Department had not taken any action. Claimant prayed that that Department be directed to (i) issue pending RPOs and cheques without further delay for sixteen tax periods; (ii) ensure that months of December 2021 and February 2022 were available on ERS to enable the Claimant to file online application; and (iii) ensure that FBR complies with the provisions of Rules in letter and spirit and issues refund within three days on receipt of refund applications, as provided under the Rules.

5. Case was again fixed for hearing on 29.04.2022. Both AR/DR attended hearing. DR stated that in compliance of President of Pakistan's Orders dated 26.10.2021 and 25.03.2022, in C.Nos.945/LHR/ST/2021 and 1293/LHR/ST/2021, total amount of refund claimed by Claimant, has since been sanctioned and RPOs issued. AR stated that, admittedly, RPOs to the said effect had been issued but refund amount, to the tune of Rs.1289 million, has not yet been transferred to Claimant's bank account. He asserted that transfer of remaining amount to Claimant's bank account be expedited on priority. Taking opportunity, AR, as stated in previous hearing, again invited attention of this Forum to pending amount of



refund claims other than mentioned in above complaints. According to him, currently refund amounting to Rs.4470 million is pending processing at the end of FBR/LTO Lahore which, as per law, was to be processed within three days of submission of refund claims.

He prayed that said claimed amount should also be processed expeditiously as per law/time limitation prescribed in the relevant notification. Despite intimation, neither any input has been received from FBR nor from other units of Tractor Industry; however it goes without stating that same regulatory framework applies to other Tractor Manufacturing Units (M/s Al-Ghazi Tractors Limited etc.) regarding processing of their refund claims.

6. Arguments of both sides heard and available record perused. Claimant's contention that Department had not processed/sanctioned due refund within three days as prescribed under Recognized Agricultural Tractors Manufacturers Rules, 2006, issued vide SRO.363(I)/2012 dated 13.04.2012, is correct. Subject to filing of refund application, pursuant to Rule 2 of SRO.363(I)/2012 dated 13.04.2012, refund of admissible excess input tax is to be allowed within three days. Subject to Rule 4, Claimant is required to file complete refund claim alongwith requisite supportive documents within fifteen days of sanctioning of refund. In case, any amount already sanctioned and paid is found inadmissible, the same is recoverable within seven days by encashing the bank guarantee to the extent of adjudged liabilities. It appears that timelines, given in prescribed procedure, are not being followed in letter and spirit while processing/sanctioning refund claims of the Tractor Industry.

**Findings:**

7. Delay in processing/sanctioning due refund claims and, consequently, delay in transfer of sanctioned amount to Tractor Industry Claimants' bank accounts, as per timelines, prescribed vide SRO.363(I)/2012 dated 13.04.2012, is tantamount to maladministration in terms of Section 2(3) of the FTO Ordinance, 2000.

**Recommendations:**

8. FBR to direct:-

- (i) all CCIRs, holding jurisdiction over Sales Tax affairs of Tractor Industry, to strictly comply timelines, as prescribed vide SRO.363(I)/2012 dated 13.04.2012, while processing due refund claims, as per law; and
- (ii) report compliance within 45 days.

*Approved for Report*

(Dr. Asif Mahmood Jah)  
(Hilal-i-Imtiaz)(Sitara-i-Imtiaz)  
Federal Tax Ombudsman

Dated: 19th Aug, 2022  
K.A/gg

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Registered  
FTO Secretariat  
Islamabad