

THE FEDERAL TAX OMBUDSMAN ISLAMABAD

0616 to 0624 & 0626/Infrml/2022

Dated: 14.12.2022* R.O. Multan

1. **Ms. Ambreen Ali**
2. **Dr. Muhammad Makkey Bhutta**
3. **Ms. Maryam Saleem**
4. **Mr. Muhammad Idress**
5. **Mr. Rashid Hussain**
6. **Mr. Urhamish Ansari,**
Multan College of Arts, BZU
7. **Dr. Syed Zuhaib Aziz,**
8. **Hafiz Muhammad Moinul Aziz**
9. **Mr. Muhammad Asad**
10. **Mr. Munir Ahmad**

Department of Sociology,
Bahauddin Zakariya University,
Multan

... Complainants

V e r s u s


The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer
Appraisal Officer

: Dr. Khalil Ahmad, Advisor
: Mr. Muhammad Tanvir Akhtar, Advisor

Informal Resolution of Disputes **(Section-33)**

 This order caters to extend relief in tax deduction in terms of Section 153(1)(b) of the Income Tax Ordinance, 2001 (the Ordinance) of low paid employees allowed on the strength of decisions in C. No.2538/ISB/IT/2021, 0032 to 0043, 0045, 0047, 0048 & 0052 to 0069/ Infrml/2022, 1631, 1633 to 1636, 1654, 2419-2421, 2423, 2428 & 2430/PWR/IT/2022 which have been upheld by the Hon'ble President of Islamic Republic of Pakistan vide orders dated

* Date of registration in FTO Sectt.

15.08.2022 on identical issue.

2. The alleged Departmental practice to subject the remuneration of low paid adhoc / temporary employees has been examined in these orders in the light of relevant legal provisions i.e. Sections 12 and 149 of the Ordinance as under:

*Section 12. **Salary-** (2) Salary means any amount received by an employee from any employment, whether of a revenue or capital nature, including—*

*(a) **any pay, wages or other remuneration provided to an employee, including leave pay, payment in lieu of leave, overtime payment, bonus, commission, fees, gratuity or work condition supplements (such as for unpleasant or dangerous working conditions).***

*Section 149. **Salary.** — (1) Every [person responsible for] paying salary to an employee shall, at the time of payment, deduct tax from the amount paid at the employee's average rate of tax computed at the rates specified in Division I of Part I of the First Schedule on the estimated income of the employee chargeable under the head "Salary".*

3. The above Legal provisions govern "Salary Taxation" Section 12 and withholding of tax thereupon under Section 149 of Ordinance only the equation of **employer-employee** based on "**Master-Servant Relationship**" is material. This **criterion** forms the basic parameter for any employment: Regular/Adhoc/Temporary/ Hired / Daily Wages which are different shades & forms of employment and law doesn't create any distinction among all the above forms.

4. The above referred decisions attracted attention of identical stakeholders and some of the university employees engaged in teaching as visiting faculty members in Bahauddin Zakariya University (BZU), Multan approached this office and claimed that they are also entitled to benefit from these decisions because they meet the criteria of being low paid employees working with any organization and are being subjected to monetary hardship through deductions @ 10-20% at source in terms of Section 153(1)(b) of the Ordinance. It is an anomaly that regular employees earning salary upto

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Rs.600,000/annum pay no tax whereas their meager salaries are being taxed heavily.

5. In order to examine the bonafides of their claim, the Deputy Treasure, BZU, Multan vide letter No.2063-A/cs dated 12.09.2022 was asked to provide a list of adhoc/temporary teachers engaged in teaching on semester basis. He has responded by providing a list of teachers alongwith their annual receipts and tax deducted thereon during tax year 2020-2021. Proceeding further, the list provided by the Treasurer was segregated department-wise and a 'Questionnaire' was circulated to these employees in order to ensure their eligibility for the said benefit on the same analogy.

6. The following teachers from the Multan College of Arts and Sociology Department, BZU, Multan have responded to the Questionnaire, affirming that they are exclusively engaged in the teaching activity on semester basis with the University as temporary / visiting faculty and their annual receipts did not exceed Rs.600,000 in Tax Year 2021. Besides, their receipts are not likely to exceed this threshold during 2022-23 as well.

S. No.	Name	CNIC	Department
1	Ms. Ambreen Ali	36302-6299670-8	Multan College of Arts
2	Dr. Muhammad MakkeyBhutta	36302-2652904-5	Multan College of Arts
3	Ms. Maryam Saleem	36302-0281294-0	Multan College of Arts
4	Mr. Muhammad Idress	36302-3043992-1	Multan College of Arts
5	Mr. Rashid Hussain	36302-0412577-1	Multan College of Arts
6	Mr. Urhamish Ansari,	36302-8765605-4	Multan College of Arts
7	Dr. Syed Zuhaib Aziz,	36303-2144637-9	Sociology
8	Hafiz Muhammad Moinul Aziz	36302-2693066-1	Sociology
9	Mr. Muhammad Asad	36302-8933976-1	Sociology
10	Mr. Munir Ahmad	36302-2904028-9	Sociology

7. As discussed in para (1) the employees listed above fully meet the criteria of being low paid employees working on temporary/adhoc basis having a relationship of an employee with institution in terms of Section 12 of the Ordinance and their aggregate remuneration received per annum from this profession are below the tax-exempt threshold of Rs.600,000 for salary income. **Petitioners' cases, when compared with the regular faculty members of the institute in question, the deductions being made from regular faculty vis-à-vis the petitioners there is a visible incidence of discrimination despite the fact that nature of job remains the same in both categories. Persons falling in the former category are getting more but paying less taxes u/s 149 of the Ordinance, whereas the later category is subject to higher tax deductions (@ 10/20 percent) in terms of Section 153(1)(b) of the Ordinance.**

RECOMMENDATIONS:

8. It is recommended that:

- (i) the CCIR, RTO, Multan is directed to ensure that tax shall be deducted on these low paid employees working on temporary / adhoc u/s 149, as has been ordained by the Hon'ble President of Islamic Republic of Pakistan vide orders dated 15.08.2022 in similar cases of teaching community;
- (ii) the Treasure BZU Multan to ensure that from now onwards tax withholding on the payments made to these temporary / visiting faculty teachers are subjected to section 149 of the Ordinance in future; and
- (iii) report compliance within 45 days.


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

Dated: 23.12.2022

Approved for reporting