

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

**MULTI MILLION DOLLAR TAX EVASION BY RESIDENT COMPANIES /
CONCERNS / INTERNATIONAL CONTRACTORS-**

M/S BRAC PAKISTAN: 0131/OM/2021

Dated: 22.10.2021* HQ, Islamabad

M/S CONCERN WORLDWIDE: 0133/OM/2021

Dated: 22.10.2021* HQ, Islamabad

DAI PAKISTAN (PVT) LIMITED: 0134/OM/2021

Dated: 22.10.2021* HQ, Islamabad

M/S PLAN INTERNATIONAL: 0150/OM/2021

Dated: 25.10.2021* HQ, Islamabad

RURAL SUPPORT PROGRAMMES NETWORK: 0151/OM/2021

Dated: 25.10.2021* HQ, Islamabad

**TRUST FOR DEMOCRATIC EDUCATION AND
ACCOUNTABILITY: 0156/OM/2021**

Dated: 25.10.2021* HQ, Islamabad

The Secretary,
Revenue Division,
Islamabad.

...Respondent

Dealing Officer
Appraisal by

: Mr. Muhammad Majid Qureshi, Advisor
: Mr. Muhammad Tanvir Akhtar, Advisor

FINDINGS/RECOMMENDATIONS

The above Own Motion investigations were initiated in terms of Section 9(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), because FTO Secretariat has evidence-based information that some of the most meaningful and innovative initiatives of FBR's own officers and field formations stand diluted and washed away due to **follow up failure, frequent posting transfers of officers and massive changes of jurisdictions.**

2. Moreover, through In-House Analysis FTO Secretariat has also identified that though FBR and its dozens of field formations

maintain an organized web portal, rich data center, exhaustive Data Bases, elaborate and comprehensive operational soft wares and houses a full-fledged & home-grown IT support system i.e., Pakistan Automation (PVT) LTD (PRAL), yet neither FBR HQs nor its any single field formation maintains;

- a. *any IT based **tracking system**, archiving various valuable initiatives & ventures made by different FBR's organizations, officers, teams or specially created cells from time to time.*
- b. *any exhaustive, fool proof and IT enabled **handing over module** (from predecessors to successors) for such initiatives.*
- c. *any institutionalized internal **follow up system**, or*
- d. *any internal evaluation mechanism to gauge whether the goals envisaged under FBR's flagship ventures have been logically pursued & achieved.*

Therefore, it was reasonably assumed that in most of the cases the good job done is wasted, diluted or compromised with the transfer of individuals, dissolution of units/ cells and take over by new managers.

3. While conducting the aforesaid In-House Analysis FTO Secretariat has information on record that a list of potential cases of tax evasion, (including the aforementioned 06 cases) along with detailed Investigation Report & Case Study was prepared & shared by Directorate General (DG), BTB FBR. This valuable information was duly shared in **December, 2018**, with the concerned field formations for taking action against said entities for not declaring true particulars of their receipts/income and not discharging their responsibilities as withholding agents. However, in **2019**, FBR's management suddenly shelved this whole BTB regime overnight; disbanding BTB Zones Islamabad, Lahore and Karachi. Office of DG BTB was relegated to a ceremonial entity assigned as additional

charge. Thus, in addition to loosing an effective organization, the repository of the whole above data/information was suddenly rendered extinct.

4. Such a kneejerk attitude of FBR's reflects clear maladministration in terms of section 2(3) (ii) of FTO Ordinance, 2000 i.e.

(ii) ***neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities;***

5. FTO's in-house analysis was mainly based on investigation reports generated by DG BTB which clearly show~~x~~ that the above concerns were not declaring the true particulars of Income and were not discharging their responsibilities as withholding agents, especially in respect of sections 149, 152 and 153. In order to make out foolproof cases, the total receipts of the said companies were obtained by DG BTB from the data hosted by international Aid Transparency Initiative, which was compared with the declared receipts in the tax returns. Huge discrepancies were observed casting doubt about tax evasion by the above companies. A detailed analysis was provided to the department discussing parameters and extent of tax evasion. However, after disbanding of the DG BTB office, progress on this case was not known. It seems that the valuable information shared with the field formations was lost due to inattention, incompetence and ineptitude of the officers holding jurisdiction of this case. The department was therefore, asked vide notices u/s 10(4) of the FTO Ordinance 2000 to file response to the above-mentioned observation and submit parawise comments.

6. The Chief Commission-IR, LTO Islamabad vide his letter dated 29.03.2022 raised objection to the FTO's jurisdiction on the ground that own motion proceedings were not backed by any

specific complaint. He stated that WP No. 2332/2021 titled as Abdul Waheed Khan & Others on the similar issue was pending before Hon'ble Islamabad High Court. Vide a letter dated 09.02.2022, the CCIR LTO, Islamabad was informed that the above-mentioned WP pertained to the order of inspection of the office of CIR in terms of section 17 of the FTO Ordinance whereas the information in this case was solicited under the powers conferred by section 9(1) Ibid.

Secondly, in the judgment of Single Bench of Honorable Islamabad High Court dated 07.03.2022 in the said writ Petition, the honorable judge in chambers observed that FTO may initiate Own Motion proceedings upon information whether or not there is a complaint. The honorable judge in chambers observed as **“we need not determine, for the purpose of this petition, all circumstances in which jurisdiction can be assumed by the learned FTO of his own motion. But suffice it to say that there must exist a concrete allegation of maladministration whether or not there is a complaint”**.

Thirdly in a fairly large number of the cases of **Sugar Mills** FTO's similar Own Motion investigations were challenged by FBR before honorable President of Pakistan, which stand rejected.

7. Thus, instead of safeguarding the interest of revenue by plugging loopholes in the tax declarations of instant cases, the concerned CIR LTO Islamabad chose to contest the own motion investigations on technical grounds. It is pertinent to mention here that out of 34 such cases in which notices were issued by FTO office, compliance has been made by CTO and RTO Islamabad in 27 cases. As per information provided by field offices, thus far a demand amounting to Rs.660 million has been raised in six cases at CTO and RTO Islamabad.

8. Objection to the jurisdiction raised by the CIR concerned LTO Islamabad in this case reflects an inherent contradiction in compliance patterns of FBR's field formations. On one hand in 27 similar cases wherein the information was provided the intervention of FTO's office has enabled the field formations in recovery of millions of rupees in revenue. On the other LTO Islamabad is adamant to protect inattention, ineptitude and inefficiency. Non provision of information by CIR LTO Islamabad is therefore blatantly against the interest of public exchequer and the core function of FBR.

FINDINGS:

9. Negligence, inefficiency and ineptitude on the part of FBR officials in enforcing various provisions of law in this major revenue potential case is tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance.

RECOMMENDATIONS:

10. FBR to direct: -

- (i) Director General Internal Audit-IR to conduct inspection in the subject 06 cases to ensure that action is initiated & concluded as per information provided by FTO during instant investigations;
- (ii) Chief Commissioner LTO Islamabad to identify the officers who are responsible for unwarranted delay and resultant loss of revenue; and
- (iii) report compliance within 90 days.

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

Dated: 8/9/ 2022

*Approved for reporting and
press release*