

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

Complaint No.1628/SGD/IT/2022

Dated 26.04.2022^{*} R.O. Sargodha

Mr. Khalid S/o Shah Muhammad,
Soan Garden House No.16-A,
Block-D, Islamabad.

... Complainant

V e r s u s

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer	: Dr. Muhammad Akram Khan, Advisor
Appraisal by	: Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representative	: Mr. Muhammad Ashraf, Advocate
Departmental Representative	: Ms. Anum Ilyas, ACIR, RTO, Sargodha.

FINDINGS

This complaint has been filed u/s 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against selection for audit u/s 214C of the Income Tax Ordinance, 2001 for Tax Year 2018.

2. Briefly, the Complainant, an individual, filed return of income for Tax Year 2018 as per provision of Voluntary Tax Compliance Scheme (VTCS) whereby, clause 7 of Circular No.03 of 2016 dated 10.02.2016 indicated that *for tax year 2018, the trader shall pay 25% higher tax on the basis of taxable income of Tax Year 2017 or tax on turnover as per Rule 4 of Part I of the Ninth Schedule whichever is higher. Trader shall furnish return on or before due date supported by proof of tax payment at the facilitation desk of concerned Regional Tax Office. Acknowledgement of the return would automatically place existing*

^{*} Date of registration in FTO Sectt:

taxpayer on ATL within seven days after filing of return. The Complainant fulfilled all the above conditions but the case of the Complainant was selected for audit u/s 214C of the Income Tax Ordinance, 2001 contrary to provisions of the said scheme. The clause No.11 of the above Circular clarified that existing taxpayer trader qualifying VTCS is immune from audit either by the Commissioner under Section 177 or by the Board under Section 214C of the Ordinance. Hence this complaint.

3. The complaint was sent for comments to the Secretary, Revenue Division, in terms of Section 10(4) of the FTO Ordinance, 2000 read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. In response thereto, the Chief Commissioner IR, Regional Tax Office, Sargodha vide letter dated 11.05.2022 forwarded comments of Commissioner IR, Zone-II, RTO, Sargodha dated 10.05.2022. On merits, it was contended that Complainant availed VTCS for tax year 2015 by filing return of income on 15.03.2016 under Ninth Schedule Part-I declaring the income as under:

Working capital	Rs.12,000,000/-
Tax Payable on Working Capital	Rs.120,000/-
Tax Chargable	Rs.120,000/-

Complainant filed return of income for Tax Year 2016 on 03.01.2017 declaring the following results:

Working capital	Rs.1,050,000/-
Tax Payable on Working Capital	Rs.1,050,000/-
Tax Chargable	Rs.77,000/-

But return of income for Tax Year 2016 was not filed under ninth schedule Part-I. Return for Tax Years 2017 & 2018 were filed as per Voluntary Tax Compliance Scheme (VTCS) under Ninth Schedule Part-I and Complainant paid tax for Tax Year 2018 after due date. However, after availing VTCS, the Complainant was

required to file returns of income for the Tax Years 2015 to 2018 for getting benefits of the scheme but the Complainant failed to get done this legal obligation because the Complainant filed normal return for Tax Year 2018 and the same is available in IRIS as well as in office record. Further, the Complainant did not file return of income prior to tax year 2015. Resultantly, the case of the Complainant for Tax Year 2018 has been selected for audit u/s 214C of the Ordinance by the Federal Board of Revenue through parametric computer ballot held on 18.09.2020 as per law.

4. In response to the Deptt's comments, AR of the Complainant agitated that he filed returns of income for Tax Years 2015 to 2018 under VTCS. Further, the Complainant filed return of income for tax year 2014 manually on 20.11.2014. However, the Complainant fulfilled the conditions as existing taxpayer Circular No.03 of 2016 dated 10.02.2016.

5. Averments of the both the parties heard and record perused.

6. Examination of record transpires that returns of income for Tax Year 2015 to 2018 were filed under VTCS as new taxpayer of Circular No.03 of 2016 dated 10.02.2016. Details of returns of income for Tax Year 2015 to 2018 are given under:

Tax Year	Date of filing of return	Working Capital/Turnover	Tax paid	As per VTCS for New Taxpayer
2015	15.03.2016	Rs.12,000,000	Rs.120,000	1% tax on declared capital income
2016	30.11.2016	Rs.36,000,000	Rs.72,000	Three times of turnover on working capital income for tax year 2015
2017	31.10.2017		Rs.90,000	25% over tax for tax year 2016
2018	23.11.2018		Rs.112,500	25% over tax for tax year 2017

The above position clarified that the Complainant fulfilled all the conditions of VTCS for new taxpayer as per clauses 3,4,5,6 of the above said Circular. As regards tax year 2014, the Complainant claimed to have filed manual return of declaring income below taxable limit. As the Complainant was entitled for the benefits of scheme, the case of the Complainant could not be selected for audit u/s 214C because as per clause 9 of the above said Circular, *new taxpayer trader under VTCS shall be immune from audit either by the Commissioner under Section 177 or by the Board under Section 214C of the Income Tax Ordinance, 2001.*

RECOMMENDATIONS:

7. FBR is directed to ensure;
 - i. that the concerned commissioner-IR immediately put the audit proceedings on hold and move the case to FBR for decision on exclusion from audit within a period of 30 days and also take corrective measures as per law.
 - ii. Report compliance within 45 days.


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

Dated: 20-06-2022
Akif

Approved for reporting