

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT NO. 1741/SGD/IT/2022

Dated: 07.05.2022* R.O. Sargodha

Mr. Muhammad Iqbal,
Al-Awan Town #1, Block-C,
Near Masjid Bilal,
Jauharabad.

... Complainant

V e r s u s

The Secretary
Revenue Division
Islamabad.

... Respondent

Dealing Officer	: Dr. Muhammad Akram Khan, Advisor
Appraisal by	: Muhammad Tanvir Akhtar
Authorized Representative	: Malik Abdul Rashid, Advocate
Departmental Representative	: Mr. Azmat Ranjha, CIR
	Mr. Asad Aziz, Addl. CIR, RTO, Sargodha.

FINDINGS/RECOMMENDATIONS

The complaint has been filed under Section 10(1) of the Federal Tax Ombudsman Ordinance 2000 (FTO Ordinance) against hacking the ID of the Complainant and alleging that the return of income for Tax Year 2015 was filed by some unknown person.

2. Briefly, the Complainant, an individual, is deriving income from sale and purchase of building materials. The Complainant was registered on 22.08.2019 with FBR during BTB campaign and since then the Complainant has been filing returns on regular basis. Details of returns/wealth statements filed by the taxpayer himself are reproduced hereunder:

Tax Year	Total Income as per Return Voluntarily	Total Assets as per Voluntarily Wealth Statement
2018	550,000/-	6,700,218/-
2019	535,500/-	6,800,018/-
2020	395,234/-	6,864,752/-
2021	435,100/-	6,952,752/-

* Date of registration in FTO Sectt.

According to the Complainant, on 11th May 2020, someone having cell No.00923418301512 and e-mail address Mi0599696@gmail.com filed 181-form of registration for modification. On the next day i.e. 12th May 2020, notice u/s 114(4) of the Income Tax Ordinance, 2001 for the Tax Year 2015 was issued on maneuvered forged documents. In response to the said notice, return of income for Tax Year 2015 alongwith wealth statement was filed on 16.05.2020 whereby, Rs.960.000 million as agriculture income and Rs.77.172 million as business income declared which was totally fictitious and maneuvered by someone. Detail of hacked version of filing of return for Tax Year 2015 is given below;

Tax Year	Income from Business	Income from Agriculture
2015	77,172,022/-	960,000,000/-

Whereas, the total wealth of the Complainant is less than business income i.e. Rs.77.172 million as maneuvered by someone. Deptt issued show cause notice u/s 122(5A) read with Section 111 of the Income Tax Ordinance, 2001 on 23.02.2021. Against the show cause, the AR of the Complainant submitted reply on 13.09.2021 manually and through IRIS on 19.11.2021 with request to Deptt for investigation into the matter through Pakistan Revenue Automation (Pvt) Ltd. (PRAL). In the meanwhile, the Complainant filed application dated 28.06.2021 before the Director, FIA, Cyber Crime, Faisalabad and copy endorsed to Member (IT) FBR, Islamabad against hacking and misuse of password of the Complainant by unknown person whereby this invalid return of income for Tax Year 2015 was filed. Further contended that application for revision of return was also filed but the same was rejected by the IR authorities. Subsequently, the Deptt amended assessment by passing order u/s 122(5A) of the Ordinance and created demand of Rs.362.233 million. Being aggrieved, the Complainant filed this complaint.

P

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 24.02.2022 forwarded comments of Commissioner IR, Zone-I, dated 23.02.2022. At the outset preliminary objection regarding bar of jurisdiction was raised in terms of Section 9(2)(a) of the FTO Ordinance 2000 whereby the Complainant availed the remedy of appeal on 13.05.2022 against the order passed u/s 122(5A) of the Income Tax Ordinance, 2001 which is still pending. Reference was made to the orders of the Hon'ble President of Pakistan in C.No.FTO/LHR/0000697/2016 dated 16.01.2017 and No.689/ISB/IT/2017. On merits, it was contended that Complainant himself modified his profile at different time as under:

Date of Modification	Cell number used	Email address used
04.10.2019	00923016166507	Hlt.jhb@gmail.com
22.10.2019	00923016166507	Hlt.jhb@gmail.com
11.05.2020	00923418301512	Mi0599696@gmail.com
15.05.2020	00923016771861	Mi0599696@gmail.com
16.11.2020	00923016166507	Hlt.jhb@gmail.com
02.12.2020	00923016166507	Hlt.jhb@gmail.com

Further, the Complainant himself made modification in his registration on 15.05.2021 one day before filing of his income tax return. Notice u/s 114(4) was issued as per law and rules because the Complainant filed return of income for Tax Year 2015 voluntarily as declaring agriculture income of Rs.960.000 million and business income of Rs.77.172 million. Further contended that the Complainant filed application before FIA as well as Member IT after receiving the show cause. The application regarding revision of return was rejected by the CIR on 02.09.2021. And Order u/s 122(5A) of the Ordinance was by Additional Commissioner-IR, Zone-II, RTO, Sargodha on 14.03.2022 as per law and rules & procedures in vogue.

4. In rebuttal, the Complainant reiterated the same stance as taken into the complaint.
5. Both the parties heard and record perused.
6. The Deptt'l objection to FTO's jurisdiction is misconceived. During hearing on 09.06.2022, the Complainant contended that return of income/wealth statement for Tax year 2015 has been filed by the unknown person. Whereas, the Complainant filed application for revision of returns/wealth statement but the same was rejected by the CIR. Further, the Complainant filed application before the Deputy Director, FIA, Cyber Crime, Faisalabad and copy endorsed to Member-IT, FBR, Islamabad for misuse of Complainant's login password but no response was received. This office issued letter dated 20.07.2022 to FIA for getting information about status of Complainant's application. The FIA's report bearing No.E.No.794/21 dated 06.07.2021 intimated that the Complainant was requested to furnish digital/evidence to support his version but the Complainant did not provide any digital evidence, therefore, the inquiry has been closed. There is no denying the fact that field formations of FBR have no expertise and tools to find out as to whether any taxpayer's Password etc. have been misused/trespassed but it is also true that no diligent efforts have been made to probe veracity of the return and allegations of the complainant. Even PRAL and Member-IT have not been involved to assist before passing an order raising a whopping tax demand of Rs.362.233 million. At the same time no effort has been made to conduct local enquiries to ascertain nature and quantum of business, source of agricultural income of the Complainant. It speaks of a very casual and callous approach towards strictly professional quasi-judicial assignment on the part of the Deptt. Examination of records leaves no doubt that return and wealth statement for Tax Year 2015 was filed under dubious

7

circumstances and the figures were maneuvered by someone meaning mischief.

7. In order to probe further, relevant Commissioner-IR and the officer in-charge issuing notice u/s 114 of the Ordinance were called to attend the office with record. Whole line of officials including Additional Commissioner-IR attended office with record. Attending in person Commissioner-IR committed to hold a detailed inquiry. A committee was constituted by CIR vide letter No.RTO/CIR-ZONE-II/4325 dated 10.06.2022 comprising following officers:

1. Mr. Muhammad Naeem Ahmed, DCIR
Cantt Unit, Zone-I, RTO, Sargodha.
2. Mr. Ali Saleh Hayat Kalyar, DCIR
S/Town Unit, Zone-I, RTO, Sargodha.

At subsequent hearing Commissioner-IR attended proceedings with report and relevant record. Relevant portion of report is reproduced:

- "1. The then officer issued notices in bulk process upto 8813 in a single day through IRIS data base to those non-filers who had not filed their returns for the Tax Year 2015. In response to the notice, the Complainant filed his return voluntarily declaring results under the self-assessment scheme. If the Complainant had not done any business in the Tax Year 2015, the Complainant could have filed Nil return.*
- 2. The second charge leveled by the taxpayer is that his user ID and Password for the IRIS Account was hacked. In this context, it is to be apprised that PRAL has strict protocol for safety measures ensuring the safety, sanctity and confidentiality of the data provided by the taxpayer. The taxpayer made referencing to e-mail and two mobile numbers, not known to the taxpayer, through which certain amendments were made to the particulars of the taxpayer through IRIS system. The detail sought from the concerned quarter reveals the particular of mobile numbers as under:*

S. No.	Cell number used	Owner Name	CNIC	Address
1	00923418301512	Nusrat Bibi	38403015907 68	Chak No.39/NB, Tehsil & Distt, Sargodha.
2	00923016771861	Muhammad Iqbal	35201350182 83	Alwan Town No.01, Jauharabad Near Syed Baba Tahir Shah, Khushab.

- 3. Furthermore, the matter is being probed by PRAL at the Headquarter level and the report has been submitted whereby it has been establish that the return in question was filed on 16.05.2022 using Mozilla/5.0 (Window NT 6.3; WIN54:X64:RV:76.0)*

Gecko/20100101 Firefox/76.0 at 2:22:50 pm through IP Address 39.52.114.110 which is public address. This clearly shows that the taxpayer himself e-filed his return for the tax year 2015 through above mentioned IP Address which is a public IP Address.

8. During hearing on 19.07.2022, the current and former lawyer (specially summoned) of the Complainant attended the proceedings. The former lawyer stated that he had no link with this hacking but he directed the Complainant and helped him to file application before the FIA. AR of the Complainant raised further objections the report submitted by the Deptt the same is reproduced as:

*"It is worth mentioning here that six(6) times form for modification u/s 181 had been filed and out of total number, four(4) time form had been submitted from concerned tax office. In support of this submission, forms of the form that **Medium** used while filing was **Manual** which appear only in case where form has been submitted from concern tax office. Adding more, the culprit inside tax office and beneficiary/hacker can be traced through Internet Protocol (IP) addressed used for filing of impugned documents.*

That this hon'ble forum is requested to kindly probe the matter by addressing the following queries with Pakistan Revenue Automation (Pvt) Ltd. (PRAL and take report on it for finding the real culprit and in the interest of justice

- i) *IP address involved in submission of form 181 of the Taxpayer Portal on dated 11.05.2020 and IP Address of the Tax Collector Portal used by NTN issuance cell/mobile email updating cell of RTO Sargodha for dated 11.05.2020.*
- ii) *IP Address of Tax Collector portal of Syed Abaid Ur Rehman, AC/DC (Enforcement & Collection), IR, Unit Khushab, Range II, Zone-II, RTO, Sargodha involved in issuance of Notice U/s 114(4) for Tax Year 2015 on 12.05.2020.*
- iii) *IP Address of Taxpayer Profile for dated 15.05.2020*
- iv) *IP Address of Taxpayer Profile for dated 16.05.2020."*

In response to the allegations, the CCIR, RTO, Sargodha letter dated 25.07.2022 informed that as per report submitted by PRAL, the form 181 form IP address updated on 11.05.2020 from IP Address 39.52.8.127 which does not pertain to official IP WAN. Further, as per system assessing officer cannot change modified 181 form and only the authorized person has access to modify 181 form and when the modification is completed, it just displays on

officer's dash board. Furthermore, notice issued u/s 114(4) for Tax Year 2015 on 12.05.2020 by the officer is accordance with law and in bulk upto 8813 in a single day through IRIS data base to those non-filers who had not filed their returns for the tax year 2015.

9. Despite best efforts and strong suspicion that there was misuse of Complainant's IP and Password identification of the culprit remains elusive and shrouded in mystery. It speaks of incapacity of the Deptt to probe such intrusions or lack of will or shielding the delinquent present in the Deptt.

Investigation boils down to following conclusions:

- i. order passed u/s 122(5) of the Ordinance, 2001 is pending before the CIR(Appeals) for adjudication this forum cannot interfere at this stage being jurisdictional bar.
- ii. Circumstantial evidence proves that tax record of the Complainant has been tampered digitally by misusing personal login password by unknown person and despite best efforts he remains unknown.

FINDINGS:

10. The illegal access of Complainant's login password by unknown person shows that Deptt has not been able to ensure the integrity of Complainant's personal login password and this lapse is tantamount to maladministration as defined in Section 2(3)(d) of the FTO Ordinance, 2000. It is pertinent to mention here that in another case of same RTO similar crime has been probed by PRAL/IT wing FBR and an insider/departmental official has been identified as the mastermind behind the hacking. There is another dimension of this complaint that all complaints involving such hacking, changing registration profile, filing of returns with huge income have originated from RTO Sargodha and that too within last one year. This fact itself indicates some black sheep within the ranks & files of this field formation.

RECOMMENDATIONS:

- i) FBR is directed to look into the act of tampering with record and hold investigation into the matter by high powered Committee assisted by professionals having expertise in cybercrime;
- ii) *Devise a fool proof SOP in consultation with the National Response Centre for Cyber Crimes wing of FIA to stop the misuse of password by both Deptt official(s) and hackers;*
- iii) *enforce strict confidentiality of password assigned to field officer for purpose of accessing taxpayer's electronic record; and*
- iv) *report compliance within 60 days.*

(Dr. Asir manmood Jan)
(Hilal-i-Imtiaz) (Sitara-i-Imtiaz)
Federal Tax Ombudsman

Dated: 16:8:2022

Approved for reporting