

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT NO.2108/LHR/ST/2023

Dated: 13.04.2023 * RO Lahore

M/s Silver Lake Foods Products Limited,
E-153-A, New Super Town, Walton Road,
Lahore Cantonment

... Complainant

Versus

The Secretary,
Revenue Division,
Islamabad

... Respondent

Dealing Officer	:	Ms. Adila Rehman, Advisor
Appraising Officer	:	Dr. Arslan Subuctageen, Advisor
Authorized Representative	:	Mr. Tariq Mahmood Siddiqui, AR
Departmental Representative	:	Mr. Shahzad Mehmood, Addl-CIR, LTO Lahore

FINDINGS/RECOMMENDATIONS

This Complaint was filed against the Commissioner-IR, Zone-II, LTO Lahore, in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), for delay in processing/sanctioning the Complainant's short/missing refund claim amounting to Rs.7.534 million for the period October 2019.

2. Precisely, facts of the case are that the Complainant claimed refund amounting to Rs.13.655 million for the tax period October 2019 through FASTER. An amount of Rs.6.121 million was sanctioned vide RPO No.8074086 dated 17.04.2020 and remaining short/missing amount of Rs.7.534 million was still pending without any objection. Examination of objection memo/analysis sheet of said refund claim revealed that the refund system validated all 164 input tax (sales tax) invoices amounting to Rs.34.062 million and all seven Shipping Bill (Export GD) claim amounting to Rs.182.077 million. The Complainant, vide letter dated 21.01.2023, followed by reminders dated 03.02.2023, 10.02.2023 and 04.04.2023, approached the Department for processing/sanctioning of the aforesaid short/missing refund claim as per Circular No.03 of 2020/IR-Operations dated 07.12.2020 but no action was taken by the Department.

The Complainant prayed that the CIR, Zone-II, LTO Lahore be directed to process/sanction short/missing refund claim.

3. The Complaint was referred to Secretary, Revenue Division for comments, 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, the CIR, Zone-II, LTO Lahore, vide letter dated 22.05.2023, submitted parawise comments, stating therein that the Complainant had filed Complaint before the Hon'ble FTO against the non-sanctioning of deferred refund amounting to Rs.7.534 million pertaining to tax period October 2019 stuck/held by the FASTER System. The Complainant had claimed sales tax refund amounting to Rs.13.655 million as per sales tax return for the month of October 2019 through FASTER vide Claim No.T031019102054 and initially an amount of Rs.6.121 million was sanctioned through FASTER system vide RPO No. 8074086 dated 17.04.2020. As per analysis sheet all (164) input tax (sales tax) invoices shown valid amounting to Rs.34.082 million and all (7) shipping bills (Export GD) amounting to Rs.182.077 million also shown valid and noting deferred/pending against said input tax invoices as well as shipping bill. Only Rs.1/ was shown as partially deferred instead of Rs.7.534 million. The said amount was totally missing from the system/data base. The amount withheld by FASTER was not reflecting anywhere in the deferred claim data. As mentioned above, the subject amount was missing from the system data base, the module of STARR was unable to fetch out the missing amount held by FASTER. In the light of above, the Board had been requested to devise/guide this office to sanction such missing amounts after due verification from the system. As the Rule 39F of the Sales Tax Rules 2006 the claim was forwarded to LTO for processing under STARR mode. For processing through STARR module, the Complainant was required to submit supportive documents in terms of Rule 38 of the Sales Tax Rules, 2006 which had not been provided by the Complainant so far.

4. Both AR/DR attended the hearing and reiterated what had been mentioned in the written Complaint and parawise comments.

5. The arguments of both sides heard and available record perused. It is evident that the Complainant, vide letter dated 21.01.2023, followed by reminders dated 03.02.2023, 10.02.2023 and 04.04.2023, approached the Department for processing/sanctioning of the short/missing refund claim. The Department contended that the Complainant was required to submit supportive documents for processing of the short/missing refund claim but the Department could not produce any letter/document wherein documents were requisitioned from the Complainant. The Department should have requisitioned the required record/documents from the Complainant and processed/sanctioned the short/missing refund claim, as per Circular No.03 of 2020/IR-Operations dated 07.12.2020 because as per analysis sheet all (164) input tax (sales tax) invoices shown valid amounting to Rs.34.082 million and all (7) shipping bills (Export GD) amounting to Rs.182.077 million also shown valid.

FINDINGS:

6. Delay in processing/sanctioning of short/missing refund claim for the period October 2019 tantamounts to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance, 2000.

RECOMMENDATIONS:

7. FBR to:
- (i) direct the Commissioner-IR, Zone-II, LTO Lahore to process Complainant's short/missing refund claim amounting to Rs.7.534 million for the period October 2019 on receipt of required documents from the Complainant. The Complainant is also advised to submit required supportive documents to the department to proceed further in the matter; and
 - (ii) report compliance within 30 days.


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

Dated: 8.6.2023

Approved for reporting