

**THE FEDERAL TAX OMBUDSMAN  
ISLAMABAD**

**Complaint Nos.5709 to 5721/QT/IT/2022**

Dated:28.12.2022\*R/O Quetta

**M/s Rakshani Builders,**  
Amjad Ali Siddiqui, Office No.07,  
Second Floor, Civic Business Center,  
Halli Road, Quetta.

... Complainant

***Versus***

The Secretary,  
Revenue Division,  
Islamabad.

... Respondent

Dealing Officer  
Appraisal Officer  
Authorized Representative  
Departmental Representative

: Mr. Tausif Ahmad Qureshi, Advisor  
: Mr. Muhammad Tanvir Akhtar, Advisor  
: Mr. Amjad Ali Siddiqui, Advocate  
: Nemo

**FINDINGS/RECOMMENDATIONS**

The above complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against alleged unlawful transfer of Complainant's jurisdiction from RTO Quetta to MTO/LTU, Karachi by the FBR.

2. Briefly, the Complainant states that he is a bona-fide resident of Quetta City bearing NTN 3182645-8 and registered with the FBR at RTO Quetta since long. The primary activity of the Complainant's business is the construction of the Buildings and Roads on contract basis being awarded by various Government Authorities of the Government of Balochistan. As per Registration Order under Section 181 of the Income Tax Ordinance 2001, the Complainant obtained NTN in the business name of M/s Rakshani Builders. However, FBR vide its notification No.07(407)Jurisdiction/2019/280620-R dated 03.12.2019 transferred the cases falling under the business category of Builders and Developers from RTO Quetta to MTO Karachi. The case of the Complainant was also transferred on the assumption that

\*Date of registration in FTO Sectt.

his business category is the Builder and Developer. Further contended that Quetta Chamber of Commerce and Industries (QCCI) and Balochistan Tax Bar Association (BTBA) had approached the FBR to transfer the cases back to RTO Quetta. FBR accepted the contention of QCCI and BTBA. Accordingly, some cases have been transferred back to the RTO Quetta from MTO/LTU Karachi. Further added that in the instant case, the Complainant is neither the Builder nor the Developer as defined under Section 100D(9) of the Income Tax Ordinance 2001, but the jurisdiction of the case was transferred to Karachi just on the assumption that the taxpayer's activity seems similar to the Builders and Developers. The Complainant states that he had applied to the concerned authorities to transfer the jurisdiction back to RTO Quetta, but of no avail. Meanwhile, assessing officers at Karachi passed various orders and created huge demands against him. The Complainant prayed to transfer the jurisdiction back to RTO Quetta as well as to annul the orders passed against him by the assessing officers at Karachi without holding the lawful authority.

3. The complaint was forwarded for comments to the Secretary, Revenue Division 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 Chief Commissioner-IR, MTO, Karachi submitted reply stating therein that the Commissioner IR, Audit-III has reported that as per ITMS, the taxpayer is engaged in the business of builders/ developers. Furthermore, the jurisdiction of the cases of the taxpayers engaged in the business of builders and developers was transferred to Medium Taxpayers' Office, Karachi vide Board's notification No. 57(2) Jurisdiction/2017-145332-R dated 01.09.2020 as a class of persons. He requested to file the complaint, as no maladministration is involved in the instant matter.



4. The Commissioner-IR, RTO, Quetta submitted reply stating therein that thirteen (13) registered persons have lodged complaints before the Hon'able Federal Tax Ombudsman Quetta against change of Jurisdiction from Regional Tax Office Quetta to Medium Tax Office Karachi. The names of Complainants along with FTO Complaint Nos are mentioned in the table below:

S#	FTO Complaint No	Name of Complainant
1	5709/QTA/IT/2022	M/s Rakshani Builders
2	5710/QTA/IT/2022	M/s Rakshani Builders (Pvt) Ltd
3	5711/QTA/IT/2022	M/s Muhammad Bilal Dogar
4	5712/QTA/IT/2022	M/s Ahsan Irfan
5	5713/QTA/IT/2022	M/s Abdul Rahim Shah
6	5714/QTA/IT/2022	M/s Saleem Javed
7	5715/QTA/IT/2022	M/s Zamrak Khan
8	5716/QTA/IT/2022	M/s Muhammad Saleem Khan
9	5717/QTA/IT/2022	M/s Haroon Rasheed Builders & Construction Company (SMC-PVT) Ltd Mis Mohammad Taimour Rehan
10	5718/QTA/IT/2022	M/s Salmi Dad
11	5719/QTA/IT/2022	M/s Muhammad Saleem Khan
12	5720/QTA/IT/2022	M/s Inayatullah
13	5721/QTA/IT/2022	M/s Zahoor Ahmed

Further added that as per tax payers' ITMS profile, the above-named tax payers are engaged in the business of Builders / Developers, and the Federal Board of Revenue vide its Notification No. F.No. 57(2) Jurisdiction/2017-145332-R dated 01.09.2020 transferred the jurisdiction of the tax payers as a class of persons who are engaged in the business of Builders /Developers from RTO, Quetta to Medium Tax Payers office (MTO) Karachi.


5. AR submitted rejoinder rebutting Department's parawise comments contending that he is doing business under the name of M/s Rakshani Builders since long and the principal business activity of the taxpayer is Government Construction Works. In this regard, the Income Tax Returns of the taxpayer are filed as Contract Receipts under the Final Tax Regime. Further added that the Chief

Commissioner Inland Revenue MTO Karachi takes the strength from Section 100D(9)(a) of the Income Tax Ordinance 2001, but it is imperative to mention here that Section 100D of the Income Tax Ordinance, 2001 was inserted vide Finance Act, 2020 dated 30 June, 2020 and the jurisdiction of the taxpayer was transferred from RTO Quetta to MTO Karachi vide Board's Notification No.07(401) Jurisdiction/20119/291555-R dated 01Jan,2020 and No.07(401) Jurisdiction/20119/280620-R dated 03 Dec, 2019. As such, the jurisdiction of the taxpayer has been transferred about six months prior to the insertion of Section 100D of the Income Tax Ordinance, 2001. This makes the case of the transfer of the jurisdiction unlawful and void in the eyes of the law.

6. AR appeared for personal hearing and reiterated the stance taken in the complaint. No one appeared as DR on behalf of RTO, Quetta and MTO, Karachi despite telephonic contacts and issuance of notice dated 13.02.2023.

7. The arguments of AR heard and available record perused.

### **FINDINGS:**

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- i. From study of the jurisdiction orders of the Board and the powers of the Board under Section 209 of the Income Tax Ordinance, 2001 to transfer jurisdiction of any person or class of persons, it is established that cases of builders/developers have been transferred to specialized zones as a special class of persons. The act of the Board to transfer cases as class of persons is not illegal and within the ambit of the powers conferred by the Income Tax Ordinance, 2001. However, it is also evident that the transfer of case from Quetta to Karachi has caused severe hardship to the taxpayer and it is his genuine right to be taxed in the jurisdiction by facilitating him at the doorstep where the business is located and is being done.
  - ii. Secondly, whether Contractors involved in public sector construction can be clubbed with private sectors Builders



& Developers is yet another area which needs FBR's deliberations. In any case, no discriminatory treatment with any individual or a class of persons is desirable.

- iii. The allegation that some of the similar cases have reportedly been transferred back to RTO Quetta also necessitates probe by the concerned authorities at FBR HQs.
- iv. Some of the identical cases relating to KPK and Balochistan are currently pending at superior judicial fora. Uniform treatment of all identical cases is the only solution of this issue.

### **RECOMMENDATIONS:**

8. FBR is directed to reprimand the concerned officers of RTO, Quetta and MTO, Karachi for not attending the hearing. In this complaint, FBR needs to take a pragmatic view. IR Policy wing FBR to:

- (i) decide the issue of jurisdiction in line with other identical cases and in the light of orders by the superior judiciary;
- (ii) review individual facts of the instant case, so as to reach at a legal and equitable decision/conclusion;
- (iii) issue clarification about the scope of builders & developers, so as to clear the existing ambiguities on the subject; and
- (iv) report compliance within 60 days.

9. This also disposes of 12 complaints bearing Nos from 5710 to 5721/QT/IT/2022 of exactly similar nature and contents.

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

Dated: 3.03.2023

*Approved for reporting*