

**THE FEDERAL TAX OMBUDSMAN  
ISLAMABAD**

**COMPLAINT No.6236/SUK/IT/2023**

Dated: 24.11.2023\* R.O. Sukkur

**Mr. Mansoor Ahmed Abassi,**  
CNIC 4320333698269,  
Al Khair Rice Traders & Broker,  
Near Otha Chowk, Larkana

...Complainant

**V e r s u s**

The Secretary,  
Revenue Division,  
Islamabad.

...Respondent

Dealing Officer	: Mr. Badruddin Ahmad Quraishi, Advisor
Appraising Officer	: Mr. Muhammad Nazim Saleem, Advisor
Authorized Representative	: Mr. Azam Shaikh, Advocate
Departmental Representative	: Nemo

**FINDINGS/RECOMMENDATIONS**

The above-mentioned complaint was filed against the Secretary (Jurisdiction), FBR Islamabad in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against the illegal change of jurisdiction from RTO Sukkur to MTO Karachi.

2. Briefly, the complainant is an individual engaged in business of rice dealer as proprietor of "Al Khair Rice Traders & Brokers, Larkana". The complainant also derives income as a member of AOP with the business name 'Al- Mustafa Engineers, Contractor & Developer'. All of a sudden, the jurisdiction of the complainant was changed from RTO Sukkur to MTO Karachi i.e; 450 kms away from his place of business vide Board's jurisdiction notification dated 22.03.2023; hence this complaint with the request to transfer jurisdiction from MTO Karachi to RTO Sukkur.

\* Date of registration in FTO Sectt

3. The complaint was referred to the 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, the Chief Commissioner RTO Sukkur submitted comments on 30.10.2023 stating that the jurisdiction of the complainant was changed to MTO Karachi because of his main business of Construction & Developer as per policy of the Board. The Chief Commissioner MTO Karachi vide letter dated 24.11.2023 also endorsed the views of the CCIR RTO Sukkur. The CCIR has also added that the Board is empowered to assign jurisdiction in terms of section 209 of the Income Tax Ordinance 2001 (the Ordinance) irrespective of the business area. Therefore, the contention of the complainant on the basis of his area of business was not tenable.

4. Arguments heard and records perused.

5. It is observed that the complainant is an individual engaged in the business of rice dealer as proprietor of "Al Khair Rice Traders & Brokers, Larkana" but also derives income as a member of AOP with the business name 'Al- Mustafa Engineers, Contractor & Developer'. Perusal of income tax return for tax year 2022 reveals that the complainant has declared total income consisting of agricultural income of Rs. 1,800,000/, income from business of rice trading / brokerage at Rs. 850,000/ and share income from AOP Al-Mustafa Engineers, Contractor & Developer at Rs. 295,000/. Thus, for all practical purposes, the share of income from AOP is only 10% of total declared income.

6. In respect of jurisdiction, Section 209(5) of the Ordinance states:

"(5) Within the area assigned to him, the Commissioner shall have jurisdiction, —



- (a) *in respect of any person carrying on business, if the person's place of business is within such area, or where the business is carried on in more than one place, the person's principal place of business is within such area; or*
- (b) *in respect of any other person, if the person resides in such area."*

The Complainant derives his 90% of total income from the place of business under the jurisdiction of RTO Sukkur. Therefore, in terms of Board jurisdiction order F.No. 57(2) Jurisdiction/2011- Vol V dated 28.02.2011; the jurisdiction of the complainant lies with RTO-Sukkur.

7. The Board's recent jurisdiction order dated 30.11.2023 states that the jurisdiction of all cases of Builders & Developers of RTO Hyderabad / Sukkur / Quetta is transferred to the Special Zone for Builders & Developers MTO Karachi. The act of the Board to transfer cases as the class of persons is not illegal and within the ambit of powers conferred by the Income Tax Ordinance 2001 (the Ordinance). Accordingly, in the instant case, the AOP Al-Mustafa Engineers, Contractor & Developer has correctly been transferred to MTO Karachi as per policy of the Board. However, the jurisdiction order does not mention the cases of members of AOP or directors of company. Hence, the complainant does not fall under the domain of this jurisdiction order where by a class of persons (Builders & Developers) were transferred to MTO Karachi.

8 Further, the complainant derives a 10% share of his total income only as a partner of AOP, and this 10% income is added to the total income of the complainant to determine the slab/ rate of taxation as it was already taxed in the hands of AOP and ultimately tax credit was allowed for tax paid on a share of income from AOP. In terms of section 92 of the Ordinance (Principles of taxation of associations of persons), an AOP shall be liable to tax separately from the members of the association and where the association of

persons has paid tax, the amount received by a member of the association in the capacity as a member out of the income of the association shall be exempt from tax. Thus, the AOP and the member of the AOP are two different independent & distinct entities with different NTN. Therefore, for all practical purpose, the transfer of jurisdiction in the instant case of the complainant strictly speaking does not fall within the category of Builders & Developers. This transfer of jurisdiction from Sukkur to 450 kms away to Karachi has caused great hardship to the complainant and it is his genuine right to be taxed in the jurisdiction by facilitating him at the doorstep where his business is located and was being done in terms of Section 209 of the Ordinance.

**FINDINGS:**

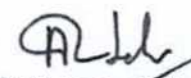
8. Transfer of jurisdiction 450 kms away from place of business from RTO Sukkur to MTO Karachi without considering the nature of total income from different Heads of Income tantamount to maladministration in terms of Section 2(3)(i)(a)(b) & (ii) of FTO Ordinance.

**RECOMMENDATIONS:**

9. FBR to direct:
- i) the Secretary Jurisdiction to reconsider the change of jurisdiction of the complainant from RTO Sukkur to MTO Karachi in the light of discussions held in paras 5 – 7; and
  - ii) report compliance within 45 days

Dated: 13: 12: 2023  
Akif

  
Director  
FTO Secretariat  
Islamabad

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

Approved for reporting