



NEWSLETTER FEDERAL TAX OMBUDSMAN

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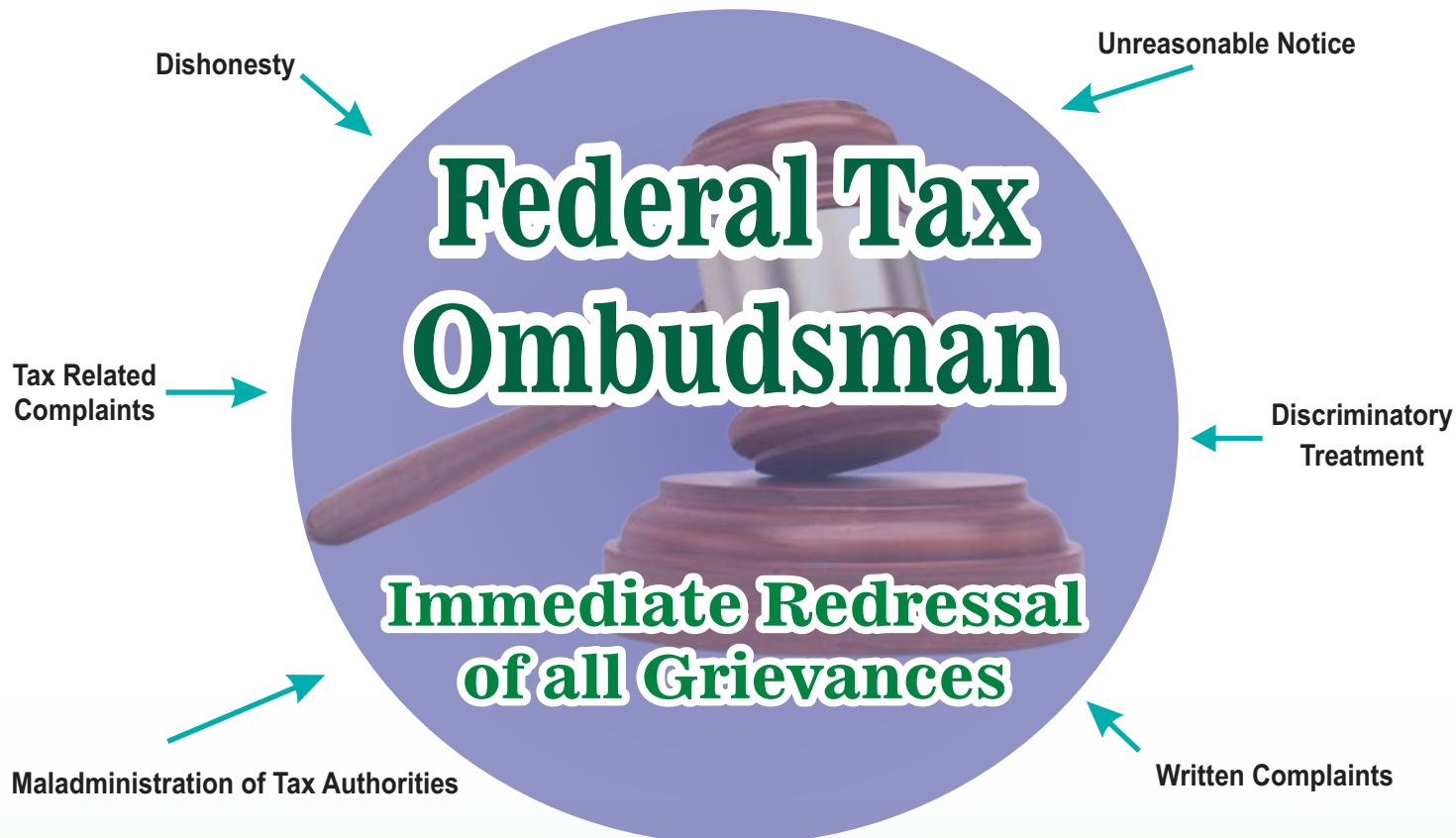
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MESSAGE OF FTO

The Story of Saleem Raza

Dear Taxpayers!

Saleem Raza (Radio Pakistan Islamabad) used to pass by the FBR daily on his way to the office. While passing by the FBR in the first week of every month, he was outraged and stammered with anger. When he reached office, his salary was subjected to tax deduction by the FBR. Three to four thousand rupees tax deduction from his salary was grievous and agonizing for him. He thought to get rid of this unfair and unjustified deduction. Nothing came to his mind how to disentangle this problem. While going to office one day, he caught sight of a board of "Wafaqi Tax Mohtasab". He daily passed near the board and did not give even a slight attention to it. But today he stopped to see the board. He started thinking about this office. He knew nothing about this institution as well as its functions. He was absolutely unaware how it resolves the problems of the people. Before entering the office, he was in a fix. However, he summed up courage and entered the office. Apprehensively he got the requisite information. He came to know that he can file complaint against unfair deduction from his salary. He submitted an application in Urdu addressed to the Federal Tax Ombudsman. The application was immediately registered. His perception was that like other government departments, he should not be hopeful about this institution. He thought that FTO is just like an institution similar to FBR. Nobody would listen to this poor person. But to his utter surprise, he received a hearing notice after a week.



He stated his misery before Advisor and prayed to stop unjust deduction from his salary. FBR representative opposed his contention. After 15 days, he got the decision of FTO. The decision declared deduction from salary of low paid employees as unjust. Saleem Raza was overwhelmed with emotions of happiness that no deduction would be

from his salary from next month. He planned to purchase new clothes for his kids from this extra money. By the grace of Allah, millions of people have benefitted from this single decision of the FTO. The cardinal and main function of the FTO is to provide relief to the taxpayers and public at large. If you have any problem, or there is any injustice from the FBR, you can have recourse to the FTO. Your grievance will be redressed and there would be prompt solution to your problem.

By the grace of Allah Almighty, for the last eight months, people in large number are having recourse to the FTO. The taxpayers have come to realise that there exists an institution where their problems can be resolved immediately, their complaints are addressed and they are provided immediate and cost free justice. In this way, unnecessary hurdles concerning payments of tax are removed.

Pakistan Zindabad



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

Hon'ble President's Message on Awareness Campaign

About FTO's Mandate

The FTO effectively endeavored to implement its mandate that is, to provide cost free and speedy justice to the taxpayers. The FTO office has continued to redress the grievances of the taxpayers throughout the year 2021, as is evident from the recorded statistics. The significant increase in number of complaints indicates the enhanced trust of the taxpayers in the FTO office for speedy redressal. In majority of the cases, due relief was provided to the taxpayers to supplement the government's tax friendly initiative. Their genuine problems were addressed and all available resources have been utilized to mitigate their sufferings due to red tapism. Moreover, strict disciplinary action was recommended against the inefficient, delinquent and corrupt tax officers/officials of FBR.

FTO's Effort for Public Relief

The office of the FTO strives hard to provide relief to the public by carrying out independent investigations/own motions. A recent example is the case of detection of issuance of illegal refund amounting to Rs. 123.4 million to a foreign company. FTO proposed strict disciplinary/ criminal action against senior officers of FBR involved in the scam. Further more, in the year 2021, 3371 complaints were registered and out of them 2867 complaints were decided. The FBR's acceptance response to the FTO's recommendations was 88 %. Taxpayers were provided relief in most of the FTO's decisions. The Tax Ombudsman declared the tax deduction from daily wages and withholding from the salaries of temporary employees illegal and unlawful. This decision was widely appreciated by Accountant General of Pakistan and it was also implemented. This one decision has benefited thousands of poor employees.

Similarly, the excessive rate of sales tax on booking and delivery of vehicles was declared illegal and it was ordered that the sales tax collected in excess of 12.5% should be refunded to the consumers. This one decision will benefit 9155 customers who purchased such vehicles and will get a refund of Rs. 600



million. It is hoped that similar decisions in future will also be beneficial to the taxpayers. The informal resolution of dispute under Section 33 of the FTO ordinance has proven to be an effective tool in efficient grievance redressal. For taxpayers facilitation, FTO office has recently taken many initiatives that include establishment of facilitation desks at Airports and land border stations, an effective and countrywide awareness and outreach campaign, more interaction with trade bodies, launching of **FTO YouTube Channel**, new mobile application for ensuring quick and cost free access of taxpayers to FTO and starting a four digit (9386) SMS service for taxpayers to know about the progress of their complaints at this forum. The FTO office has also been instrumental in identifying the potential areas to FBR for systemic reforms.

Message for the Taxpayers

May Allah Almighty help them to further serve the common taxpayers and create facilities for them. It is responsibility of all institutions under the Government to improve the performance of their institutions under their respective mandates and to facilitate the people. The main task of this organization is to improve the tax system and to send suggestions / recommendations to the FBR for immediate resolution of Taxpayers' problems. The same will increase their confidence in tax system and promote tax culture in the country. I, once again, invite all of you to lodge tax related complaints at FTO office with full confidence.

Long live Pakistan!



Taxpayers asked to keep close liaison with FTO office

Tax Ombudsman (FTO) Dr. Asif Mahmood Jah emphasised the urgent need of uninterrupted close liaison of business community and tax payers with office of FTO across the country for redressal of their genuine grievances on top priority.

He stated this while talking to corporate sector delegation led by Meher Kashif Younis, former senior vice-president LCCI which called on him to keep him abreast with the taxation problems being confronted by business community. He said that no injustice would be tolerated at any cost against tax-payers by the tax collectors throughout the country.

He said he always attached great importance to business community especially all tax-payers and fully committed by law to address the genuine grievances due to any mal-administration by any functionaries of Federal Board of Revenue or Inland Revenue service or customs.

He said all advisors/consultants of regional offices of FTO spread all over the country had

already been directed to speed up the lawful disposal of pending complaints on merit within stipulated time frame of maximum 60 days. He said private sector always played a significant role in economic development of the country and the state was bound to provide business friendly environment by fully ensuring ease of doing business.

Dr. Asif Mahmood Jah said that the taxpayers played a major role in national development by paying taxes timely. On the other hand, he said, FBR is an apex tax body in Pakistan which should collect taxes and revenue from taxpayers strictly in accordance with law. He urged the business community to file lawful genuine complaints supported with documentary evidence for seeking justice and remedy of their grievances.

Meher Kashif Younis invited FTO to address an awareness seminar in City for tax-payers especially members of business community and offered to arrange the event which he accepted to be conveyed in the last week of the month.

FTO acting as public relief-oriented institution

Federal Tax Ombudsman (FTO) Dr. Asif Mahmood Jah said that his office was providing full services to masses as a public relief-oriented institution.

The FTO was speaking at the meeting of Advisory Committee (Central) of Federal Tax Ombudsman here at Lahore Chamber of Commerce & Industry (LCCI). LCCI Senior Vice President Mian Rehman Aziz Chan, Vice President Haris Ateeq, former Vice President Kashif Anwar, FTO Advisors Sarfraz Warraich and Almas Ali Javinda also spoke on the occasion. Dr. Asif Mahmood Jah said that 1,966 complaints have been settled out of 2,207 received by the FTO during the current year. He said that the FTO had got tax deduction abolished on the daily wagers and contract employees' income. He said that more than 100 persons who have been served with irrelevant notices by the FBR had been removed from Tier 1 and directed FBR to take action against the

officers who have issued such notices.

The FTO said that they are introducing a fast system for the registration of complaints and are formulating strategies for quick resolution of the taxpayers' problems. Referring to the recent ban on import of luxury items, the FTO said the difficulties of importers were being reviewed. He said that the main objective of the FTO is to create facilities for the business community and for this purpose 11 offices are operational. He said that being the coordinator to FTO, LCCI Senior Vice President Mian Rehman Aziz Chan is playing a crucial role. LCCI Senior Vice President Mian Rehman Aziz Chan said that the complaints dispensability ratio by the FTO is a benchmark and the entire judicial system should follow. He said that most of the problems faced by the business community are now resolved quickly because of the FTO. Mian Rehman Aziz Chan said that the FTO is handling the business community in a better way.

Faulty integration of Tier-1 retailers: FTO has received over 100 complaints against FBR

ISLAMABAD: The Federal Tax Ombudsman (FTO) has received over 100 individual complaints of the newly integrated Tier-1 retailers, who were not required to be registered, but declared as big retailers by the Federal Board of Revenue (FBR).

This has been revealed in a study report prepared by FTO Senior Advisor Sarwat Tahira Habib on the integration of Tier-1 retailers under the Sales Tax Act, 1990.

The said own-motion case was taken up by the Federal Tax Ombudsman, which revealed that the highest number of complaints received were from taxpayers based in Lahore (50 per cent) then from Islamabad (20 per cent), and Karachi (18 per cent).

The FTO has unearthed serious issues in the FBR Point of Sale system of integration of retailers including the complexity of legal provisions for POS integration, i.e. glitches/ delays in the automated system of the FBR.

While introducing the scheme in July-2021, the FBR stated that it intends to integrate 60,000 to 70,000 retailers in the financial year. So far 7,000 to 8,000 retailers have been linked with the system, the FTO report said.

The FTO study report disclosed, “the integration process is fraught with procedural delays and systemic limitations. It is yet to be analyzed whether the POS scheme has made a sizable contribution to raising the revenue and how successful is the process of monitoring the taxable activities through point of sale integration. It is recommended that while carrying on with the aim of more integration, FBR should ensure a taxpayer-friendly Automated System removing the flaws pointed out in the study, and doing away with the discretion by more and speedy automation systemic improvement.”

The special study revealed that the FBR’s field formations are compulsorily registering the persons/shops that do not fall in any category mentioned and after registering them compulsorily, they issue demand notices and pass order imposing penalties, etc. on account of non-filing.



When the position was confronted with field formations, they simply stated that FBR has been sending them lists of persons/businesses on the basis of income declared by them in their income tax returns. In pursuance of the lists, they issue notices to the persons and on no response, they make them compulsorily registered under the sales tax law. It is therefore, recommended that in case FBR intends to broaden its scope, it should make rules under Clause F of Section 2(43A) specifying persons or class of persons required to be registered other than the categories mentioned at Clause A to E of Section 2 (43A) ibid.

It was also brought to the notice of the FTO that bracketing certain retailers in Tier-1 category while allowing other categories of retailers out of the ambit of POS integration, would create an extremely disabling/ discriminatory environment, discouraging retailers to integrate with the POS System.

It was also reported that buyers are preferring to visit non-integrated outlets to avoid paying 17 per cent sales tax; hence, affecting the turnover volume of the integrated retailers.

There were problems being faced by the taxpayers due to the companies operating Point of Sales who were new to the business.

It was proposed by the retailer associations that the electricity bill limitation of Rs 1.2 million should be re-assessed afresh keeping in view of the current rates of the electricity bill.

Anjuman-e-Tajran in big cities, KCCI and LCCI further asserted that government should focus on broad basing of tax revenue in other potential areas of the economy instead of only



squeezing retail business.

There were complaints against the delay in exclusion by the retailers who do not fall under any single category in the Section 2(43)A to F. Despite claims and applications by the notified Tier-1 Retailers that they are not liable to be notified, proceedings were initiated by the FBR against the taxpayers while the request for issuance of exclusion certificate remained pending before the department for months.

The exclusion certificate request was filed with the FBR Islamabad for the redressal of the complainant's grievance, but no action was taken over exclusion to save the Complainant from disallowance of 60 per cent input of Sales Tax and to enable it to file his Sales Tax Return within time which had already been delayed due to pending application.

The penal action against taxpayers who had already removed the POS machines need to be properly supervised by the department. In many cases, the POS machine was admittedly installed by a retailer.

However, department did not bother to conduct on-spot enquiry or to verify from the relevant bank regarding the current status of installation of POS machine at the store and without affording an opportunity of explanation, registered the entities when POS had already been removed and, further, despite the fact that department had been duly apprised about the overall status of the complainants, exclusion certificates were delayed for weeks due to systemic issues between the RTOs and the FBR.

The retailers were registered compulsorily due to the proximity of the businessman's name being similar to a famous chain store and the request for de-notifying was not accepted until redressal was vehemently supported by the office of the FTO.

The small shops in shopping malls were registered arbitrarily, as the law did not exclude even low turnover shops from inclusion in the lists under the STGO's, as they were situated in a mall.

Many complainants had no retail outlet and all the sales were made to registered persons only on a wholesale basis, therefore, requirements, mentioned in Rule 150ZEA of Sales Tax Rules, 2006, were not attracted.

However, the department passed impugned penalty orders instead of deciding on exclusion application, imposing penalties without establishing first whether complainant's business was liable to be registered under the said system or not. Retailers integrated with the FBR system, were unable to file the correct tax return, due to such departmental proceedings.

The FBR should address the issue of input adjustment after due correction of departmental data and record, and resolve the systemic issues between the RTO's and Chief (POS) FBR, resulting in inordinate delays, to enable the taxpayers to claim admissible input tax credit in their monthly sales tax returns. Amendment may be made in Sales Tax Act, 1990 for automatic allowance of refund application in case of no correspondence by the officer concerned within the stipulated period of 60 days.

The FBR may devise an online procedure for issuing exclusion certificates in five days' time to the retailers who claim that they have no POS System installed. Due verification of installation of POS system at the premises may be done, (as it is also a pre-requisite for sales tax registration) and after providing the due opportunity of being heard to the complainant, decisions may be made. In this way, delay and corrupt practices are dealt with through this automated procedure, the FTO special study added.



FBR Chairman Bars Taxmen from Private Practice on FTO's Recommendation

Federal Board of Revenue (FBR) Chairman Mr. Asim Ahmad has issued the first enforcement directive to the Inland Revenue officers to abstain themselves from private consultancy/tax practices or face strict disciplinary action.

FBR Chairman has issued a directive to all FBR employees for placing a bar against indulging in Private Consultancy/ Tax Practice by Officials of the FBR.

According to the FBR's instructions, the Tax Ombudsman initiated an Own Motion Investigation regarding private practice by the employees of FBR who joined local chambers or even opened their own law offices and render legal assistance to taxpayers in the evenings or even during office hours. Findings were recorded that many of the officers/ officials of the FBR associate themselves with different taxpayers and provide legal assistance to them in various taxation matters in total disregard of the instructions under the Government Servants (Conduct) Rules, 1964 where under no government servant is allowed to engage in any trade or undertake any employment or work, other than his official duties, except with the previous sanction of the government.

Furthermore, Establishment Division contains clear prohibitions regarding undertaking of private work by the government servants.

The FBR vide Office Order dated July 3, 2019 has already issued instructions on the matter and advised all its employees not to indulge in any private consultancy/

tax practice.

Chairman, FBR has taken a serious view of the matter and all FBR employees are again advised to completely abstain themselves from private consultancy/ tax practice. Inland Revenue Operations Wing is putting in place a strong monitoring mechanism to ensure the compliance of FTO instructions. In future, if any officer/ official is found involved in such practice, strict disciplinary action shall be taken under Civil Servants (E&D) Rules, 2020.

FBR Dismisses Official for Providing Tax Consultancy to Accused

The Federal Board of Revenue (FBR) has imposed a major penalty of dismissal from services on an official of the Directorate of Intelligence & Investigation (IR), Faisalabad, who was providing tax consultancy services to an accused person nominated in FIR lodged under Anti-Money Laundering Act, 2010.

The FBR punished the officer through the issuance of a notification on Wednesday. FBR Chairman Mr. Asim Ahmad had issued a directive to the Inland Revenue officers in the Board and field formations to completely abstain from private consultancy/tax practices or face strict disciplinary action.

The tax authorities had also directed the Inland Revenue Operations Wing to immediately place a strong monitoring mechanism to identify IR officers involved in this illegal practice.

FTO Advisor's Corner

Informal Resolution of Complaints



Dr. Arslan Subuctageen
(Advisor Customs, FTO)

Since assuming the office of Federal Tax Ombudsman, at the end of September, 2021, Dr. Asif Mahmood Jah, introduced multiple initiatives, new vistas and avenues for providing prompt, efficient and effective redressal of grievances of the bonafide taxpayers with a clear objective to eliminate corruption, maladministration, malaise and inertia in the federal tax machinery.

2. Inter alia other initiatives, the mechanism of informal complaint redressal was activated. Although the provision was available in the law under the provisions of Section 33 of the FTO Ordinance, 2000, however, this provision was hardly ever tapped or utilized by the FTO Secretariat in the past, the most probable and likely reason of non-utilization of this important legal provision seems that the earlier Hon'ble FTOs through highly learned and capable in financial and administrative fields, however, none of them was from the Federal Tax Machinery of the State. In 2021, the regime made the most appropriate decision to place a tax man as the Federal Tax Ombudsman, who possesses the required acumen in all the tax matters and their legal intricacies in essence. As a result, this decision and with a dynamic and exemplary leadership qualities, the present FTO being an exemplary leader effectively started using this mechanism of informal complaint redressal and after successful utilization, directed the concerned Advisors to make maximum use of it. The Section reads:

"33 Informal resolution of disputes.- (1) Notwithstanding anything contained in this Ordinance, the Federal Tax Ombudsman and authorized Staff Members shall have the authority to informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without written memorandum and without the necessity of docketing any complaint or issuing any official notice."

3. Taking the cue, all Advisors of FTO Secretariat started

exercising this effective provision of law, wherever applicable. Resultantly, multiple cases of serious nature were resolved and immediate relief was provided to the aggrieved taxpayers. I personally had exercised this legal provision and inter alia many other complaint redressal, had the honour of resolving a major issue pertaining to M/s Telenor Pakistan (Pvt) Ltd, a leading telecommunication service provider when their NTN was blocked after an O-in-O was issued against the company before the expiry of 60 days period of appeal before the Hon'ble Customs Appellate Tribunal. This step of NTN blocking not only badly affected and hampered the continuation of M/s Telenor's Business operations, negatively impacting the process of creating ease in doing business on a country wide basis but also adversely affected the revenue generation due to stoppage of their import clearance.

4. This matter was taken up with the concerned Collector of Customs, who himself being a dynamic officer, immediately realized the importance of the matter and within hours the NTN was de-blocked. As a result of this endeavor, ease in doing business was created for the company by restoring its operations and as a result, the stuck up revenues also started pouring into the federal exchequer.

5. To conclude this brief expression, it is highlighted that the utilization of this legal mechanism of informal complaint redressal under Section 33 of the FTO Ordinance, 2000, has immense potential which is most appropriately being exercised by the FTO Secretariat to provide immediate relief to the aggrieved taxpayers.

FBR's Circular Debt - Pending Refunds

It has been observed that, in order to inflate the figure of tax collection, the FBR officers deny or delay refunds worth billions of rupees. This amount keeps multiplying, year after year. According to a conservative estimate FBR owes Rs 700 Billion to the taxpayers as on 31st May, 2022. This money belongs to the taxpayers and if issued within the prescribed time, the businessman should be circulating it in the market.

FBR holds back refunds illegally, without valid reasons and with malafide intentions. Illegal and unreasonable audits are carried out to create huge demands aimed at denying the refund claims. This phenomenon is a reflection on systemic malfunction and utter disregard of law. It is a common knowledge that majority of citizens are not paying tax and not filing tax returns but those who do so face difficulties and humiliation in the shape of denial or delay in issuing refunds.

The following examples illustrate how the taxpayers suffer at the hands of tax administrators. In a complaint filed in FTO Secretariat, M/s. A. G Traders had agitated that despite the illegal tax demand having been deleted by ATIR on 10.04.2014, and despite the FTO's order dated 29.11.2016 and despite a sales tax refund order issued on 18.08.2017, the refund cheque was not issued to the Complainant. The refund pertaining to Tax Year 2013 was finally paid to the taxpayer in April 2022 on the intervention of Hon'ble FTO.

In another case, M/s. Interloop Limited agitated against Department's failure to dispose of refund application for tax year 2013. The taxpayer had agitated the matter in earlier Complaint in 2015, repeated appeals and miscellaneous applications before ATIR and Writ Petition before Hon'ble Lahore High Court. After failing to get the refund, the taxpayer again filed complaint before Honorable FTO which was disposed of on 25.08.2021 and the refund was issued after a delay of 8 years.

Similarly M/s Benson Pharmaceuticals agitated against department's denial of refunds for tax

years 2012 to 2020. Tax payer's refund applications and appeals before CIR (Appeals) failed to move the Deptt. FTO's recommendations issued on 26.10.2021 finally provided relief and complainant's refund claims were settled in May, 2022.

The complaints data of the FTO Secretariat for the past eight months has been analyzed which reveals that non-issuance of refund is a major cause of unrest among the taxpayers;

Period from October, 2021 to May, 2022	
Total Complaints filed	3109
Income Tax	2303
Sales Tax	806
Complaints regarding Delay in refunds	1577

It has been further observed that in their parawise comments, the field formations either deny the allegations on flimsy grounds or try to cover up by quickly passing illegal orders whereby the refunds are denied.

An 82 years old man had to wait 15 months for a tax refund of Rs. 2,333/ only. When Honorable FTO directed to issue the refund, the FBR preferred representation before Honorable President of Pakistan. The President however upheld FTO's order, chided the entire FBR hierarchy and extended apology to Mr. Abdul Hamid Khan, a retired government employee, for the delay and humiliation at the hands of FBR employees.

Denial or delay in issuing genuine refunds squarely falls within the definition of maladministration as provided in Section 2(3)(ii) of the FTO Ordinance, 2000. Although FTO Secretariat is constantly taking cognizance of these excesses but such action is limited to the individual complaints. It is imperative that a policy decision should be taken at the senior level in FBR and Ministry of Finance to wipe out all pending refunds as per law.



M. Majid Qureshi
(Advisor, FTO)



FTO'S Intervention Results in Creation of Huge Tax Demand & Recovery of Over 660 Million by FBR in Six Mega Cases of INGOs

A n own motion investigation was initiated by FTO in terms of section 9(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), on evidence based information that some of the most meaningful and innovative initiatives of FBR's own individual officers and field formations stand diluted and washed away due to systemic follow up failure, ineptitude and incompetence, frequent posting transfers of officers and massive changes of jurisdictions. Through its In-House Analysis, FTO Secretariat has also identified that though FBR and its dozens of field formations maintain an organized web portal, rich data center, exhaustive Data Bases, elaborate and comprehensive operational soft wares and houses a full-fledged & home grown IT support system i.e. Pakistan Automation (PVT) LTD (PRAL), yet neither FBR HQs nor its any single field formation maintains;

- a. *any IT based tracking system, archiving various valuable initiatives & ventures made by different FBR's organizations, officers, teams or specially created cells from time to time.*
- b. *any exhaustive, fool proof and IT enabled handling over module (from predecessors to successors) for such initiatives.*
- c. *any institutionalized internal follow up system, or*
- d. *any internal evaluation mechanism to gauge whether the goals envisaged under FBR's flagship ventures have been logically pursued & achieved.*

Therefore, in most of the cases, the good job done is prone to be wasted, diluted or compromised with transfer of individuals, dissolution of units/ cells and take over by new managers.

3. While conducting the aforesaid In-House Analysis, FTO Secretariat focused 34 potential cases of tax evasion wherein detailed Investigation Reports with a Case Study were prepared & shared by Directorate General (DG),

BTB FBR in December, 2018, with the concerned field formations of FBR. Subsequent action against Resident companies/ concern international contractors for not declaring true particulars of their receipts/ income and not discharging their responsibilities as withholding agents in the light of this initiative could have significantly augmented the national revenue. However in 2019, FBR management suddenly shelved this whole BTB regime overnight; disbanding BTB Zones Islamabad, Lahore and Karachi. Office of DG BTB was relegated to a ceremonial entity assigned as additional charge. This kneejerk attitude of FBR caused a massive loss to the state exchequer.

4. Taking OM cognizance of this clear maladministration in terms of section 2(3) (ii) of FTO Ordinance, 2000, FTO office revived the dead proceedings by sharing diluted investigation reports afresh. These fresh proceedings conducted by FTO office have thus far produced quite revealing results;

- i. *Income tax demand over Rs. 660 millions has been created in six (06) such cases, taken up afresh by FBR's concerned field formations.*
- ii. *In majority of cases, earlier information disseminated by DG BTB in 2018 was admittedly wasted, shelved, lying dormant or even lost.*
- iii. *Tax demand created thus far is mainly default u/s 161/205. Normal assessment proceedings based on shared information may result in creation of equally substantial tax demand.*
- iv. *All the basis triggering the instant OM stand established.*
- v. *Due to ineptitude, incompetence of FBR's functionaries and delay caused in these cases ever since 2018 has resulted in tax proceedings barred by time in a number of cases for a number of Tax Years; another blow to the state coffers.*

The FTO directed the FBR to form a high-powered inquiry committee to fix responsibility on tax officials involved in a mega-scam

The FTO office has found that recovery could not be effected from the main shareholder, AOP member because he left Pakistan long ago and matter was reportedly taken up with the China govt. for recovery due to non-traceability of the said person.

The FTO has decided own motion investigation, while investigating issuance of bogus refund amounting to Rs 123.364 million for Tax Year 2007 to 2009 and 2011. In an earlier own motion case (0200/OM/2019) some additional irregularities were unearthed warranting authorization of instant investigation.

Moreover, in order to ascertain whether the irregularities committed earlier continued in the cases of M/s China National Electric Wire & Cable Import and Export Corporation and its associates (M/s Sinotec Co.) and the main shareholder of AOP) in the subsequent years, this own motion investigation was initiated under Section 9(1) of the Federal Tax Ombudsman Ordinance, 2000. During earlier proceedings it was revealed that M/s China National Electric Wire & Cable Import & Export Corporation did not file returns for Tax Year 2013 and onwards.

Instead, a sister AOP namely M/s Sinotec Co was registered on FBR portal on 01.11.2011, with the main shareholder (common member in both AOPs), holding 99 percent share.

The instant investigations have identified the glaring discrepancies / maladministration on part of FBR in cases of these companies. Action under section 182, 184 and 187 for Tax Years 2007 to 2009 and 2011 and 2012 could not be taken earlier and has been taken now raising demand of Rs 569.989 million that, however, is still to be recovered. Although, the main shareholder, main partner of M/s China National Electric Wire & Cable Import & Export Corporation and M/s Sinotec Co was available in Pakistan till 2019, but no demand notice was served upon him.

Similarly, arrear registers in respect of



demand raised in the years 2007 to 2009, 2011 and 2012 under section 122(5A) of the Ordinance could not be traced. Furthermore, counter foils of refund vouchers are not traceable. M/s Sino-Tec Co filed returns for various years declaring the status of Non-Resident in contrast to the status of Resident as per registration profile in ITMS. Returns filed by M/s Sino-Tec Co, revealed that although it is declared that payments were received against certain contracts and tax was deducted, but it is not clear that in whose name contract was accorded, assessment and tax deduction was made and credit of tax was given. Also, nature of receipt, rate/section of tax deduction is not available on record.

It was reported that recovery could not be affected from the main shareholder, Member of AOP because he left Pakistan long ago and matter was reportedly taken up with Govt. of China for recovery due to non-traceability of the said person.

In view of above, the FTO has directed the FBR to constitute a high-powered committee to identify the responsible officers / officials for above referred irregularities, fix the respective responsibilities and to take remedial action on the highlighted issues in 90 days.

FTO Puts In Place Mechanism for FBR to Refund Excessive Payment in Automobile Cases

A number of complaints were filed against FBR Islamabad and PAK SUZUKI Motor Company Limited, in terms of section 10 (1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) for charging Sales Tax @17% on purchase of vehicles upto 1000 cc as against 12.5%, which was the actual rate at that time. In this way, the taxpayers were constrained to pay in excess of being legislated in the Finance Act 2021.

The Federal Tax Ombudsman examined the facts and legality of the complaints in terms of changes made vide Finance Act, 2021 in Sales Tax rate with change in definition of time of supply in the Sales Tax Act and it was held that amount paid in excess of 12.5% was refundable. LTO Karachi was directed to refund the differential amount of tax between 17% and 12.5% to the complainants collected from them at the time of booking of vehicles.

Hon'ble President of Pakistan also upheld the decision of the FTO and rejected FBR's plea in such cases.

Subsequently, on FTO's efforts M/S Pak Suzuki Motors Company Ltd provided a list of 9,155 customers who had booked vehicles before 1st July, 2021 and paid sales tax at the rate of 17% but delivery to them was made after 30th June, 2021. Therefore, in order to provide relief to all the customers under the law, an own motion investigation was initiated by FTO.

Resultantly, FTO while disposing of the investigations has devised a comprehensive mechanism of all related similar applications in the following terms;



complaint application and forward the draft to FTO's office by mentioning the Own Motion read with Hon'ble President's order. On approval and signing of the order, the same shall be dispatched by Headquarter to the Chief Financial Officer, M/s Pak Suzuki Motors Company Ltd., DSU-13, Pakistan Steel Industrial Estate Bin Qasim Town, Karachi, FBR and the Chief Commissioner-IR, LTO, Karachi for processing the claim.

- ii) On receipt of the Order, M/S Pak Suzuki Company will furnish the refund claim under Section 66 of the Sales Tax Act, 1990 to LTO Karachi in respect of refund due to the complainant along with the relevant invoice and proof of tax paid on the invoice
- iii) On receipt of the refund claim from M/S Pak Suzuki Motors, LTO Karachi will process it as per law and issue refund to Pak Suzuki Company
- iv) M/S Pak Suzuki Motors will remit the amount sanctioned by concerned officer of LTO, Karachi to the complainant and submit proof of payment to LTO Karachi and to the concerned regional office of FTO; as compliance of the order.

- i) On filing of the complaint by any aggrieved person with any Regional Office of FTO, he shall be required to submit a copy of invoice/receipt of payment of the price and delivery to confirm genuineness of the refund claim. After their receipt, the complaint shall be processed by the concerned Regional Office without referring to FBR or LTO, Karachi for comments on each



FEDERAL TAX OMBUDSMAN SECRETARIAT
5-A Constitution Avenue

Islamabad

F.No.0016/OM/2022

Dated: 21.05.2022

To:

SADAF NAZ,
PO KALADUB RAJGAN PALAHAL, KHURD CHAROI,
KOTLI.

Sub: AWARENESS MESSAGE: CHARGING OF HIGHER RATE OF SALES TAX 17% INSTEAD OF 12.5% IN RESPECT OF SUZUKI VEHICLE UP TO 1000CC PURCHASED FROM PAK SUZUKI MOTOR COMPANY LIMITED

With reference to the above noted subject, I am directed to inform you that Hon'ble Federal Tax Ombudsman while disposing of a number of complaints had observed:-

- i. That in pursuance of Finance Act, 2021, the sale tax on vehicles up to 1000 CC was reduced from 17% to 12.5 %.
- ii. FED on such vehicles was waived.
- iii. Sales Tax collected in excess of 12.5%, at the time of **booking of said vehicles before 30.06.2021**, but the **vehicles delivered after 1st July, 2021**, is not warranted under the aforesaid provisions of law, hence, **refundable**.
- iv. Federal Tax Ombudsman has adjudicated a number of complaints, wherein the aforesaid incidence of overcharging was contested. FTO's Findings/Recommendations in said cases have also been upheld by Hon'ble President of Pakistan while deciding the representations filed by FBR against the decisions of Federal Tax Ombudsman in such cases.

2. This office being protector of the taxpayers' rights against all sorts of maladministration, has also collected detailed information from Pak Suzuki Company limited to ascertain the persons who were overcharged. This data reveals that you have also booked/purchased a vehicle (upto 1000cc) and, prima facie, paid sales tax in excess of 12.5%.

3. Therefore, you may approach FTO Head Quarters/Regional Offices (**List overleaf**) through any means (by hand/dak, email, online & mobile app) for any assistance regarding processing of your complaint/petition in the subject matter.

4. The Federal Tax Ombudsman Secretariats provides free and speedy justice to the taxpayers against the maladministration of tax authorities under its jurisdictional purview.

(Malik Muhammad Ali)
Assistant Director
Ph:051-9217889



FTO's Advisory Committee Meeting (HQs) at FTO Secretariat, Islamabad

A meeting of the HQs Advisory Committee was held at Federal Tax Ombudsman Secretariat, Islamabad, on 19.05.2022. The Meeting was presided over by the Hon'ble Federal Tax Ombudsman, Dr. Asif Mahmood Jah (Hilal-i-Imtiaz) (Sitara-i-Imtiaz).

Mr. Sohail Altaf, Group Leader, Chamber of Commerce & Industry, Rawalpindi, Mr. M. Shakeel Munir, President, ICCI, Islamabad, Engr. M. A. Jabar, Vice President, FPCCI Islamabad, Mr. Mushtaq Ahmed, President, Peshawar Tax Bar Association, Peshawar, Mr. Zia-ul-Haq Sarhadi, President, Frontier Customs Agents Association, Peshawar, Mr. Amjad Farooq, Nimir Industrial Chemicals Limited, Lahore, Mr. Abid Mehmood, Chief (IR-Operation)-IR, FBR (HQ), Islamabad, Raja Ahmer Waqas Second Secretary FBR, Islamabad, Mr. Anwar Ch. Chief (IT-Operation)-IR, FBR (HQ), Islamabad, Prof. M. A. Ruf Ruf, Lahore and Mr. Aneel Peter, Regional Committee Member of ICAP, Peter & Co. attended the meeting

Ms. Farah Hamid Khan Secretary FTO Secretariat, Islamabad, Mr. Nisar Ahmad, Registrar, Islamabad, FTO Secretariat, Dr. Arslan Subuctageen, Advisor (Customs)/ Secretary Advisory Committee, HQs FTO Secretariat Islamabad, Ms. Sarwat Tahira Habib, Advisor, FTO Secretariat Islamabad, Mr. Muhammad Tanvir Akhtar, Advisor, FTO Secretariat Islamabad, Mr. Majid Qureshi, Advisor (IT), FTO Secretariat Islamabad and Mr. Almas Ali Jovindah, Advisor (Legal), FTO Secretariat Islamabad also participated in the meeting.

National Anthem was played before the video message of Hon'ble President of Pakistan in which the Hon'ble President appreciated the working of FTO office and urged the taxpayers to contact FTO office for redressal of their grievances. The Hon'ble FTO, in his opening remarks, thanked the participants of the Advisory Committee, and explained the mandate and functions of the Advisory Committee. He stated that the Hon'ble President of Pakistan has upheld almost all the decisions of FTO

Office, which were challenged by the Department during his last 08 months tenure. The FTO office is redressing taxpayers' grievances within 60 days. However, in number of cases, the issues were resolved through a telephonic call by using powers u/s 33 of FTO Ordinance, 2000. He appreciated the efforts made by Mr. Manzoor Hussain Memon, Advisor (ST) FTO Secretariat, R.O Karachi. In a number of complaints, the excess issue of sales tax of 4.5% levied by Pak Suzuki Motors on vehicles up to 1000cc during the period July, 2021 to January, 2022 has been resolved. He informed that this decision would be beneficial for more than 9155 taxpayers, who purchased Suzuki cars under 1000cc. Honorary Business Advisors were appointed in Regional Offices, as decided in Advisory Committee Meeting held on 16.12.2021. Mr. Mushtaq Ahmed, President Peshawar, Tax Bar Association, stated that there are lot of issues faced by the taxpayers due to private practice of the FBR's officials. The members also stated that the direction be issued to the FBR for early disposal of Appeals, which takes months and in some cases years. Mr. Sohail Altaf, Group Leader, RCCI, Rawalpindi, lauded the efforts made by Hon'ble FTO for resolution of taxpayers' grievances. He suggested that Complaint Boxes should be installed at all relevant places, which have to be checked on weekly basis. Directions be issued to FBR to set up visiting rooms at its field formations for the taxpayers, who visit on day-to-day matters. One Audit should be conducted for all in a period of one years, as 3-4 audits in a short period of time adversely impact the working of taxpayers. He said that the FBR is using Point of Sales (POS) for harassment, which should be looked into. The incentives should be introduced for the taxpayers who were registered under POS. Mr. Amjad Farooq, from Nimir Industries Limited, Lahore appreciated the initiatives taken by the FTO Office. The FTO said that he visited the industry and appreciated its efforts for Rs. 7 billion revenue generated by the industry.



FTO declares Workers Welfare Fund a non-tax levy

Federal Tax Ombudsman (FTO) has declared that the Workers Welfare Fund (WWF) is neither a tax covered under Income Tax Ordinance, 2001 nor falls in the category of “other taxes”, i.e., sales tax, federal excise duty, customs, as it is a non-tax levy.

Therefore, the adjustment of a determined tax refund against non-tax Cess, i.e., WWF is patently illegal, departure from norm and discriminatory. The FTO while deciding the case of M/s Wah Nobel Chemicals Limited has declared the Workers Welfare Fund (WWF) adjustment against the approved Income Tax refund amount as illegal.

Brief facts of the case are that the complainant, a public limited company and subsidiary of Pakistan Ordinance Factory, Wah filed refunds applications for various years 2013 to 2016; 2018 to 2020. After Taxpayers’ repeated requests and a long wait, Large Taxpayer Office (LTO), Islamabad passed refund orders u/s 170(4) of the Income Tax Ordinance, amounting to Rs109.2 million.

A considerable time since passing the above mentioned orders elapsed but FBR has not released the payments to the Complainant. The Complainant company approached FTO office for relief and it was complained that despite providing all supporting documents, no refund orders for Tax Years 2018 –2020 have been issued despite several requests to the senior offices, including the Chairman FBR. While responding to FTO notices, initially the Chief Commissioner-IR, LTO Islamabad informed that the refund orders for Tax Years 2013-2016 have been passed by LTO, Islamabad on 31.01.2020. Further processings for transfer of funds will be made by FBR.

The CCIR further reported that refund order for Tax Year 2020 has been issued on 18.02.2022. As for Tax Year 2018, it has been informed that the verification process has been completed and refund order will be issued expeditiously. For Tax Year 2019, it has been informed that the verification is under process.

The authorized representative (AR) while

reacting to the above-mentioned comments of the respondent department informed that despite issuing of refund orders for Tax Years, 2013 to 2016, the refund amount has not been transferred to taxpayer’s account.

Second, in the refund order for Tax Year 2020, the DCIR has adjusted the WWF demand for the previous four years i.e. 2017 to 2020 without giving reasons for making such adjustments. All the orders have been passed without issuing notice or providing opportunity of hearing.

While deciding the case, FTO has observed that WWF is neither a tax covered under Income Tax Ordinance, 2001, nor falls in the category of “other taxes”, i.e., ST/FED/Customs. This is basically a non-tax levy which is only collected by tax authorities.

Thus adjustment of a determined tax refund against non-tax Cess, i.e., WWF is patently illegal, discriminatory and departure from norms and propriety. Furthermore, FBR had itself issued clear instructions vide C. No. 1(10) ST-LP & E/2020 66012-R dated 25th May, 2021, wherein all field formations were prohibited to adjust liabilities of WWF and WPPF against refunds of Income Tax. LTO’s adjustment order is in defiance of FBR’s instructions on the subject. FTO has, accordingly, ordered FBR to :-

(i) direct Chief CITRO FBR to ensure that the amounts of refund for Tax Year 2013 to 2016 vide order dated 31.01.2022 are transferred to the taxpayers account immediately.

(ii) direct the Commissioner concerned to dispose of refund applications for Tax Years 2018 and 2019 strictly in accordance with law and after giving proper hearing; (iii) direct the concerned CIR to work out and arrange additional payment for delayed refund u/s 171(1) of the Ordinance for TYs 2013, 2014, 2015, 2016, and 2020. (iv) direct the Commissioner-IR, concerned to revisit the order u/s 170(4) for Tax Year 2020 passed on 18.03.2022 and subsequent illegal adjustment of refund against WWF; (v) the officer who has made illegal adjustment need to be counselled after obtaining his explanation.