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F.No.64/07-Law (FTO)  
Government of Pakistan  
Law, Justice and Human Rights Division

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Islamabad, the 20<sup>th</sup> March 2007.

From: Azhar Amin Choudhary,  
Section Officer

To: The Secretary (TO-I),  
Revenue Division,  
Central Board of Revenue  
Islamabad

Subject: REPRESENTATION TO THE PRESIDENT UNDER SECTION 32 OF THE ORDINANCE  
XXXV OF 2000 AGAINST THE FINDINGS/RECOMMENDATIONS OF THE F.T.O  
IN COMPLAINT NO. 364-L/2007

2-33-8(70) 108  
26/3  
Sir,

I am directed to refer to your representation No. C.No.4 (364)TO-I/07 dated 30.06.2007 on the above subject and to say that the President has been pleased to pass the following orders: -

2. The complainant filed her return of income for tax year 2003 on 11.10.2003. She had paid tax in excess of the amount, which she was properly chargeable under the Income Tax Ordinance 2001. She made application for refund of excess tax on 30.11.2006. The taxation officer rejected the refund application on the ground that it was not made within two years of the date on which the return was furnished. The complainant made complaint to the FTO. The FTO has recommended that the department should issue the refund to the complainant. The recommendation follows the findings that for refund furnishing of refund application was not necessary.

3. The department has made representation against the FTO's recommendation. The complainant has furnished written comments on the representation.

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4. Section 170 of the Income Tax Ordinance 2001, so far as relevant, provides that application for refund shall be made within two years of the later of the date on which the Commissioner has issued the assessment order to the taxpayer for the tax year to which refund application relates or the date on which the tax was paid. Section 120 of the Income Tax Ordinance 2001 so far as material, provides that where a taxpayer has furnished complete return of income- (a) the Commissioner shall be taken to have made an assessment of taxable income for that year; and (b) the return shall be taken for all purposes of this Ordinance to be an assessment order issued to the taxpayer by the Commissioner on the day the return was furnished. Sub-section (5) of section 170 of the Income Tax Ordinance 2001 provides that any person aggrieved by an order rejecting the refund application may prefer an appeal under the Ordinance. Section 9 (2) of the Establishment of the Office of Federal Tax Ombudsman Ordinance 2000 provides the FTO shall not have jurisdiction to investigate or inquire into matters which relate to determination of tax liability, interpretation of law, rules and regulations relating to such determination in respect of which legal remedies of appeal, review are available under the relevant legislation, which includes Income Tax Ordinance 2001.

