

No.57/2007-Law(FTO)
Government of Pakistan
Law and Justice Division

Sec

From: Azhar Amin Choudhary,
Section Officer


Islamabad, the 24th March 2007

To: The Secretary, (TO-I)
Revenue Division,
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.
329/2007.

I am directed to refer to your representation No. 4(329)TO-I.2007, dated 13.06.2007, on the above subject and to say that the President has been pleased to pass the following orders: -

2. During the period relevant to the tax year 2006 the complainant had sold/supplied goods to the prescribed persons as defined under section 153 of the Income Tax Ordinance 2001. The prescribed persons making payments to the complainant for the goods had deducted tax at the prescribed rate. According to the complainant the tax deducted by the prescribed persons was adjustable against the tax properly chargeable under the Ordinance. He claimed refund of the amount paid in excess of the properly chargeable tax. The taxation officer rejected the complainant's refund application. Accordingly to the taxation officer the tax deducted by the prescribed persons from the amounts paid to the complainant was the properly chargeable tax. The complainant made complaint to the FTO against the taxation officer's decision. According to the complainant his claim for refund was similar to his claim for the tax year 2005 in respect of which his complaint No.436/2006 was decided in his favour by the FTO. The FTO following his findings/recommendations in the complainant's complaint in respect of tax year 2005 has recommended that the Secretary Revenue Division shall direct the concerned official to issue refund within 45 days of the receipt of these recommendations,
3. The department has made representation against the FTO's recommendations. The complainant has not availed the opportunity of filing comments on the representation (probably for the reason that the FTO's findings/recommendations in complaint No.436/2006 which were the foundation of the complainant's claim in this complaint have already been set aside by the President).
4. The FTO's findings/recommendations are based on his findings in the complainant's complaint No.436/2006 which on the department's representation have been set aside by the President vide No. 190/2006-Law-I(FTO) dated 30.6.2007. In view of the above the findings/recommendations in this complaint cannot be sustained.
5. Accordingly, the President has been pleased to set aside the FTO's recommendation dated 18.5.2007 in complaint No.329/2007.


(AZHAR AMIN CHOUDHARY)
Section Officer

58055
20/4/07

Copy to: -

1. The Registrar, FTO, Islamabad
2. President's Secretariat (Section Officer (Legal), Islamabad with reference to their No.29/FTO/2008, dated 20.2.2008.
3. Mr. Niaz Muhammad C/o M/s Al-Bario Hawkeye, Gulistan Colony, Faisalabad.

(AZHAR AMIN CHOUDHARY)
Section Officer