

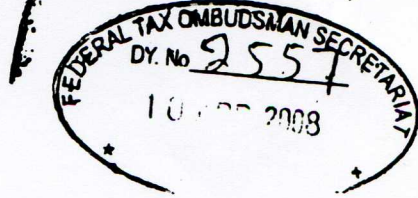
No.76/2007-Law(FTO)  
Government of Pakistan  
Law and Justice Division

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From: Azhar Amin Choudhary,  
Section Officer

To: The Chief (Legal),  
Central Board of Revenue,  
Islamabad.

Islamabad, the 31st March 2008



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. 551-L/2007.**

I am directed to refer to your representation No. 4(551)TO-I/07, dated 14.8.2007, 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 complainants had paid tax in excess of the amount, which they were properly chargeable under the Income Tax Ordinance 2001. They made application for the refund of excess of amount on 22.9.2006. The refund was made on 29.5.2007. The FTO has recommended that the Commissioner should pay compensation for delayed refund as per law. (The FTO has not worked out the period of delay and the amount of compensation) -
3. The Commissioner has made representation against the FTO's findings/recommendation. The complainants have furnished written comments on the representation.
4. Section 170 (3) of the Income Tax Ordinance 2001, so far as relevant, provides that when the Commissioner is satisfied that the tax has been overpaid, the Commissioner shall refund the excess amount. Section 170 (4) of the Income Tax Ordinance 2001 provides that the Commissioner shall, within 45 days of receipt of a refund application, served on the person applying for the refund an order in writing of the decision i.e. the refund due. The Commissioner has failed to disclose the cause, which prevented him from making the refund order within 45 days of the receipt of the refund application. It has already been decided that the omission on the part of the Commissioner not to decide refund application within 45 days of its receipt without sufficient cause is, by itself, an act of maladministration. The Commissioner was required to decide the complainants' refund application made on 22.9.2006 within 45 days of its receipt i.e. on or before 6.11.2006 and issue refund within three months of the said date i.e. on or before 6.2.2007. The refund was delayed from 7.2.2007 to 29.5.2007.
5. Accordingly, the President has been pleased to reject the representation of the Commissioner.

(AZHAR AMIN CHOUDHARY)  
Section Officer

Copy to: -

1. The Registrar, FTO, Islamabad.
2. President's Secretariat (Section Officer (Legal), Islamabad with reference to their No.37/FTO/2008, dated 27.3.2008.
3. M/s Plaspack (AOP), Through Mr. Sohail Akbar (Member) 15-Industrial Area Kot Lakhpat, Lahore.

(AZHAR AMIN CHOUDHARY)  
Section Officer