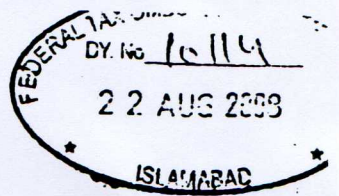


No.120/2007-Law(FTO)
Government of Pakistan
Law and Justice Division



Islamabad, the 20th July, 2008.

From: Mr. Muhammad Aslam Rana
Deputy Assistant Solicitor.

To: The Secretary(TO-I),
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. 915/2007.**

I am directed to refer to your representation No. 4(915)TO-I/07, dated 13.12.2007 on the above subject and to say that the President has been pleased to pass the following orders: -

As per the amounts of taxable income and the tax due thereon in the complainant's return of income for the tax year 2006 an amount of Rs.1,976,229 - is refundable to him. He complained to the FTO that the Commissioner was guilty of mal-administration in not making the refund. The FTO vide his finding decision dated 03.11.2007 has recommended that the Revenue Division should ensure payment of refund claim within 45 days of the receipt of his recommendation.

The Revenue Division has made representation against the FTO recommendation.

The Revenue Division contends that the receipts of the complainant who renders transport service are subject to presumption tax regime therefore the tax deducted from the payments made to him is final tax and nothing is refundable. The Revenue Division has not furnished the copy of the Commissioner's order in which he has decided that the complainant's receipts were subject to presumptive tax regime and the tax deducted from the payments made to him was final tax. Under the provision of the Income Tax Ordinance 2001 the Commissioner shall be taken to have made an assessment of the taxable income and the tax due thereon equal to the amounts specified in the return. Thus, the Commissioner has to decide the refund claim on the basis of the amounts specified in the return. However, if the Commissioner is of the opinion that the amounts of taxable income and tax due have not been correctly stated in the return because the income was subject to tax differently from the manner specified in the return by the taxpayer he may proceed to amend the assessment.

Accordingly, the President has been pleased to direct the Commissioner to decide the complainant's refund claim on the basis of the amounts specified in his return, but nothing in this order shall debar the Commissioner to amend or revise the deemed assessment if it is erroneous.

(Muhammad Aslam Rana)
Deputy Assistant Solicitor.

Copy to: - ✓

1. The Registrar, FTO, Islamabad.
2. President's Secretariat (Section Officer (Legal), Islamabad with reference to their No.57/FTO/2008, dated 12.6.2008.
3. M/s Tariq Carriage Company, C/o Mr. Muhammad Saleem Malik, Advocate M/s Muhammad Salim Law Chambers, 1st Floor Hajwari Market, Post Office Road, Gojra, T.T.Singh.

(Muhammad Aslam Rana)
Deputy Assistant Solicitor.