

No.117/2007-Law(FTO)
Government of Pakistan
Law and Justice Division

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Islamabad, the 26th July, 2008.

From: Mr. Muhammad Aslam,
Deputy Assistant Solicitor.

To :- Mr. Javed Iqbal Mirza,
Chief (Legal),
Federal 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. 1056/2007 (F.B.R. VS M/S MUHAMMAD SARFRAZ BHATTI).**

I am directed to refer to your representation No. 4(1056)TO-I/07, dated 10.12.2007 on the above subject and to say that the President has been pleased to pass the following orders: -

"In his wealth tax return for the assessment year 2000-2001 the complainant declared the value of his plot (Kotha Kalan, Rawalpindi) at Rs.210,000/-. The assessing officer assessed the value at Rs.820,000/- on the basis of the rates of the properties in the locality notified by the Deputy Commissioner. On the complainant's appeal the Commissioner Appeal remanded the case to the assessing officer for reassessing the value on the said rates by giving the detail of the area of the plot. The complainant complained to the FTO. His plea was that the assessment of the value of the plot as per the DE's notified rates. The FTO has recommended that the value of the plot for wealth tax assessment year 2000-2001 shall be taken at Rs.200,000/-. The recommendation follows the observation that the Commissioner has passed a very strange order by directing the department to value the plot at Rs.200,000/- for 1999-2000 and then at D.C's [notified rates] for next year.

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

The FTO's recommendation cannot be sustained for two reasons. One, the matter raised in the complaint related to the assessment of wealth and the legal remedy of appeal was available the complainant against the Appeal Commissioner's decision and in such cases under section 9(2) of the Establishment of the Office of Federal Tax Ombudsman Ordinance 2000 there is clear bar to the FTO's jurisdiction. Two, it is fundamental rule of law of taxation that each year is an independent year. There is no finding that assessment of the value of the plot for 2000-2001 was not in accord with the relevant law.

Accordingly, the President has been pleased to set aside the FTO's recommendation dated 11.12.2007 in complaint No.1056/2007.


(Muhammad Aslam)
Deputy Assistant Solicitor.

Copy to: -

1. The Registrar, FTO, Islamabad.
2. President's Secretariat (Section Officer (Legal), Islamabad with reference to their No.66/FTO/2008, dated 19.6.2008.
3. Mr. Muhammad Safdar Bhatti, House No.88, Lane-7, Gulistan Colony, Rawalpindi.

(Muhammad Aslam)
Deputy Assistant Solicitor.