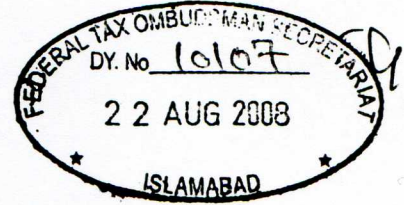


No.6/2008-Law(FTO)
Government of Pakistan
Law and Justice Division



Islamabad, the 28th July, 2008.

From: Mr. Muhammad Aslam,
Deputy Assistant Solicitor.

To :- The Secretary (TO-I)
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. 1009/2007 (F.B.R. VS MR. MUHAMMAD HAYAT KHAN SARDAR & CO.).

Handwritten notes: "22/8/08" and "Dir (GRM)" written in a cursive style.

I am directed to refer to your representation No.4(1009)TO-I/07, dated 07.01.2008, on the above subject and to say that the President has been pleased to pass the following orders: -

“The highways authority had employed the complainants. an AOP. of the name and style *Mis Sardar Khan and Co.*, Contractors Mianwali, for collection of toll tax. The authority had deducted advance tax from the payments made to the complainants and paid to the department. The amount of tax paid on the complainants' behalf was in excess of the amount which they were properly chargeable. On the basis of revised return of income for the tax year 2003, Rs.474,675/- were refundable to them. The complainants filed refund application on 19.10.2004. The taxation officer did not decide the application within 45 days as he was required to do under section 170(4) of the Income Tax Ordinance 2001. The taxation officer however vide his letter dated 22.7.2005 informed the complainants that refund cannot be made because their assessment has been framed as an association of persons whereas their status in the contracts was of an individual. The complainants filed appeal against the taxation officer's letter but it was rejected by the Commissioner. The complainants appealed the Commissioner's decision before the Appellate Tribunal, and the Tribunal vide its decision dated 23.5.2007 cancelled both the taxation officer's letter dated 22.7.2005 and Commissioner's decision. As the result of the Tribunal's decision the department issued refund voucher but according to the complainants it was defective and did not include compensation for delayed payment. After investigating the complaint the FTO has recommended that -

- i) Secretary, Revenue Division is to ensure that refund is actually paid to the taxpayer within 15 days of the receipt of these recommendations;
- (ii) Lawful amount of compensation u/s 171 of the Ordinance in light of discussion above be also paid within 15 days;
- (iii) Disciplinary proceedings be initiated against the concerned T.O. and Officer Superintendent or the person Incharge of issuing refunds and sending the refund vouchers (by whatever designation now called) and concluded within 45 days of the receipt of these recommendation:

