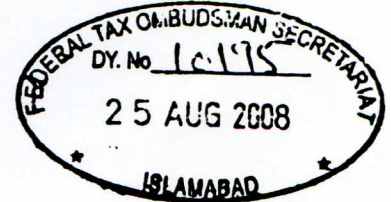


No.96/2007-Law(FTO)  
Government of Pakistan  
Law and Justice Division  
\*\*\*

Islamabad, the 28<sup>th</sup> July, 2008.

From: Mr. Muhammad Aslam,  
Deputy Assistant Solicitor.

To :- Dr. Muhammad Irshad,  
Secretary (TO)  
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. 827/2007 (F.B.R. VS M/S ROYAL EXPRESS (PVT). 827/2007**

I am directed to refer to F.B.R's representation No. 4(829)TO-I/07, dated 11.10.2007, above subject and to say that the President has been pleased to pass the following orders:

"The amount of tax paid on behalf of the complainants for the tax years 2003, 2004, 2005 and 2006 exceeded the amount with which they were properly chargeable under the Income Tax Ordinance 2001. The department refunded the excess amount for the years 2004 and 2006 on 18.8.2007. The matter regarding the assessment for the tax year 2005 is sub judice before the Income Tax Tribunal. The refund for 2003 is pending due to verification. The FTO has recommended that Secretary Revenue Division should ensure payment of refund of Rs.276,310 (or any other amount found due authentically) for the tax year 2003 and also compensation w/s 171 of the Ordinance for delayed payment for the tax year 2003 and 2004 for period after 90 days of the passing of amended assessment order (18.7.2006) till date of payment and for tax year 2006 for period after 135 days (45-90) of the filing of return and return application to the date of payment within 30 days of the receipt of these recommendations.

The department has made representation against the FTO's recommendation. The complainants have not availed the opportunity of furnishing written comments on the representation.

It appears that the complainants had not paid the tax by themselves but the persons who had deducted advance tax from the payments made to the complainants paid it on their behalf. The department's case is that they refunded the excess amount to the complainants as soon as the treasury verified that the persons who withheld tax from the payments made to the complainants had deposited the tax. It is presumed that the complainants furnished the persons' receipts to the department to show that the tax has been paid on their behalf. The persons who deducted tax from the payments made to the complainants were the agents of the department. The department has failed to explain why it could not get confirmation of the deposits from its agents within the prescribed time. The taxpayers' responsibility ended when they furnished receipts given to them by the withholding persons. The FTO's decision thus must be sustained.

Accordingly, the President has been pleased to reject the representation of the department."

(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.103/FTO/2008 dated 05.7.2008.
3. M/s Royal Express (Pvt), Limited C/O M/s Tahir and Company Corporate, Taxation and Management Consultant, Faisalabad.

(Muhammad Aslam)  
Deputy Assistant Solicitor