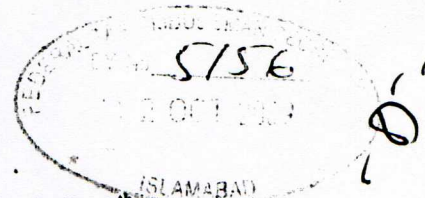


No.124/2008-Law(FTO)
Government of Pakistan
Law and Justice Division



Islamabad, the 7th October, 2009.

From: Azhar Amin Choudhary,
Section Officer.

To :- The Second Secretary (TO),
Federal Board of Revenue,
Islamabad.

Subject: REPRESENTATION UNDER SECTION 32 OF THE ESTABLISHMENT OF THE
OFFICE OF THE FEDERAL TAX OMBUDSMAN ORDINANCE (XXXV OF 2000) IN
COMPLAINT NO. 410-K/08 (FBR VS LONG LIFE BUILDERS)

I am directed to refer to your representation No. 4(410)T0-I/08-155450-R, dated 10.09.2008, on the above subject and to say that the President has been pleased to pass the following orders: -

2. The assessing officer assessed the complainants' taxable income at Rs.4,225,000, Rs.4,125,000, Rs.4,125,000, Rs.1,671,162 and Rs.4,492,500 for the assessment years 1988-89, 1989-90, 1990-91, 1991-92 and 1992-93 respectively. The complainants appealed the assessments before the Commissioner Appeals who confirmed the assessment for assessment year 1988-89, reduced net profit rate for the assessment years 1989-1990 and 1990-1991 and remanded the assessments for the assessment years 1991-1992 and 1992-1993 denovo proceedings. The complainants made application to the Income Tax Settlement Commission (the Commission) for the settlement of their cases under Chapter XIII A (sections 138A to 138K) of the Income Tax Ordinance 1979 (since repealed). After considering the matter the Commission by its order dated 01.10.2000 ordered that the net income of the complainants shall be worked out by applying net profit rate of 9% for the assessment years 1988-1989 to 1990-1991 and 10% for the assessment years 1991-1992 and 1992-1993. The complainants paid the tax as worked out by the Commission and on 10.05.2001 the Assistant Commissioner of Income Tax issued them no demand certificate. Later the department refused to accept the Commission's order for the reason that it was void as the complainants had obtained it by fraud or misrepresentation, in as much as that the complainants could apply to the Commission only if their cases were pending in appeal and not otherwise the complainants misrepresented to the Commission that their appeals against the decisions of the Commissioner's Appeals were pending before the Income Tax Appellate Tribunal whereas in fact no such appeals were pending. In 2001 the department wrote a letter to the Registrar High Court requesting for the attachment of complainants' property to enforce recovery of tax levied under the assessment orders. In 2008 the complainants made complaint to the Federal Tax Ombudsman (FTO). They contended that as the matter relating to their tax liability has been settled by the Commission's decision dated 01.10.2000 the department had no jurisdiction to raise the demand and their letter to the High Court is maladministration. In reply to the complaint the department contended that the complaint was time-barred and the settlement was void complainants obtained it by fraud/misrepresentation. After considering the matter the FTO recommended that:

- (i) Income Tax department to withdraw its letter No.DCIT/CIR/03/ZC/2001-2002/32 dated 05.10.2001 addressed to the Registrar, High Court, Karachi attaching the plot bearing No.C-1, Block 17, KDA Scheme No.36, Gulistan-e-Jauhar, Karachi.
- (ii) The Income Tax Department to write to the Cantonment Board restoring the NOC for construction which was cancelled earlier on their behest.

Contd.....P/2

*Pl. inform
all concerned
AB
13/10*

