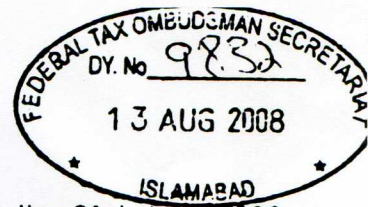


No.55/2007-Law(FTO)  
Government of Pakistan  
Law and Justice Division



Islamabad, the 31st July, 2008.

From: Mr. Muhammad Aslam,  
Deputy Assistant Solicitor.

To: The Secretary(TO),  
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. 350/2007.

I am directed to refer to your representation No. 4(350)TO-I/2007, dated 12.6.2007, on the above subject and to say that the President has been pleased to pass the following orders: -

"During the period relevant to the tax year 2006 the complainant had paid tax in excess of the amount which he was properly chargeable under the Income Tax Ordinance 2001. On 7.3.2007 the complainant complained to the FTO that the taxation officer was guilty of maladministration in not refunding the excess amount. He prayed that the department may be directed to refund the excess amount alongwith additional payment for delayed refund. On 31.3.2007 the department issued refund to the complainant. The complainant withdrew from the prosecution of the complaint so far as it related to non-issuance of refund but continued its prosecution for non-payment of additional payment. After investigating the complaint the FTO has recommended: "Secretary Revenue Division is to ensure that lawful amount of compensation i.e. Rs.478/- as claimed or Rs.407/- in case of receipt of return on 29.9.2007 as stated by the learned DR is paid to the complainant within 30 days of the receipt of these recommendations."

The Department have made representation against the FTO' s findings/recommendation. The complainant had furnished written comments on the representation.

The relevant law.

Sections 170 and 171 of the Income Tax Ordinance 2001 are the governing sections. They, so far as material, read as under:-

"170. Refunds.- (1) A taxpayer who has paid tax in excess of the amount which the taxpayer is properly chargeable under this Ordinance may apply to the Commissioner for a refund of the excess.

(1 A)

(2) An application for a refund under sub-section (1) shall be -

- (a) made in the prescribed form;
- (b) verified in the prescribed manner; and
- (c) made within two years of the later of -
  - (i) the date on which the Commissioner has issued the assessment order to the taxpayer for the tax year to which the refund application relates; or
  - (ii) the date on which the tax was paid.

