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No.78/2008-Law(FTO)
Government of Pakistan
Law and Justice Division

Islamabad, the 10th November, 2009.

From: Azhar Amin Choudhary,
Section Officer.

To :- Mr. Abdul Haq, Washer Man,
C/o Ch. Fayyaz Mahmood,
Advocate High Court, Street No. 4,
Block No. 3, Khanewal.

Subject: **REPRESENTATION UNDER SECTION 32 OF THE ESTABLISHMENT OF THE OFFICE OF THE FEDERAL TAX OMBUDSMAN ORDINANCE (XXXV OF 2000) IN COMPLAINT NO. L/1387/07 (MR. ABDUL HAO VS FBR)**

I am directed to refer to your representation Nil, dated 26.05.2008, on the above subject and to say that the President has been pleased to pass the following orders: -

2. Pakistan Army awarded contract to the complainants for providing services as barber, washer man and dry cleaner. While making payments to the complainants for the services they rendered the Army deducted certain amount from the payments as income tax. The complainants furnished returns of income regarding their receipts from the Army and claimed refund of excess tax. When the taxation officer did not make refund on the basis of the returns they made complaints to the Federal Tax Ombudsman (FTO). In the reply of the complaints the Revenue explained that the complainants' receipts were subject to presumptive tax regime and the tax deducted from their receipt was final discharge of their tax liability, therefore, nothing was refundable. After investigating the matter the FTO recommended: "That FBR to direct the concerned taxation officer to decide the refund applications of the complainants with reasons and convey the order passed to the complainants...."

3. The complainants have made representations against the FTO's recommendations. The Revenue has furnished written comments on the representations.

4. In its comments on the representations the Revenue has stated that complying with the FTO's recommendation the taxation officer has passed orders on the complainants' refund application on 21.04.2008, and legal remedy of appeal before the Commissioner is available to the complainant against the said orders. From the Revenue's reply of the complaints it is apparent that a substantial question of law regarding the taxability of the complainants' receipts was involved and such question was required to be decided by the taxation officer before he could make refund of excess tax. Since the taxation officer has passed orders on the complainants' refund applications and legal remedy of appeal is available to the complainants against the said order the FTO's decision must be upheld.

5. Accordingly, the President has been pleased to reject the representations of the complainants.

(Azhar Amin Choudhary)
Section Officer

Copy to: -

1. The Registrar, FTO, Islamabad.
2. Director (Legal), President Secretariat (Public), Islamabad with reference to their No.19/FTO/2009, dated 7-10-2009.
3. The Second Secretary (TO), Federal Board of Revenue, Islamabad.

(Azhar Amin Choudhary)
Section Officer

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