

No.149/2008-Law(FTO)
Government of Pakistan
Law and Justice Division

Islamabad, the 7th October, 2009.

From: Azhar Amin Choudhary,
Section Officer.

To :- Mirza Abdul Rehman,
Prop: Syntax Pharmaceutical,
C/o Tax Centre, Flat No. 3, 1st Floor,
(80-W) Malik Complex, Blue Area,
Islamabad.

Subject: REPRESENTATION UNDER SECTION 32 OF THE ESTABLISHMENT OF THE
OFFICE OF THE FEDERAL TAX OMBUDSMAN ORDINANCE (XXXV OF 2000) IN
COMPLAINT NO. 1334/08 (MIRZA ABDUL REHMAN VS CBR)

I am directed to refer to your representation No. Nil, dated 10.11.2008, on the above subject and to say that the President has been pleased to pass the following orders: -

2. The complainant claimed refund of excess tax amounting to Rs.940,300/- for the tax year 2007. The complainant complained to the Federal Tax Ombudsman (FTO) that the Commissioner has failed to pay the refund within the prescribed period of 45 days of the date when he made the application for refund. The Commissioner explained that the delay in the payment was due to the non-availability of verification of withholdings to the extent of Rs.398,780/- and determination of the nature of the complainant's receipts (business income or supplies). After considering the matter the FTO in his findings dated 28.10.2008 recommended that the Secretary, Revenue Division to instruct the concerned officer to decide whether the taxpayer was a manufacturer as claimed with capability to manufacture the goods shown to be supplied and is entitled to refund of any amount as claimed within 60 days.

3. The complainant has made representation against the FTO's recommendation.

4. He contends that the FTO was not justified to give 60 more days to the Commissioner for issuing refund because the statutory time limit of 45 days has already passed. If the Commissioner does not pay refund within 45 days of the refund application the taxpayer is entitled to compensation. The FTO did not say that the Commissioner shall not pay compensation if he has not paid the refund within 45 days. There was no occasion for the complainant to make representation against the FTO's recommendation. If the Commissioner would fail to pay compensation to the complainant for delayed payment he may seek remedy under the relevant law or the FTO Ordinance.

5. Accordingly, the President has been pleased to reject the representation of the complainant. Since [the Commissioner has not made representation against the FTO's recommendation] it is assumed that he would have paid the refund within 60 days of the FTO's recommendation. If the FTO's recommendation has not been complied with the Commissioner shall pay compensation for delayed payment to the complainant.

(Azhar Amin Choudhary)
Section Officer

Copy to: -

1. The Registrar, FTO, Islamabad.
2. Director (Legal), President Secretariat (Public), Islamabad with reference to their No.40/FTO/2009, dated 03-09-2009.
3. The Second Secretary (TO), Federal Board of Revenue, Islamabad.

(Azhar Amin Choudhary)
Section Officer