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**No.44/2009- Law-I (FTO)**  
**Government of Pakistan**  
**Ministry of Law, Justice and Parliamentary Affairs**  
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Islamabad, the 13<sup>th</sup> February, 2010

From :- Muhammad Hashim Abro,  
Section Officer.

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

Sub: REPRESENTATION UNDER SECTION 32 OF THE  
ESTABLISHMENT OF THE OFFICE OF THE FEDERAL TAX  
OMBUDSMAN ORDINANCE (XXXV OF 2000) IN COMPLAINT  
NO. 94-I/2009 (FBR VS MR. MUHAMMAD ARIF)

I am directed to refer to your representation No.DG/RTO/J-85/FTO/SO-1/579, dated 5.08.2009 on the subject noted above and to say that the President has been pleased to pass the following orders:-

2. The grievance of the complainant was against delay in refund pertaining to Income tax returns for the year 2005 to 2008. The refund application was filed on 22.11.2008. The complainant observing delay made a representation to the Director General RTO and obtained orders on 22.01.2009 for the disposal of the refund claim. However, the concerned taxation officer asked for certain documents which were already provided. The complainant again provided the same on 29.01.2009. His grievance was that that the taxation officer dealing with the matter was illy-dallying and procrastinating the matter. His case was that the delay in disposing of his claims did constitute maladministration and he was also entitled to further compensation.

3. The complaint was accepted by the FTO. This representation has been filed by the Agency (FBR) against the findings of the FTO.

4. Before the FTO the main objection of the Agency was with respect to the maintainability of the complaint. It was, however, contended before the FTO that:

“...act of withholding tax u/s 151 of the Income Tax Ordinance, 2001 by the financial institution is indicative of the fact that the amount was chargeable to the tax. The onus of proving that the amount is exempt from tax now lies upon the complainant. The taxation officer is already facilitating him in respect of his refund matter. However, if assistance from complainant is not made in this regard the case may be forwarded for audit u/s 177 of the

