

No.34/2010-Law (FTO)
Government of Pakistan
Ministry of Law and Justice.

Islamabad, the 16th July, 2012

From :- Arshad Ali Siddiqui,
Section Officer (Law-I),

To:- Justice (R) Muhammad Naseem Chaudhry,
R/o 130-B, Judicial Colony, Lalazar, Raiwind Road,
LAHORE.

Sub: REPRESENTATION UNDER SECTION 32 OF THE ESTABLISHMENT OF THE OFFICE OF THE FEDERAL TAX OMBUDSMAN ORDINANCE (XXXV OF 2000) IN COMPLAINT NO. 668-L/07 (MR. JUSTICE © MUHAMMAD NASIM CHAUDHRY VS FBR)

I am directed to refer to your representation No. Nill, dated 3rd February, 2010 on the subject noted above and to say that the President has been pleased to pass the following orders.

2. The applicant approached the FTO with the grievance that whereas in view of the nature of services rendered by him under an agreement with the Programme Director, Access to Justice Programme, Ministry of Law, Justice and Parliamentary Affairs, he is liable to and had been paying tax @ 6% on his gross income. He has been directed to pay income tax treating the said income as salary. The complaint was opposed by the Agency (Revenue Division). The FTO relying on his earlier findings in complaints No.494 & 495/2007 made the following recommendations:

"Secretary. Revenue Division should within 30 days of the receipts of these findings and in suppression of earlier instructions/clarifications etc ensure issuance of a clarification to Project Director Access to Justice Program that tax be withheld in complainant's case @ 6% of the gross receipts."

3. The findings in the said precedent cases were set aside by the President [No.05/FTO/2008 and 06/FTO/2008 corresponding Law Division's Summary No.71/2007-Law(FTO) and No.72/2007-Law(FTO) respectively] upon representation by the Agency who than approached the FTO with a Review Application which has been allowed by the FTO.

4. The representation has been filed by the complainant.

5. There is no denial of the fact that the precedent findings relied upon by the FTO in the original findings in present case had been set aside. The main stress of the complainant was that the review application was barred by time. He has, however, given no explanation as to how the review application was barred by time.

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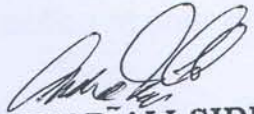
The power of review has been vested in the FTO under section 14(8) of the FTO Ordinance, 2000. No period of limitation has been provided therein. Under Article 181 of the First Schedule of the Limitation Act 1908 the limitation in an application, in which no period is provided, is three years and point of commencement is the date when right to apply accrues. The original order was passed by the FTO on 20.8.2007 while the review application was received in the office of FTO on 10.11.2007. The review application by all means was within time.

7. Accordingly, the President has been pleased to reject the representation of the complainant.

(ARSHAD ALI SIDDIQUI)
Section Officer (Law-I),

Copy to:-

1. The Registrar, Federal Tax Ombudsman Secretariat, Islamabad.
2. Director (Legal), President's Secretariat (Public), Islamabad with reference to their No.11/FTO/2012, dated 22nd May, 2012.
3. Mr. Muhammad Ashfaq Second Secretary (TO-I), Revenue Division, Islamabad.


(ARSHAD ALI SIDDIQUI)
Section Officer (Law-I),