

No.92/2010-Law (FTO)
Government of Pakistan
Ministry of Law and Justice

Islamabad, the //~~11~~ July, 2012

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

To:- Mr. Muhammad Ashfaque,
Second Secretary (To-I),
Federal Board of Revenue,
ISLAMABAD.

**Sub: REPRESENTATION UNDER SECTION 32 OF THE ESTABLISHMENT OF
THE OFFICE OF THE FEDERAL TAX OMBUDSMAN ORDINANCE (XXXV
OF 2000) IN COMPLAINT NO.36/LHR/I.TAX(36)/109/10 (M/S
CRESCENT SYNDICATE SAHIWAL VS FBR)**

I am directed to refer to your representation No. 4(109)To-I/2010 dated 12th July, 2010 on the subject noted above and to say that the President has been pleased to pass the following orders.

2. The complainant, a carriage contractor, feeling aggrieved of inaction on the part of the Agency (Revenue Division) in the matter of deciding his refund claim for deduction made under Section 235 and 236 of the Income Tax Ordinance 2001 for the tax year 2004 and 2005 approached the FTO. The complainant relied upon a judgment of the Lahore High Court reported as (2008) 98 TAX 114 (H.C. Lah). The Agency responded that leave to appeal stand granted against the said judgment. It was however, stated that the refund matter would be taken up on receipt of the final order of the Supreme Court. The FTO recorded the following findings:

"The Department did not discharge its legal obligation u/s 170(4) of Income Tax Ordinance 2001, to serve on the Complainant an order in writing after the receipt of refund application. The delay in discharge of statutory duties tantamounts to maladministration in terms of provisions of Section 2(3)(ii) of the FTO Ordinance 2000. Moreover, in the absence of any limitation or final order to the contrary from the Supreme Court, the Department is legally bound to implement the decision of the Lahore High Court."

Following recommendations were made by the FTO:

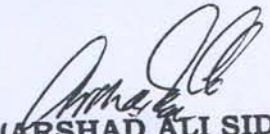
FBR to-

(i) ensure that the refund and compensation due as per law is issued within 21 days of the receipt of these recommendations".

3 Present representation has been filed by the Agency.

The complainant has filed a copy of the judgment dated 22.2.2011 of the Supreme Court of Pakistan whereby Civil Appeals Nos. 1045 to 1052 of 2008 and 1183 to 1206 of 2010 as filed by the Agency against the said judgment of the Lahore High Court have been dismissed. This being so no grounds stand made out for interference with the findings and recommendations of the FTO.

5 Accordingly, the President has been pleased to dismiss the representation of the Agency.


(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.46/FTO/2012, dated 9th July, 2012.
3. Mr. Muhammad Irfan Awan, Advocate High Court, 171/B-I, Muslimabad, Tehsil Chowk Sahiwal.

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