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No. 104/2011-Law (FTO)
Government of Pakistan
Ministry of Law and Justice

Islamabad, the 25th July, 2012

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

✓ To:- Mr. Maqbool Elahi, 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.38/ISD/IT(14)/490/2011 (MR. AZIM KHAN MARWAT VS FBR)

I am directed to refer to your representation No. 4 (490) TO-I/2011 dated 18.8.2011 on the subject noted above and to say that the President has been pleased to pass the following orders.

2. The complainant (stated to be the Secretary General of the Pakistan Library Association Federal Branch, a registered society) filed a complaint before the FTO stating that the Librarians have been declared as Library Teachers / Lecturers in the National Education Policy, 2009 and that they are getting teaching allowance. Reference was also made to the CIR Appeals-III Lahore order No.3 to 14 dated 16.8.2010 allowing tax rebate. It was further, stated that the Government of Sindh has issued an order to the Accountant General Sindh stating that the Librarians falls in the category of teaching staff and are entitled to relief under the ITO 2001. The Agency (Revenue Division) took the plea that as per clarification issued by the FBR on 15.4.2011 Librarians are not entitled to the said rebate which is available only to full time teachers.

3. The FTO taking note of the said facts as also decision of the ITAT dated 12.12.2009 recorded the following findings:

“The FBR’s letter C.No.4(32)ITP/2001 dated 15-04-2011 declining the request of the Complainant for allowing 75% rebate in income tax liability is, prima facie, discriminatory in view of the fact that orders passed by Commissioner (Appeals) and ITAT still hold the field and the librarians in Punjab and Sind are availing the benefit of 75% rebate in their income tax liability. This is tantamount to maladministration u/s 2(3)(b) of FTO Ordinance, 2000.”

Following recommendations were made by the FTO:

“FBR to-

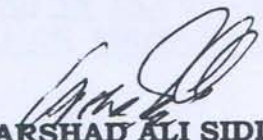
i. address the issue of evident discrimination in allowing 75% rebate to librarians all over Pakistan within 21 days.”

4. Present representation has been filed by the Agency.

5. The jurisdiction of the FTO has been questioned. The plea taken before the FTO has been reiterated i.e. rebate is available only to full time teachers and not to Librarians.

6. The FTO has examined the matter in the light of admitted facts that the relief has been made available to the Librarian in the province of Sindh as also Punjab. He has also found the complainant Librarians to be entitled to the benefit of the order passed by the Appellate authorities including ITAT under the ITO 2001 holding that the relief of 75% rebate is available to Librarians as well. There being no explanation as to why the complainant Librarians are being discriminated against in the matter of application of the said law nothing wrong is to be found with the findings and recommendations of the FTO. Needless to state that FTO has not decided any matter covered by Section 9(2)(b) of the FTO Ordinance 2000.

7. 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.54/FTO/2012, dated 19th July, 2012.
3. Mr. Azim Khan Marwat, Secretary General, Pakistan Library Association, Islamabad C/o IMCB F-8/4, Islamabad.

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