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No. 08/2012 -Law (FTO)
Government of Pakistan
Ministry of Law and Justice

Islamabad, the 31st July, 2012

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

✓ To:- Second Secretary (To-I),
Revenue Division (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.381/LHR/IT (310)/737/2011(MR. ASIF IQBAL, M/S ASIF PAPER TUBE VS FBR)

I am directed to refer to your representation No. 4 (737) TO-I/2011 dated 19.1.2012 on the subject noted above and to say that the President has been pleased to pass the following orders.

2. This order will dispose off two representations – one by tax employee and the other by the Agency (Revenue Division) against findings of the FTO complaint No.381/LHR/IT(310)/737/11.
3. In the first instance the complainant approached the FTO with the grievance that his refund claim is not being paid by the Agency (Revenue Division). After hearing the parties the FTO allowed the complaint on 2.7.2010 directing the Agency to issued the refund to the complainant within 15 days. No representation or review was filed against this order. It was however, not complied with and instead an order was passed on 30.8.2010 under Section 170(4) of the Income Tax Ordinance 2001 rejecting the claim. This order was set aside by the Commissioner Appeals on 10.1.2011. Yet another order was passed on 30.12.2010 by the ACIR (Audit) in terms of Section 122(5A) of the said Ordinance holding the complainant not to be a manufacturer or a supplier and as such not qualified for adjustment of tax deducted at source. This order was also set aside by the Commissioner (Inland Revenue) on 6.4.2011. Notwithstanding the said appellate order the ACIR proceeded to pass an order under Section 122(1) of the said Ordinance on 29.6.2011 holding that the complainant was not a manufacturer and that he was not in occupation of the premises as per stated address. On 30.6.2011 the ACIR proceeded to lodge a complaint before a Judicial Magistrate Civil Lines Faisalabad alleging that the complainant has tried to defraud the department by allowing his employee Muhammad Shoukat Ali to claim tax adjustment for the tax year 2008. This was done notwithstanding the fact that the said Shoukat Ali had already surrendered the claim for tax adjustment by revising his return.

4. The FTO recorded the following findings:

“The sequence of events detailed above indicates a pattern or behaviour on the part of Muhammad Saleem, ACIR (Audit), RTO, Faisalabad. Over the past ten years that the Office of Federal Tax Ombudsman has existed, he has come to adverse notice several times. It appears as if he is programmed to harass and intimidate the taxpayers, and deny them their rights. He cannot be allowed to make a mockery of the system. Deliberate attempt on his part to imperil and

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obstruct the process of the Federal Tax Ombudsman on a number of occasions in the past, including how he has behaved in frustrating the prompt implementation of Recommendations is tantamount to gross maladministration under Section 2(3) of the FTO Ordinance.

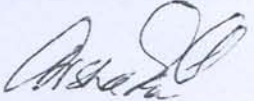
Following recommendations were made by the FTO:

“FBR to direct Mr. Muhammad Saleem, ACIR (Audit) RTO, Faisalabad, to explain within ten days why proceedings u/s 16 of the FTO Ordinance for obstructing the process of Federal Tax Ombudsman may not be initiated against him. He may also state whether he wants to be heard in persons.”

5. Present representations have been filed by the said officer and the Agency (Revenue Division).

6. There is no dispute that the recommendations made by the FTO on 2.7.2010 have not been complied with. Vide the impugned findings and recommendations only a show cause notice has been issued to the concerned officer and the FTO has yet to decide as to whether the said officer is to be proceeded against for contempt. Besides, any sentence which may be passed is subject to an appeal before the Supreme Court. The present representations therefore are not maintainable. Any other comments given at this stage may prejudice any of the parties before the FTO.

7. Accordingly, the President has been pleased to dismiss the representations of the tax employee and 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.30/FTO/2012, dated 9th July, 2012.
3. Asif Iqbal Paper Tube Street No. 2, New Green Town, Chaw No.122/ JB- Millat Road, Faisalabad.

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