

No.128/2011-Law (FTO)
Government of Pakistan
Ministry of Law and Justice

Islamabad, the ~~6th~~ July, 2012

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

To:- Mr. Kaleem Arshad,
Second Secretary (To-II),
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.282/LHR/ST (35)572/2011 (SH. IFTIKHAR
AHMAD VS FBR)**

I am directed to refer to your representation No. 1(572)S(To-II)/2011 dated 19th September, 2011 on the subject noted above and to say that the President has been pleased to pass the following orders.

2. Feeling aggrieved of refusal by Agency (FBR/Revenue Division) conveyed vide letter No.1(8)STT/2002 dated 14.04.2011 to grant exemption to complainant, a charitable hospital, in the matter of sales tax on supply of electricity present complaint was filed before FTO. In its report Agency took stance that electricity cannot be considered as goods for the purpose of exemption. Hearing was conducted by FTO. Relying on the definition of goods in Section 2(12) of Sales Tax Act 1990 FTO recorded following findings:

"In view of above stated position, the rejection of the Complainant's application for grant of exemption of Sales Tax on supply of goods, including electricity, being based on unreasonable grounds is tantamount to maladministration in terms of Section 2(3) of the FTO Ordinance, 2000."

Following recommendations were made:

"FBR to allow exemption OF Sales Tax on supply of goods, including electricity, to charitable hospitals of 50 beds or more, as provided in entry at Sr. No.52-A of the Sixth Schedule to the Sales Tax Act, 1990"

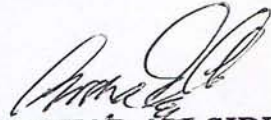
3. This representation has been filed by Agency contending that Sr.No.52-A of Table-1 of Sixth Schedule to Sales Tax Act 1990 allows exemption of sales tax on the goods supplied to charitable hospitals of 50 beds or more. However, it has been contended that exemption is only for specific supplies of hospitals. Complainant in his comments has supported findings of FTO.

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4. The said contention of Agency is not tenable at all. The term "goods" stands duly defined in the Sales Tax Act 1990 of which the Sixth Schedule and its relevant Table is a part. The said term has to be read as defined in the said Act wherever it occurs unless a different intention appears elsewhere; such is not the case. No grounds stand made out for interference with findings and recommendations of FTO.

5. Accordingly, the President has been pleased to dismiss representation of 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.64/FTO/2012, dated 9th July, 2012.
3. M/s Al-Shaikh Jinnah Memorial Welfare Hospital, Near Fort Urdu Bazar Sialkot.

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