

PRESIDENT'S SECRETARIAT (PUBLIC)
AIWAN-E-SADR, ISLAMABAD

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M/S Meazan Industries (Pvt) Ltd, Karachi
Versus
Federal Board of Revenue

REPRESENTATION PREFERRED BY M/S MEAZAN INDUSTRIES (PVT) LTD, KARACHI,
AGAINST FINDINGS / RECOMMENDATIONS DATED 29.06.2015 PASSED BY THE FTO
REVIEW APPLICATION NO. 18/2013 IN COMPLAINT NO. 321/KHI/ST(139)/924/2012

I am directed to refer to your representation 04.08. 2015 on the above subject and to say that the President has been pleased to pass the following orders:

2. This representation dated 10.08.2015 has been filed by M/s Mezan Industries (PVT) Ltd against the findings of FTO dated 12.09.2012 regarding Review order dated 09.05.2013 and order-in-Remand dated 29.06.2015, whereby Review Application filed by the Agency/FBR is accepted and earlier recommendation whereby Agency/FBR was directed to condone the delay of the Complainant in filing of refund claims and to decide the pending refund claims were recalled by rejecting the Complainant's view point.

3. Brief facts of the case are that Complainant approached CIR, Karachi vide letter 06.10.2010 with the request to condone delay for refund claims of tax periods June, 2005 to December 2007. Subsequently Complainant approached FBR for condonation of delay, where his request was regretted on the basis of lacking of plausible justification. FTO recommended for condonation of delay. A review was filed by the Agency on the grounds that Complainant has failed to give sufficient justification for the delay of 5 to 6 years and request was rightly rejected by the Department. The review application was rejected by the FTO. Consequently Agency/FBR preferred representation before the President. The Hon'ble President remanded the case back to FTO for re-hearing vide order dated 15.12.2014.

4. FTO after hearing both the parties contended that case laws relied upon by the Complainant were distinct from the case of the Complainant. It is pertinent to be mentioned that CIR was authorized to condone delays upto one year through SRO,-394(1)/2009 dated 21.05.2009. After issue of the SRO, tax payers approaching CIR for condonation of delay within one year get right of appeal before ATIR u/s 469 sales Tax Act, 1990. They also get rights of further appeals before High Court as well as the Supreme Court. FTO accepted the Review and rejected earlier recommendations for condonation of delay vide order in remand dated 29.6.2015 in review application dated 8.1.2013 and accepted Agency's request by placing reliance on Supreme Court judgment cited as 2009 PTD 1544[Shahtaj Sugar Mills Ltd Vs. GoP] and finally recalled earlier orders and dismissed the original complaint.

5. The complainant has impugned the aforementioned recommendations of the FTO through instant representation mainly reiterating its stance pleaded earlier. Nothing turns on the same. Thus the impugned order of FTO holds its ground.

6. There is no question on the facts that the jurisdiction of the FTO is barred u/s 9(2)(b) to investigate or inquire into the matter which relate to assessment of income or wealth, determination of liability of tax, interpretation of law, rules and regulations relating to such assessment / determination in respect of which legal remedy of appeal or review or revision is available under the relevant legislation. In case the complainant was aggrieved of any not allowing condonation of delay on the basis that plausible justifications were not made, the complainant has the remedy to file an appeal to the Commissioner Appeals, Income Tax Tribunal, the High Court and the Supreme Court of Pakistan. Hence the matter was not within the jurisdiction of FTO, which is not an appellate forum.

P.T.O.

Condonation of delay of filing is refused

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7. The perusal of impugned order reveals that FTO has rightly accepted the review application of the Agency-FBR. The complainant had no case owing to bar contained u/s 9(2)(b) of FTO Ordinance 2000. Thus representation is liable to be dismissed. The impugned findings of the learned FTO are just sustainable and unexceptional. Hence complainant failed to make out a good case for interference. Thus representation is liable to be rejected.

8. Accordingly, the President has been pleased to reject the representation of the Complainant and recommendations of learned FTO dated 29.6.2015 should sustain.

M/S Meazan Industries (Pvt) Ltd,
Plot No.133, Block-B,
Near Malir Industrial Area, Malir,
Karachi.

Zulfiqar Hussain Awan
Director (Legal-II)

No.56/FTO/2015 dated 02.06.2016

Copy for information to:

1. The Registrar, Federal Tax Ombudsman, Secretariat, Islamabad.
2. Mr. Arshad Shahzad , Advocate, M/s Taxperts, Suit No.510, 5th floor, Anum Estate, Shahr-e-Faisal, Karachi
3. The Chairman, Federal Board of Revenue, Islamabad
4. Director to Secretary to the President.
5. Master file

Zulfiqar Hussain Awan
Director (Legal-II)