

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

Federal Board of Revenue
Versus
M/s Zeyneb Textile Mills (Pvt) Ltd, Multan

SUB: **REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS / RECOMMENDATIONS DATED 23.12.2016 PASSED BY THE FTO IN COMPLAINT NO. FTO-MLN/0000775/2016**

I am directed to refer to your representation No.1 (775)S(TO-II)/2016 dated 23.01.2017 on the above subject and to say that the President has been pleased to pass the following orders:

2. This Representation dated 23.01.2017 has been filed by the Agency/FBR against the revised findings of the FTO dated 23.12.2016, whereby it has been held that:

“The FBR:-

- i. To direct the Chief CSTRO to issue cheque and ensure its delivery to the Complainant within 21 days; and
- ii. Report compliance within 07 days thereafter.”

3. The brief facts of the case are that this complaint has been filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against delay in issuance cheque against Refund Payment Order (RPO) No. 18185/2015 dated 30.08.2015 amounting to Rs. 0.678 million.

4. According to the Complainant, the DCIR, Refund Division, RTO, Multan processed the claim and after due verification sanctioned refund amounting to Rs. 0.678 million vide RPO dated 30.08.2015 and sent the same to the Chief CSTRO for issuance of cheque. Despite visits of the office time and again, cheque has not been received by the Complainant so far. Whereas, as per provisions of Section 66 of the Sales Tax Act, 1999 (the Act), the Deptt had to dispose of refund claim within the period not exceeding ninety days from the date of filing of application.

5. The complaint was sent for comments to Secretary Revenue Division, in terms of Section 10(4) of the FTO Ordinance. In response, CCIR, RTO, Multan vide letter No. CCIR/SO-FTO-0000775/F-75 dated 19.10.2016 forwarded comments of the Commissioner IR, Multan Zone bearing No. 1380 dated 14.10.2016. The Deptt contended that matter of issuance of cheque was pending with the Chief CSTRO who had been requested to process the cheque on priority basis. When confronted, the Chief CSTRO vide letter dated 14.12.2016 stated that cheque was issued against the RPO and dispatched through Leopards Courier Service as detailed below:

| S.No. | RPO No. | RPO Date | Cheque No. | Cheque Date | Amount (Rs.) |
|-------|---------|------------|------------|-------------|---------------|
| 1 | 18185 | 30.08.2015 | A270729 | 09.09.2015 | 0.678 million |

However, the cheque was returned undelivered due to incomplete address of the Complainant. The process of reissuing the returned cheque has been initiated and is likely to be issued shortly. The Complainant was, however, not entitled to compensation under Section 67 as the claim was made under Section 66 and not under Section 10 of the Act.

6. Both sides heard and available record perused by FTO. Thus FTO has issued aforementioned findings.

7. The instant representation has been filed by FBR. The Agency has stated that this representation before the Hon'ble President of Islamic Republic of Pakistan is being filed on the grounds that the complainant changed the address and failed to submit STR-1 to the computerized system within 15 days of such change as required under rule 7(1) of the Sales Tax Rules, 2006.

8. The Agency has pleaded that the complainant applied online on 28.07.2016 for changed address i.e. Plot No. 3-B/1, Industrial Estate, Multan which was accordingly approved and updated on the system.

9. The Agency has pointed out that the Chief CSTRO rightly dispatched the Cheque No. A270729 dated 09.09.2015 on the declared address available on the system at that time.

10. The Agency has emphasize that finding of the FTO on the strength of Section 2(3)(ii) of the FTO Ordinance, 2000, are not in harmony with facts of the case. No mal-administration proved from the facts of the case. Complainant violated the Rule 7(1) of the Sales Tax Rules, 2006 and the complainant is responsible for delayed refund.

11. The Agency has prayed that the finding of Federal Tax Ombudsman in Complaint No. MLN/0000775/may be set-aside being devoid of merit.

12. On the other hand, the Complainant has filed comments against the instant representation of Agency on 27.02.2017 through Imran Jamil & Company and supported the impugned recommendations/findings of learned FTO with request that the representation of Agency may be rejected.

13. After perusal of record and examination of all documents, it has been observed that it is as clear as the crystal that FTO has made recommendations which are only to the extent to direct Chief CSTRO to issue cheque and ensure its delivery to the complainant within 21 days. It is pointed out that the Agency has confirmed that the cheque was sent to the complainant through Courier service on the available registered address of the complainant, which could not be delivered to him owing to essential change of postal/office address. It is just a harmless order and only the Agency has to decide the issue as per law which was never denied in its written reply even by the Agency. The Agency has full powers to decide the issue on merits and in accordance with the provisions of law. Thus the findings of the learned FTO are quite sustainable and the Agency has unnecessarily filed this representation. In such circumstances, this representation is liable to be rejected having no merits and the recommendations /findings of learned FTO are sustainable/maintainable being unexceptional in nature.

14. Accordingly, the President has been pleased to reject the instant representation of FBR and findings/recommendations of learned FTO are upheld.

(Zulfiqar Hussain Awan)
Director General (Legal)

The Chairman,
Federal Board of Revenue,
Islamabad.

No.46/FTO/2017 dated 02.05.2017

Copy for information to:

1. Mr. Abdul Sami Bilal, M/s Zeyneb Textile Mills (Pvt) Ltd, Plot No. 3-B/1, Industrial Estate, Multan.
- ✓ 2. Mr. Muhammad Jamil, Advocate, Imran Jamil & Company, Public Accountants, Feista Garden Nawam Shajer, Multan.
3. The Registrar, Federal Tax Ombudsman Secretariat, Islamabad,
4. The Chief (Legal-1), Federal Board of Revenue, Islamabad.
5. Director to Secretary to the President.
6. Master file.

(Zulfiqar Hussain Awan)
Director General (Legal)

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