

No.37/2012-Law (FTO)
Government of Pakistan
Ministry of Law ,Justice and Human Rights

Islamabad, the 17th September, 2013

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

To:- The 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. 08/LHR/ST(02)/26/2012 (MR. MUNIR AHMED M/S SAREENA INDUSTRIES AND EMBROIDERY MILLS PVT LTD LAHORE VS FBR)**

I am directed to refer to your representation No. 1(26)TO-II/2012 dated 18.5.2012 on the subject noted above and to say that the President has been pleased to pass the following orders.

2. Feeling aggrieved of an Order dated 21.12.2011 passed in appeal filed against O-in-O No.04/2011 dated 13.06.2011, complainant approached FTO stating that appeal had not been decided within the time prescribed by law. Some judgments were relied upon. Agency (Revenue Division) resisted the complaint. FTO conducted hearing. He found that the judgments cited were not relevant. However, found the delay in disposing of the appeal in time and failure to look into all pertinent aspects of case tantamount to maladministration. Following recommendations were made:

FBR to-

(i) invoke jurisdiction under Section 45A(1) of Sales Tax Act 1990, and recall order passed by the Commissioner (Appeals), as per law."

3. This representation has been filed by Agency questioning jurisdiction of FTO. Complainant in its comments has supported findings and recommendations of FTO. There is no manner of doubt that the matter pertained to determination of liability of tax against which legal remedies of appeal are available under the said Act 1990. Bar spelled out in Section 9(2)(b) of FTO Ordinance 2000 is squarely applicable. Findings and recommendations of FTO are not sustainable.

4. Accordingly, the President has been pleased to accept representation of Agency and to set aside findings and recommendations of FTO.


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

Copy to:-

- 1 The Registrar, Federal Tax Ombudsman, Secretariat, Islamabad,
- 2 Director (Legal Affairs-II), President's Secretariat (Public), Islamabad with reference to their No.358/FTO/2013,dated 5th September, 2013.
3. Sarena Industries & Embroidery Mills Pvt. Ltc through Mehmood Arif, Advocate High Court 808-Eden Heights 6-Main Gulberg, Lahore.

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

POF
WJ
17/9/13

109