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

Federal Board of Revenue
Versus
M/s Azgard Nine Limited, Lahore

REPRESENTATION PREFERRED BY FBR AGAINST FINDINGS / RECOMMENDATIONS
DATED 28.8.2014 PASSED BY THE FTO REV. PETITION NO. 50/2014 IN COMPLAINT NO.
1007/LHR/ST(341)1872/2013

I am directed to refer to your representation No.1(1872)S(TO-II)/2013 dated 26th March, 2015 on the above subject and to say that the President has been pleased to pass the following orders:

2. The representation dated 26.3.2015 has been filed by the Agency/FBR against the FTO's findings in review dated 24.2.2015, whereby the review petition against original findings dated 28.8.2014, was rejected. The following recommendations have been made in original findings:

"FBR to:

- (i) *direct the Chief Commissioner, LTU, Lahore, to decide the pending refunds before 30.9.2014, as per law;*
- (ii) *pay compensation to the complainants as envisaged by the law in the case of refund claims found correct and sanctioned; and*
- (iii) *report compliance by 5.10.2014."*

3. Brief facts of the case are that the complainant - M/s Azgard Nine Limited, Lahore, being aggrieved by inordinate delay in deciding Sales Tax refund claimed amounting to Rs.224 million pertaining to tax Years Jan, 2003 to Sept, 2013, approached the FTO on 24.12.2013 with the request that Agency may be directed to issue refund along with compensation.

4. The Agency replied that it has processed the fresh refund claims and has issued payment orders, whereas only those cases are pending which involved certain discrepancies like CREST query, amnesty and pending show cause notices owing to lack of documentary evidences. Moreover, refund has to be processed through Sales Tax Automatic Refund Repository (STARR) so manual handling remained a serious problem as well.

5. The FTO after hearing the parties concluded that delay in the conclusion of the process for refund is maladministration and made the above recommendations. The Agency filed a review petition which was dismissed.

6. The Agency in its representation has taken the stance that claim of the complainant was for a long period and department could not settle the claim for such a long period within 45 days. Moreover, the department has already processed 82.7% of the claim as refund issued and nearly only 18% of the claims are pending. In the instant case, out of claim of refund of Rs.1240 million an amount of Rs.1016 million is processed. The allegation of delay on the part of the Agency is due to certain objections raised by STARR and the complainant has been issued repeated notices to produce the record. Delay is due to non-cooperation by the complainant. On the other hand, complainant had to pay an amount of Rs.520 million as income tax demand and he is not paying the said amount, rather pressing hard to issue refund.

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7. The perusal of case record indicates that the claim of the complainant was from January, 2003 to August/Sept 2013 for which the process was initiated. As per claim of the Agency about 82% of the refund claim has already been paid and only 18% of refund claim is pending that too due to objection raised by STARR system, for which notices have already been issued to complainant to provide record and even otherwise department has already raised claim for Rs.520 million to the complainant as income tax. The complainant is not producing record and also not making due payment of income tax. There appears no maladministration on the part of Agency as around 80% claim has already settled and delay in processing of rest of the claim is attributed to complainant's failure to submit record inspite of notices. Hence findings of the FTO is not sustainable being not taking into consideration grounds taken by the Agency. Thus, the representation is liable to be accepted and impugned findings to be set-a-side being unnecessary and unjustified.

8. Accordingly, the President has been pleased to accept the representation of the Agency/FBR and set aside the impugned findings of the FTO.



Zulfiqar Hussain Awan
Director (Legal-II)

 The Chief (Legal),
Federal Board of Revenue,
Islamabad

No.25/FTO/2015 dated 30.5.2016

Copy for information to:

1. The Registrar, Federal Tax Ombudsman, Secretariat, Islamabad.
2. Mr. Murtaza Hassan, Manager Taxation, M/s Azgard Nine Ltd, Ismail Aiwan-e-Science, Shakra-e-Jalal-ud-Din Roomi, Near Qaddafi Stadium, Lahore
3. Malik Ahsan Mehmood, Advocate, 33-C, Main Gulberg, Lahore.
4. Director to Secretary to the President.
5. Master file.


Zulfiqar Hussain Awan
Director (Legal-II)