

Federal Board of Revenue
Versus
M/s SIGMA Refrigeration Limited, Karachi

REPRESENTATION PREFERRED BY FBR AGAINST FINDINGS / RECOMMENDATIONS
DATED 11.9.2014 PASSED BY THE FTO IN COMPLAINT NO. 254/KHI/ST(142)/918/2014 [M/S
SIGMA REFRIGERATION LIMITED, KARACHI VS FBR]

I am directed to refer to your representation No. 1(918)S(TO-II)/2014 dated 15th Oct, 2014 on the above subject and to say that the President has been pleased to pass the following orders:

2. The Agency has filed instant Representation against the FTO's order dated 11.9.2014 whereby following directions had been passed:

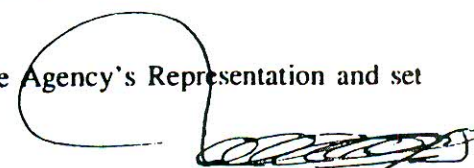
- i. *Transfer jurisdiction of the complainant from RTO-II Lahore to RTO Karachi;*
- ii. *Direct the concerned Commissioner IR to invoke revisionary jurisdiction w/s 45(A) of the Act to revisit the impugned Order dated 13.6.2014 as per law;*
- iii. *report compliance within 30 days.*

11

3. Brief facts of the case are that M/s Sigma Refrigeration Limited, Karachi, the complainant, approached the FTO against the Department's failure to transfer jurisdiction of the case and passing arbitrary and out of jurisdiction Order dated 13.6.2014 raising sales tax demand of Rs.107,109,222/- by the Deputy Commissioner Inland Revenue (DCIR), Audit Unit-03, Zone-VIII, RTO, Lahore, w/s 11(2) of the Sales Tax Act, 1990. It was the complainant's case that having been converted to an unlisted public limited company w.e.f. 28.5.2014, the jurisdiction of its case vested with RTO, Karachi. The Agency controverted the assertion of the complainant on the ground that the complainant was registered as manufacturer of electrical equipments on 23.6.2012. Investigation regarding tax liability of the complainant was initiated by the department on 11.2.2014 prior to conversion of its status to a public limited company and the impugned assessment order was finally passed on 13.6.2014 under lawful authority. The FTO vide order dated 11.9.2014 accepted the complaint with the direction as reproduced in para 5 above.

4. The Agency has filed instant Representation reiterating its stance pleaded earlier. Admittedly an assessment order dated 13.6.2014 has been passed by the concerned revenue authority which entailed remedy of appeal under section 45B of Sales Tax Act, 1990. By the same token, the complaint filed by the complainant against impugned assessment order attracted the bar of jurisdiction under section 9(2)(b) of FTO Ordinance, 2000. Therefore, the order passed by the learned FTO was without authority and as such is liable to set aside for want of jurisdiction.

5. Accordingly, the President has been pleased to accept the Agency's Representation and set aside learned FTO's impugned order dated 11.9.2014.



Zulfiqar Hussain Awan
Director (Legal-II)

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

No.160/FTO/2014 dated 30.05.2016


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Copy for information to:

1. The Registrar, Federal Tax Ombudsman, Secretariat, Islamabad.
2. Mr. Riaz Ahmed Khan, Director, M/s Sigma Refrigeration Ltd, 902, Q.M. House, Ellender road, Near Shaheen Complex, Karachi
3. Director to Secretary to the President
4. Master file.


Zulfiqar Hussain Awan
Director (Legal-II)

120