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No.75/2011-Law (FTO)
Government of Pakistan
Ministry of Law ,Justice and Human Rights

Islamabad, the 4th October, 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. 160/LHR/ST(21)/331/2011 (FBR VS M/S ANEES CHEMICALS (PVT) LTD FAISALABAD)

I am directed to refer to your representation No.1(331)S(TO-II)/2011 dated 01.04.2013 on the subject noted above and to say that the President has been pleased to pass the following orders.

2. Vide O-in-O No.91/2000 dated 23.11.2000 complainant was directed to pay sales tax amounting to Rs. 1,866,478/- alongwith additional tax and penalty as he was not found entitled to issue replacement invoices against stock held before registration under Section 18 of the Sales Tax Act, 1990. Appeal filed against said order was allowed by Appellate Tribunal on 26.02.2009. Feeling aggrieved of inaction on the part of Agency (Revenue Division) in the matter of application dated 02.03.2009 to sanction input refund, complainant approached FTO. Agency (Revenue Division) replied that complainant has failed to provide relevant documents despite notices and as such claims are pending. FTO conducted hearing during the course whereof he was informed that Sales Tax Reference No. 24/2009 dated 30.05.2009 is pending in Lahore High Court against the said Appellate Order. FTO found that stay order has not been issued and as such delay in the processing of refund is tantamount to maladministration. Following recommendations were made:

FBR to direct the concerned officials to-

- (i) implement the Appellate Tribunal's order and sanction admissible refund, as per law, without prejudice to the outcome of the pending decision of the Lahore high Court.

3. This representation has been filed by Agency reiterating the contentions raised before FTO. Complainant in its comments has supported recommendations of FTO. Matter pertains to determination of liability to pay tax and was pending in Lahore High Court on the date complaint was received in the office of FTO. Under Section 9(2)(a) as also Section 9 (2)(b) of the FTO Ordinance 2000, FTO lacked

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jurisdiction to entertain the complaint. Findings and recommendations of FTO are, therefore, not sustainable. 78

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.442/FTO/2013,dated 1st October, 2013.
3. M/S Anees Chemicals (Pvt) Ltd through Muhammad Bashir Malik, Advocate High Court/A.R Suit No. 7,8 and 9, 2nd Floor, Sabir Plaza, Press Marketm Aminpur Bazar, Faisalabad.

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