

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

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Federal Board of Revenue  
Versus  
Chaudhry Muhammad Arshad Raza, Sargodha

REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS / RECOMMENDATIONS DATED 05.09.2017 PASSED BY THE FTO IN COMPLAINT NO. FTO-LHR/0000298/2017

I am directed to refer to your representation No. 4(298)S(TO-I)/2017, dated 29.09.2017 on the above subject and to say that the President has been to pass the following order:

2. This Representation dated 29.09.2017 has been filed by the Agency-FBR against the findings of the FTO dated 05.09.2017 whereby it has been held:

“FBR to direct the CIR concerned to-

- i. Look into the matter and review the impugned order by invoking the provisions of Section 122A of the Ordinance, after providing opportunity of hearing to the Complainant and settle the claim; and
- ii. Report compliance within 45 days.”

3. Brief facts of the case are that this complaint was filed under Section 10(1) of the FTO Ordinance, 2000 against non issuance of income tax refund amounting to Rs. 0.202 million of the tax year 2016.

4. The Complainant, an individual contends that he had filed his income tax return for tax year 2016 on 15.10.2016 followed by refund application under Section 170 of Income Tax Ordinance, 2001 (ITO, 2001) on 19.07.2017. The refund arose on account of advance tax deducted under Section 236P of the Ordinance on banking transactions other than cash which was adjustable under the law. No Order under Section 170(4) of the Ordinance was passed within the prescribed time, nor any notice was issued under Section 120(3) of the Ordinance to requisition information/ documents from the Complainant for processing the refund due. The Complainant sent reminders to the Deptt on 17.02.2017, 02.03.2017 and 29.03.2017, but it elicited no response. The inattention, neglect and delay was construed as maladministration under the FTO Ordinance by the Complainant.

5. The complaint was sent to the Secretary, Revenue Division in terms of Section 10(4) of the FTO Ordinance. In response, CCIR forwarded parawise comments of the Commissioner, IR, Zone-II, RTO, Sargodha dated 09.08.2017, acknowledging the receipt of application for refund. However, stated that application was incomplete as the Complainant failed to provide evidence of tax payments. As such, notice under Section 170(4) of the Ordinance was issued asking for evidence. In response, the AR provided documents on 08.08.2017 and the process of verification has been initiated. The refund claim would be settled as soon as the process of verification was complete.

6. On the contrary, the AR contended that supportive documents were filed in the form of a certificate dated 17.07.2017 issued by UBL, Khushab Road, Sargodha in support of tax deduction under Section 236P of the Ordinance, but the ACIR dealing with the case informed that CPRs were also required for processing of refund and as the same were not provided dated 09.08.2017. According to the AR, the claim has been rejected without any justification. Both the parties heard and record perused by the FTO. Thus, FTO has issued aforementioned findings.

7. The instant Representation has been filed by the Agency. The Agency has stated that the recommendations of the FTO are not inconformity with established law and the provisions of ITO, 2001 hence this Representation under Section 14 of Federal Ombudsman Institutional Reforms Act, 2013.

8. The instant case pertains to assessment of income and determination of tax liability. Therefore, the same is covered by the provisions of Section 9(2)(b) of the Establishment of the Office of the Federal Tax Ombudsman Ordinance, 2000. The President of Pakistan accepted the departmental Representation in Complaint No. 101/FSD/IT(70)/830/2014 observing as under:

“It is an admitted position that the matter involves the determination of tax liability and refundable amount on account of tax. Such matters are appealable before the Commissioner (Appeals), Appellate Tribunal (IR), the High Court and the Supreme Court. Where remedy of appeal is provided under the law the FTO has no jurisdiction to investigate the matter in the name of

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1. n/a - plus the date the order was issued on website

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