

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

\*\*\*\*\*

Federal Board of Revenue  
Versus  
Syed Nusrat Ali Shah, Islamabad

**REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS  
/ RECOMMENDATIONS DATED 27.10.2017 PASSED BY THE FTO IN COMPLAINT NO.  
689/ISB/IT/2017**

I am directed to refer to your representation No. 4(689)S(TO-I)/2017, dated 09.11.2017 on the above subject and to say that the President has been to pass the following order:

2. This Representation dated 09.11.2017 has been filed by the Agency-FBR against the findings of the FTO dated 27.10.2017 whereby it has been held that:

“Whereas the Federal Tax Ombudsman has suspended operation of notices issued under Section 140 of the Income Tax Ordinance, dated 28 September 2017, while exercising the powers conferred upon him u/s 11 of the Federal Ombudsmen Institutional Reforms Act 2013 for a period of 15 days, up till 15.11.2017.”

3. The instant Representation has been filed by the FBR. The Agency has stated that the order of the FTO dated 27.10.2017, the Petitioner seeks for Representation before the President of Pakistan against order for suspension of operation of notices issued under Section 140 of the Income Tax Ordinance, 2001 (ITO, 2001) dated 26.09.2017 by exercising powers conferred upon him under Section 11 of the Federal Ombudsmen Institutional Reforms Act No. XIV of 2013 for a period of 15 days up till 15.11.2017. The injunction of the FTO is contrary to the express provisions of the ITO, 2001 and those of the Establishment of the Office of the Federal Tax Ombudsman Ordinance, 2000 which is requested to be vacated.

4. The Agency has mentioned that the proceedings were initiated in the case of a fish farm by the name of M/s Inayat Ali Shah Fish Farm village Jehanian Shah, Tehsil Sahiwal, District Sargodha (TR No. 4057) on the basis of information received from the Fisheries Department, Government of Punjab reflecting the said name of fish farm and address. The statutory notices under Sections 114(4) & 116(1) were issued on 08.12.2015 and served through registered post, but remained un-complied. Thereafter, Show Cause Notice under Section 122C for tax years 2011 to 2014 were issued on 25.01.2016 and served through registered post but no reply whatsoever was submitted by the taxpayer. Accordingly, the assessment orders under Section 122C were finalized on 04.02.2016 by creating a tax demand of Rs. 2,983,231/-. The assessment orders alongwith demand notices dated 04.06.2016 for all tax years were served through registered post. None of the notices/ order were returned back, hence, assessment was made strictly in accordance with the law and after proper service of notices. Hence, the assessment proceedings attained finality as per law. Thereafter, no legal remedy was availed against this assessment order as per law. Recovery proceedings were, therefore, initiated by issuing notice under Section 140 on 30.12.2016 to the Manager HBL, Nehang, Tehsil Sahiwal, District Sargodha for recovery of outstanding demand of Rs. 2,983,231/- as the said Fish Farm was run by the Complainant alongwith other co-owners.

5. The Agency has contended that the Manager HBL Nehang Branch had blocked the Bank accounts of the following co-owners of the Fish Farm on 30.12.2016, which was never objected by the Complainant or other co-owners:

| Sr. No. | Name of legal heirs | Account Nos.    | Balance Blocked |
|---------|---------------------|-----------------|-----------------|
| 1.      | Nusrat Ali Shah     | 062700084445-03 | Rs. 5,132/-     |
| 2.      | Mujtaba Ali Shah    | 062772000080-03 | Nil             |
| 3.      | Raza Ali Shah       | 062772000081-03 | Rs. 2,034/-     |
| 4.      | Raza Ali Shah       | 1720710017980-3 | Rs. 851/-       |

As a meager amount was available in the above bank accounts, therefore, another notice under Section 140 was later issued on 26.09.2017 to different banks in respect of all co-owners of the Fish Farm.

6. The Agency has pleaded that the complaint was filed by the Respondent No. 2-Mr. Nustrat Ali Shah against the demand before the FTO after the lapse of 20 months on 18.10.2017 alongwith application for stay of recovery proceedings and de-attachment of bank accounts on the plea that tax demand and recovery proceedings are illegal. On stay application, parawise comments were submitted to the FTO on the fixed date on 26.10.2017 and an Officer well versed with the instant case also attended the hearing proceedings. By virtue of that, injunction order has been passed on 27.10.2017 by the FTO suspending operation of notices issued under Section 140 of ITO, 2001 dated 26.09.2016 by exercising powers conferred upon under the Federal Ombudsmen Institutional Reforms Act No. XIV of 2013 for a period of 15 days uptill 15.11.2017.

*SS(TO-I)  
13470-R  
01/02/18*

*SS(TO-I)  
13470-R  
01/02/18*

*SS(TO-I)  
13470-R  
01/02/18*

*PDF  
11/02/18  
2/2/18*

