

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

Federal Board of Revenue
Versus
M/s S.M Traders, Karachi

**REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE AGAINST
FINDINGS / RECOMMENDATIONS DATED 16.03.2018 PASSED BY THE FTO IN
COMPLAINT NO. 90/KHI/ST(54)/245/2018**

I am directed to refer to your representation No. 4(245)S(TO-I)/2018, dated 20.04.2018 on the above subject and to say that the President has been pleased to pass the following order:

2. This Representation dated 23.04.2018 has been filed by the FBR/Agency, against the findings of the FTO dated 16.03.2018, whereby it has been held that:

“FBR to direct:-

- i. The Commissioner-IR, Zone-VI, CRTO, Karachi to complete the verification process and settle 13 fresh claims discussed supra, as per law; and
- ii. Report compliance within 45 days.”

3. The brief facts of the case are that the complaint has been filed against Commissioner-IR (CIR) Zone-VI, CRTO Karachi, in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), against delay in processing 13 fresh sales tax refund claims of Rs. 35.165 million filed by the Complainant for various tax periods from July 2016 to August 2017.

4. The complaint was sent for comments to the Secretary, Revenue Division for comments in terms of Section 10(4) of the FTO Ordinance read with Section 9(1) of the Federal Ombudsman Institutional Reforms Act, 2013. In response, thereto, the FBR vide letter C. NO. 1(245)TO-II/208 dated 06.03.2018 submitted parawise comments of the CIR Zone-VI, CRTO, Karachi dated 28.02.2018. It was informed that 13 fresh claims could not be processed as jurisdiction of the case was transferred vide FBR's Notification dated 21.01.2016. It was further informed that all fresh claims except for tax period December, 2016 have been transferred electronically in the folder of Processing Officer (PO) and are under process. Further that the Deputy Director MIS has been approached vide letter dated 24.02.2018 for transfer of claim of December 2016 to the folder of PO. As soon as this claim is transferred, the same would also be processed expeditiously, as per law.

5. The Complainant is registered with department under the Sales Tax Act, 1990 (the Act). During hearing, the AR argued that 13 fresh claims were file after fulfilling all the legal formalities, as required under the Sales Tax Rules, 2006 but have not been processed by the department so far. He alleged that failure of the department to process fresh refund claims within the stipulated time in terms of Section 10 of the Act tantamount to maladministration under Section 2(3)(i)(a) of the FTO Ordinance. The AR averred that the Complainant is facing great hardship to meet his client's orders and proceed with the production as huge refunds are pending with department since long.

6. During hearing, the DR contended that he entire fresh claims discussed supra have been received in the folder of the PO. The physical claims files have also been obtained. He undertook to complete the verification can settle above claims within 30 days, as per law.

7. The averments of both the parties have been given due consideration and available record perused by FTO. Thus FTO has issued aforementioned findings.

8. The instant representation has been made by the FBR. The Agency has stated that 13 fresh refund claims were pending for sanction and honorable FTO has passed findings / recommendations on the grounds that inordinate delay in settling fresh deferred sales tax refund claims within time limits stipulated under Section 10 of the Act tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance. In this regard, it is humbly submitted that the above order passed by the honorable FTO is contrary of law. As per provision of Section 10(1) of the Sales Tax Act, 1990 if the input tax paid by the registered person on taxable purchases made during a tax period exceeds the output tax on account of zero rated local supplies or export made during the tax period the excess amount of input tax shall be refunded to the registered person not alter than forty five days. Sales Tax refund claims are being processed under the provisions of Chapter V of the Sales Tax Rules, 2006. The said provision is reproduced as below:-

“If the input tax paid by the registered person on taxable purchases made during a tax period exceeds the output tax on account of zero rated local supplies or export made during that tax period the excess amount of input tax shall be refunded to the registered person not later than forty five days of filing the refund claim in such manner and subject to such conditions as the Board may be notification in the official Gazette”.

Jm

19/06/18

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