

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

Mr. Amir Ahmad, Islamabad
Versus
Federal Board of Revenue

11 OCT 2017

M (L)

REPRESENTATION PREFERRED BY MR. AMIR AHMAD ISLAMABAD AGAINST FINDINGS / RECOMMENDATIONS DATED 12.06.2017 PASSED BY THE FTO IN COMPLAINT NO. 15/2010

I am directed to refer to your representation No. NIL, dated 29.06.2017 on the above subject and to say that the President has been pleased to pass the following order:

2. This Representation dated 29.06.2017 has been filed by the Complainant-Mr. Amir Ahmad against the findings of the FTO dated 12.06.2017, whereby it has been held that:

"In this regard, attention is invited to this Secretariat's earlier letter dated 05.04.2017, wherein it was conveyed that the case files were closed. As the matter of reward is linked with the finalization of the cases pending before various legal fora, no action can be taken by this Secretariat at this stage. It is reiterated that the Complainant may like to pursue the matter further with the department on completion of legal proceedings and no further correspondence be addressed to this Secretariat".

Original findings of the FTO dated 05.04.2017 provides as follows:

"As intimated by the department vide letter dated 25.1.2017, along with its enclosures, the matter is subjudice before the Hon'ble High Court and the Supreme Court of Pakistan.

Earlier, it was also informed that the complainant had also filed a Writ Petition No.1420/2016, before the Hon'ble Islamabad High Court, on the same issue as is evident from Assistant Registrar, Islamabad High Court's notice dated 14.6.2016.

Since the matter of reward is linked with the finalization of the cases pending before various legal fora, no action can be taken by this Secretariat and the case files have been closed accordingly. The complainant may however, like to pursue the matter further with the department on completion of legal proceedings and no further correspondence, in this regard, be addressed to this Secretariat as the files stand closed and consigned to record."

3. The brief facts of the case are that two complaints under reference are directed against Collector, Sales Tax, Islamabad. Being on the same subject these complaints have been clubbed for investigation. It has been alleged that the Complainant provided useful information about tax evasion during the years 2004-2005, but despite pursuing of the case for about four years no progress was made by the concerned authorities. However, in response to the Complainant's several reminders, the Collector's Office admitted in February 2009 that case documents were not available in office, and so he should supply another set of documents.

4. After failing to get a satisfactory response at collector level, the Complainant requested the Chairman FBR on 31.10.2009 for ascertaining from Collector why the matter was being so badly delayed. FBR did not give any response to this letter or to his subsequent reminder dated 23.11.2009. According to the Complainant, non finalization of action for more than four years constitutes maladministration on the part of the Sales Tax authorities, Islamabad. As a result of this neglect, recovery of some taxes has become time barred, the Complainant maintains. He has requested that the Sales Tax and Federal Excise authorities be directed to:

- (i) Take action against officer(s) at fault for the delay/ maladministration and
- (ii) Issue suitable instructions that action on such complaint must be completed with a certain time period.

5. The complaint was referred to the Revenue Division for obtaining comments of the Department who have submitted report in each case as under:

M/s COMSATS, Islamabad:

The matter was examined in light of Central Excise General Order No.02/2003 dated 15.12.2001 read with SRO 617(I)/2000 dated 02.09.2000 and SRO 333(I)/2002 dated 15.06.2002, amendments made therein upto June 2008 under the Federal Excise Act, 2005. It was concluded that telecom services (VPN) mentioned in the Chapter 08 of the First Schedule of Customs Act, 1969 (IV of 1969) have not been included in the First Schedule (Table II) of the Federal Excise Act, 2005 upto 30.06.2008 for the purpose of levy of FED. The same was communicated to the informer vide letter dated 09.02.2009.

However, the Complainant contested the position stated above. The matter was referred back to the FBR for further clarification vide letter C.No. ST/Audit-I/297/2004/78 dated 17.03.2010. The FBR issued a clarification in which they clarified that "VPN services are currently classifiable under heading 9812.6310 and are exempted. These

Chief(L-2)

S (SC)

SSI(Lit-SC)

SSIT-I

SSIT-II

Chief(L-II)

S(Lit-NC)

SSI(L-A&A)

Chief(L-III)

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