

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

Federal Board of Revenue
Versus
M/s Al-Faisal, Karachi

**REPRESENTATION REFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS
/ RECOMMENDATIONS DATED 07.07.2017 PASSED BY THE FTO IN COMPLAINT NO.
99/KHI/ST/2017**

I am directed to refer to your representation No. 1(90)S(TO-II)/2017, dated 22.08.2017 on the above subject and to say that the President has been to pass the following order:

2. This Representation dated 22.08.2017 has been filed by the Agency—Federal Board of Revenue against the findings of the FTO dated 07.07.2017 whereby it has been held that:

“FBR to-

- (i) Consider recalling under Section 45A of the Act suspension Order/ SCN dated 24.02.2017 and restoring STR of the Complainant;
- (ii) Order Chief Commissioner-IR to refund amount of Rs.0.832 million recovered from the bank account of the Complainant; and
- (iii) Report compliance within 45 days”.

3. Brief facts of the case are that this complaint is filed against the Commissioner IR (CIR), Zone-III, RTO-II, Karachi in terms of Section 10(1) of the FTO Ordinance, 2000 against:

- (i) Suspension of Sales Tax Registration Number (STRN) video order dated 24.02.2017;
- (ii) Initiating proceedings for blacklisting by issuing Show Cause Notice dated 24.02.2017 under Section 21(1) of Sales Tax Act, 1990 (the Act) and;
- (iii) Forced recovery by attaching bank account.
- (iv)

4. The complaint was referred to the Secretary Revenue Division for comments in terms of Section 10(4) of the Ordinance. In response, CIR Zone-III, RTO-II, Karachi submitted parawise comments dated 07.04.2017. It was contended that the Complainant had claimed inadmissible input tax amounting to Rs. 0.832 million on account of blacklisted suppliers involved in fraudulent activities thus, the Complainant was confronted vide Show Cause Notice dated 10.11.2016. On failure to explain the discrepancies pointed out in the Show Cause Notice. Order in Original No. 109/11 dated 03.01.2017 for tax period 2016-17 was passed whereby demand amounting to Rs.0.832 million was created against the Complainant. Against the said Order in Original the Complainant filed appeal under Section 45B of the Act. The CIR (Appeal-IV) Karachi vide Order No.13 dated 30.01.2017 annulled the above Order in Original which was not served through online. It was further contended that annulment of the Order in Original, however, did not bar the deptt to initiate blacklisting proceedings in terms of Section 21 of the Act. As per provision of Rule 12(a)(i)(D), the CIR may suspend a registered person who was found involved in purchases from or supplies to other blacklisted or suspended person.

5. The Complainant is registered with the department under the Act. The AR contended that sales tax amounting to Rs. 0.832 million was assessed by the department under Section 11(2) of the Act by disallowing input tax claimed during the tax period from December 2001 to November 2012 vide Order in Original dated 03.01.2017. Subsequently, the Complainant filed an appeal before the CIR (Appeal-IV) Karachi. However, without waiting for the outcome of appeal, the deptt. suspended STR of the Complainant vide order dated 24.02.2017 and on the same day Show Cause Notice under Section 21 of the Act was issued and also recovery was enforced amounting to Rs. 0.044 million by attaching bank account of the Complainant. Although, the CIR, (Appeals-IV) Karachi vide his Order dated 30.01.2017 had already annulled the Order in Original thus entire demand stood deleted before suspension of STR, issuance of Show Cause Notice and attachment of bank account. The AR averred that the Complainant approached the CIR Zone-III, RTO-II, Karachi vide his letter received by the department on 02.03.2017 requesting for restoration of STRN, withdrawal of Show Cause Notice dated 24.02.2017 for blacklisting and refund the amount which was illegally withdrawn from the bank by attaching his account. The Complainant repeatedly approached the department but no action was taken on his requests. Arguments of both the parties have been given the consideration and record perused. Thus, the FTO has issued aforementioned findings.

6. The instant Representation has been filed by the Agency. The Agency has taken ground that the FTO passed the impugned order in spite of the fact that the FTO under Section 9(2)(b) of FTO Ordinance, 2000 shall not have jurisdiction to investigate or inquire matters which relate to assessment of tax. Furthermore, no maladministration is

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bulletin + upload
on website
accordingly w/o
fault*

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21/12/17*

