

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

Mr. Barkat Ali, Karachi
Versus
Federal Board of Revenue

**REPRESENTATION PREFERRED BY MR. BARKAT ALI, KARACHI AGAINST FINDINGS /
RECOMMENDATIONS DATED 18.09.2017 PASSED BY THE FTO IN COMPLAINT NO.
270/KHI/ST/2017**

I am directed to refer to your representation No. NIL, dated 07.10.2017 on the above subject and to say that the President has been to pass the following order:

2. This Representation dated 07.10.2017 has been filed by the Complainant—Mr. Barkat Ali against the findings of the FTO dated 18.09.2017 whereby it has been held:

“Departmental contention about bar on FTO’s jurisdiction in terms of Section 9(2)(b) of the Ordinance appears valid as the impugned order relates to assessment of tax liabilities against which legal remedy of appeal is available to the Complainant. Thus instant complaint being beyond jurisdiction is rejected and case file consigned to record.”

3. Brief facts of the case are that this complaint was filed against the Commissioner-IR, Zone-V, RTO-III, Karachi in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 against passing ex-parte Assessment Order No. 289/2017 dated 22.06.2017 under Section 11(4) of the Sales Tax Act 1990.

4. The complaint was referred for comments to the Secretary, Revenue Division in terms of Section 10(4) of the FTO Ordinance. In response, the Commissioner-IR, Zone-V, RTO-III, Karachi submitted parawise comments dated 08.08.2017 raising preliminary objection of bar under Section 9(2)(b) of the FTO Ordinance as the complaint relates to assessment of tax liabilities and the Complainant has remedy of appeal before the Commissioner-IR (Appeal), Karachi under Section 45B of the Act. On merits, it was contended that the Complainant made short payment of withholding tax in terms of Section 7 of the Act read with Sales Tax Special Procedure (Withholding) Rules, 2007 notified vide SRO 660(I)(2017) dated 30.06.2007. A Show Cause Notice was issued vide letter dated 13.03.2017 requiring the Complainant to explain its position by 20.03.2017. As compliance of Show Cause Notice was passed against which the Complainant has legal remedy of appeal under Section 45B of the Act.

5. The AR filed rejoinder dated 09.08.2017 reiterating that the Complainant had responded to the notice dated 13.03.2007 vide letter dated 16.03.2017 whereby 15 days extension was requested. This letter was duly received by Withholding Zone RTO-III, Karachi and on the same date, time for submission of details was allowed upto 02.04.2017. Another letter dated 18.03.2017 was submitted to the Deptt whereby its legal actions were agitated. He further reiterated that the impugned AO is based on incorrect and imaginary values of purchases and various rates of tax have been applied randomly/ whimsically without properly appreciating the facts of the case, hence the issues raised in the complaint were cognizable under Section 2(3)(1)(c) of the FTO Ordinance. The averments of both the parties have been given due consideration and case record perused by the FTO. Thus, FTO has issued aforementioned findings.

6. The instant Representation has been filed by the Complainant. The Complainant has stated that FTO’s recommendations are being contrary to law, rules/ regulations and is cognizable under Section 2(3)(i)(a) of FTO Ordinance, 2000 passed without giving any consideration to Complainant’s explanation dated 20.03.2017 hence is perverse, arbitrary, unreasonable and discriminatory and is cognizable under Section 2(3)(i)(b) of FTO Ordinance, 2000.

7. The Complainant has underscored that order is full of mistake involving incorrect values of purchases and tax, randomly applied varied rate of tax (as mentioned in the Table at page 3 of complaint) and non appreciation of correct facts/ law hence contains grounds which are irrelevant and out of context and is cognizable under Section 2(3)(i)(c) of FTO Ordinance, 2000. The order amounts to administrative excesses and is cognizable under Section 2(3)(i)(d) of FTO Ordinance. The order demonstrate incompetence, inefficiency and ineptitude on the part of Respondent and is cognizable under Section 2(3)(ii) of FTO Ordinance, 2000.

FBR eBOX Dy. No. 2545-R
Received by JCI/Secy
on 05 JAN 2018

06 JAN 2018
M(L)

