

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

Federal Board of Revenue
Vs
Mr. Bilal Fazal, Faisalabad.

42

SUB: REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS/RECOMMENDATIONS DATED 24.4.2017 PASSED BY THE FTO IN COMPLAINT NO. FTO-FSD/0000002/2017

I am directed to refer to your representation No. 4(02)S(TO-1)/2017 dated 11.05.2017 on the above subject and to say that the President has been pleased to pass the following orders:

2. This Representation dated 11.05.2017 has been filed by the Agency - FBR against the findings of the FTO dated 24.04.2017, whereby it has been held that:

"FBR to -

- i. Direct the CIR to issue refund early; and
- ii. Report compliance within 45 days."

3. The brief facts of the case are that the complaint has been filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 against the provisional assessment under Section 122C of the Income Tax Ordinance, 2001 (the Ordinance) for tax year 2010 and non-issuance of refund amounting to Rs.0.268 million.

4. The complainant, an employee of Schlumberger Seaco Inc., has been residing abroad. He claimed that statutory notices were neither received by him nor served upon his representative. Under the circumstances, provisional assessment made by the DCIR, BTB, Unit-III, RTO, Rawalpindi was bad in law, harsh, unjustified, without jurisdiction and against facts of the case. Further, he, being a salaried person, was an existing assessee of RTO, Faisalabad having NTN 3277305-6 since tax year 2009, but RTO, Rawalpindi made unlawful assessment and had illegally drawn an amount of Rs.0.268 million from his account in Standard Chartered Bank, Faisalabad in violation of the prescribed procedure. He came to know of the assessment and recovery when he visited Pakistan. The Complainant then filed application for revision under Section 122A on 17.08.2016 followed by reminder dated 28.11.2016, but solicited no response, hence this complaint.

5. The complaint was referred for comments to the Secretary, Revenue Division, in terms of Section 10(4) of the FTO Ordinance, 2000. In response, Chief Commissioner IR, RTO, Rawalpindi vide letter C.No.RTO/LO/Legal/HQ/FTO-02/3664 dated 08.02.2017 intimated that provisional assessment order u/s 122C of the Ordinance has been cancelled by the CIR on 07.02.2017 by invoking the provisions of Section 122A of the Ordinance. Further, assessment record has been transferred to the relevant jurisdiction in RTO, Faisalabad. Comments of CCIR, RTO, Faisalabad were also sought in the matter who vide C.No.CCIR/RTO/FSD/4872 dated 30.03.2017 forwarded comments of the CIR, Lyallpur zone bearing No. CIR/LYP. Zone/RTO/Fsd/2668 dated 28.03.2017. The CIR, Lyallpur Zone intimated that notices u/s 140 & 176 read with Rule 69 of the Income Tax Rules 2002 have been withdrawn on 27.03.2017 and bank authorities have been asked to de-attach account of the Complainant. Further submitted that the Complainant had filed return for tax year 2009 only and as such, notices u/s 114(4) & 116(1) have been issued for tax years 2010 to 2015 for filing returns and wealth statements. Whereas, refund claim has not been filed in the prescribed manner and as such the same could not be processed. However, the claim would be settled as and when the same is filed in accordance with the prescribed procedure.

6. The DR reiterated the written comments, but could not justify as to why discrepancy, if any, was not communicated to the Complainant immediately after receiving his application dated 17.08.2016.

7. The complaint has been examined in the light of the written and oral submissions of the parties and facts available on record by FTO. Thus FTO has issued aforementioned findings.

8. The instant Representation has been filed by FBR. The Agency has stated that the complainant is an individual and resident of Faisalabad. He has furnished Income tax return for the tax year 2009 only and has not furnished any return for any of the tax years 2010-2016. Notices u/s 114(4) and 116(1) for the said tax years have been issued by the RTO Faisalabad to the taxpayer and served on the given address for filing of returns & wealth statements. Taxpayer did not make compliance of the said notices.

9. The Agency has pointed out that proceedings in this case were initiated by the BTB Unit-III, RTO Rawalpindi in order to probe source of investment made in the purchase of Plot No, 2-E/N in DHA, Rawalpindi for consideration of Rs.3,400,000/- on 20.01.2010 relevant to tax year 2010. Notices u/s 114(4), 116(1) and Show cause notices were duly issued by the BTB office, Rawalpindi for compliance. But the taxpayer failed to

FBR e-Dox No. 6049
Received in Chief (Legal) Office

11/8/17

19 AUG 2017
4(L)

11-8-17

Chief (L-I)
Chief (L-II)
Chief (L-III)
LDT
LDT
S

FBR e-Dox No. 10772-1
Received in Ch. Secy.
09 AUG 2017
11/8/17

