

Federal Tax Ombudsman Suo Moto Action

REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE ON SUO MOTO NOTICE THROUGH OWN MOTION BY THE HONOURABLE FEDERAL TAX OMBUDSMAN DATED 13.02.2019 PASSED BY THE FTO IN COMPLAINT NO. 0012/OM/2018

The undersigned is directed to refer to letter No.1(12)S(TO-II)/2018 dated 28.01.2020 (received in this Secretariat on 29.01.2020) for reconsideration of the decision of the Honorable President of Pakistan, on the subject noted above.

2. The matter has been examined in this Secretariat. It is to inform that the particular representation dated 07.03.2019 was filed by FBR-Agency against the recommendations of the learned FTO in the Suo Moto Case No.0012/OM/2018 dated 13.02.2019, whereby it was recommended that:-

"Findings / Observations:

In the light of above following discrepancies come to the forefront.

- I. *It is a serious case of Mis-reporting. FBR has been kept in dark through misleading Monthly Performance Reports (MPRs).*
- II. *Huge under reported pendency/backlog, involving massive revenue has not only adversely exposed state exchequer but created an equally detrimental situation for hundreds of taxpayers who stand condemned un-announced. "Justice delayed justice denied."*
- III. *Any hasty or extra-expeditious disposal of the huge backlog by the officer under inspection at this stage may negatively impact either of the department or taxpayers or both. Expeditious but judicious disposal of backlog needs to be ensured.*
- IV. *Previously for Commissioners Appeals across the country there was a mandatory "Monthly Disposal Register" which contained date of filing of appeal and date of service of order. This register has been discontinued by FBR with the result that currently there is no quick way to conduct any snap inspection. The register need to be restored.*
- V. *FBR has prescribed an Appeal Register which is mandatory for all Commissioners Appeals. The said register contains specific columns for "Institution of Appeal", and "Date of Order". The mandatory Appeal Register doesn't contain the material column of "Date of Hearing" which need to be incorporated.*
- VI. *The inspection in the instant case badly exposes FBR's Appellate System wherein there is weak "In-house Cross Check" for the reported figures/numbers. Sheer enforcement of stereo-type MPRs is not sufficient. Member (Legal) FBR must conduct periodical inspection of Appellate formations of both Customs and IRS.*
- VII. *Though RTOs and Commissioners Appeals are mostly housed in the same premises yet mostly do not talk to each other. Present Vertical Reporting module need to be replaced with Horizontal Reporting whereby MPRs of both RTOs and Commissioners Appeals must be interlinked so as to assist each stakeholder and FBR in ascertaining actual filing of appeals, disposal and pendency at the end of each month.*
- VIII. *Currently FBR has no mechanism to rationalize the workload of Commissioners Appeals, while proper benchmarking needs to be worked out, simultaneously the forum of "Alternate Dispute Resolution" merits attention of FBR, Law & Justice Division and FTO."*

3. On the said representation the higher forum was pleased to pass the following orders:-

"Accordingly, Hon'ble President has been pleased to (a) accept the instant Representation of FBR-Agency (b) to set aside the impugned order of learned FTO and to (c) remand it to the learned FTO for its decision afresh after affording due opportunity of hearing to all concerned, in accordance with the law."

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4. The President's Secretariat (Public) vide its order dated 07.01.2020 had already communicated the decision of the Hon'ble President of Pakistan to all the stakeholders including the FBR-Agency. The FBR-Agency has again requested that the higher forum may reconsider/ review of the President's Order dated 07.01.2020.

5. It may be mentioned that there is no provision under Federal Ombudsmen Institutional Reforms Act, 2013 for review of the President's decision passed on any representation. In absence of any statutory provision for review of the President's order the instant representation for review of the earlier Presidential decision is not entertainable.

(Dr. Zulfiqar H. Awan)
Director General (Legal)

The Chairman,
Federal Board of Revenue,
Islamabad.

No.12/FTO/2019 dated 3rd February, 2020

Copy for information to:

1. The Chief (Legal-I), Federal Board of Revenue, Islamabad.
2. The Registrar, Federal Tax Ombudsman's, Islamabad
3. The Commissioner IR (Appeals). Office of the Commissioner Inland Revenue (Appeals), Regional Tax Office Building, Jail Road, Faisalabad.

(Dr. Zulfiqar H. Awan)
Director General (Legal)