

President's Secretariat (Public)  
Aiwan-e-Sadr  
ISLAMABAD  
\*\*\*\*

*Mr. Khurram Mohammad Qamar  
Versus  
Federal Board of Revenue*

**REPRESENTATION PREFERRED BY MR. KHURRAM MOHAMMAD QAMAR FINDINGS /  
RECOMMENDATIONS DATED 29.08.2019 PASSED BY THE FTO IN COMPLAINT NO.  
1061/KHI/IT/2019**

Kindly refer to your representation dated 11.09.2019 (received in this Secretariat on 13.09.2019) on the above subject addressed to the President in the background mentioned below:-

1. This Representation dated 11.09.2019 (received in this Secretariat on 13.09.2019) has been filed by the Complainant namely Mr. Khurram Mohammad Qamar against the orders of the learned FTO dated 29.08.2019, whereby it has been held that:

***"Legally an un-signed draft order is no order in the eyes of law. If un-singed draft orders are accepted as actual orders, then it shall create a judicial chaos, therefore, stance of the Authorized Representative (AR) has no force at all. The signed order of the present CIR (Appeals) on record does hold the field for all ends and purposes. Under these circumstances, remedy of appeal against the impugned order is available to the Complainant under Section 131 of the Ordinance. Accordingly, bar on jurisdiction of the forum, under Section 9(2)(b) of the Federal Tax Ombudsman Ordinance, is applicable. In view of the forgoing facts, the complaint stands dismissed being not maintainable, in term of Section 9(2)(b) of the Federal Tax Ombudsman Ordinance. File be consigned to record."***

2. The background of the matter is that the complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against Order No. 15 dated 03.05.2019, passed by the Commissioner-IR (CIR) (Appeals-V), Karachi. The Complainant, a non-resident individual deriving salary income from M/s Phillip Morris (Pakistan) Limited, filed appeal against the order dated 12.04.2017, whereby his refund for Tax Year 2016, was rejected under Section 170(4) of the Income Tax Ordinance 2001 (the Ordinance). According to the Authorized Representative (AR), the appeal was heard by two different CIRs (Appeals-V) but they were transferred before passing any order. The third CIR (Appeals-V), Mr. Bashir Ahmad Kalwar, heard the arguments and verbally announced the decision but he too was transferred and relinquished the charge without signing the order. Thereafter, Mr. Abdul Aziz Narejo, took the charge of CIR (Appeals-V) Karachi and passed the impugned order dated 03.05.2019.

3. The complaint was sent by learned FTO for comments to the Secretary, Revenue Division. In response thereto the FBR vide letter dated 28.05.2019 submitted parawise comments of the CIR (Appeal-V) Karachi. At the very outset, preliminary objection regarding bar of jurisdiction was raised under Section 9(2)(b) of the Federal Tax Ombudsman Ordinance, on the ground that the Complainant had legal remedy of appeal provided under the Ordinance. On merits, it was contended that appeal was filed by the Complainant against the order dated 12.04.2017, whereby his refund for Tax Year 2016, was rejected under Section 170(4) of the Ordinance. The appeal was heard by the predecessor CIR (Appeal) but no such order was passed by him. This fact had been admitted by the Complainant that order was not signed by the outgoing CIR (Appeals-V) Karachi. It was averred that a formal and written appellate order was now in the field against which remedy of appeal is available with the Complainant.

4. After due consideration, the learned FTO has passed the aforementioned order. The instant representation has been filed by the Complainant.

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5. The hearing of the case has been held on 26.11.2019. The parties have not attended the hearing despite issuance of notices.

6. A thorough perusal of record and examination of all documents on record has been undertaken. In terms of Section 9(2)(b) of the FTO Ordinance 2000, the FTO has "*no jurisdiction to investigate or inquire into the matters which relate to the assessment of income, determination of liability of tax, interpretation of law, rules and regulations relating to the said assessment/ determination in respect of which legal remedies of an appeal, review or revision are available under the relevant legislation.*"

7. It has been noted that the learned FTO has rightly observed that an un-signed draft order is no order in the eyes of law. The signed order of the present CIR (Appeals) on record does hold the field for all intents and purposes. The remedy of appeal against the impugned order is available to the Complainant under Section 131 of the Ordinance.

8. Needless to be mentioned that the representation has been filed by the Complainant reiterating the contents of the averments made before the learned FTO. However there is no justification to upset the findings of the learned FTO. Thus, the representation is devoid of any merit and is liable to be rejected. The complainant may seek remedy available to him from the relevant forum under the law.

9. Accordingly, Hon'ble President has been pleased to (a) reject the instant Representation of the Complainant and to (b) uphold the impugned recommendations of the learned FTO.

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

Mr. Khurram Mohammad Qamar,  
86/1, Street 28, Khayaban-e-Badar, Phase-VI,  
DHA, Karachi

No.63/FTO/2019 dated 18.12.2019

Copy for information to:

1. The Chairman, Federal Board of Revenue, Islamabad.
2. The Registrar, Federal Tax Ombudsman's, Islamabad
3. The Chief Commissioner, Inland Revenue (Appeals-V), Regional Tax Office, Karachi.
4. Mr. Mansoor Sadiq, Second Secretary (TO-I), Federal Board of Revenue, Islamabad.
5. Master file.

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