

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

*Federal Board of Revenue
Versus
M/s Ascent Developers (Pvt) Ltd, Islamabad*

**REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS /
RECOMMENDATIONS DATED 18.12.2018 PASSED BY THE FTO IN COMPLAINT NO.
1375/ISB/FT/2018**

Kindly refer to your representation dated 16.01.2019 on the above subject addressed to the President in the background mentioned below:-

1. M/s Ascent Developers (Pvt) Ltd, Karachi approached the Honorable Federal Tax Ombudsman against the Agency/ FBR for non-issuance of Income Tax Refund for Rs. 232.800 million for the Tax Year 2017.

2. The Agency/ FBR attributed that while e-filing the refund application for Tax Year 2017, the complainant did not file supporting evidence regarding tax deductions. However, due to huge refund, the case was under the process of pre-refund audit.

3. Based on the available record and after hearing the parties, the Federal Tax Ombudsman vide order dated 18.12.2018 held/ observed as under:

Findings:

"Inordinate delay in disposal of refund application for Tax Year 2017, tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance".

Recommendations:

FBR to direct:

- a) The Commissioner-IR, Corporate Zone Islamabad, to complete the verification process and settle tax refund for Tax Year 2017; as per law; and
- b) Report compliance within 45 days".

4. The Agency/ FBR has filed representation dated 16.01.2019 against the order dated 18.12.2018 of the Federal Tax Ombudsman. The above direction has been assailed through this representation by the Agency/ FBR, *inter-alia*, on the ground that there was no maladministration on the part of the Agency.

5. The parties are represented / present and have been heard. By means of the order of the FTO referred to above dated 18.12.2018, a simple direction to the FBR was issued to complete the verification process and settle the tax refund for the Tax Year 2017 as per law. It was even otherwise the duty of the departmental authority/ the Agency to process the matter and complete it without delay. Undisputedly, the law obliges the Agency to process such cases within a period of sixty days as it was not done it gave rise the grievance and the respondent filed the complaint before the FTO alleging maladministration on the part of the Agency.

6. During the course of proceedings, it has been stated by the representative of the Agency that on 20.12.2018 the refund application for the Tax Year 2017 has been rejected and that the respondent has the *fora* available to assail the same in proper proceedings. Needless to mention that it was after the order of the FTO. It appears to be a prompt action as a result of the order of the learned FTO dated 18.12.2018. The respondent who is present in person, however, states that the matter is still pending with the Agency and whatever documents/information they have demanded has been furnished. Be that as it may, there is nothing wrong with the order of the FTO dated 18.12.2018 which was merely to the effect to complete the verification process as per law. It needs no reiteration that the law expects and calls upon the state functionaries to act in accordance with law, any procrastination in the matter amounts to maladministration, actionable under the law.

No interference, therefore, is warranted with the order of the learned FTO. In such view of the matter the representation merits rejection.

7. Accordingly, Hon'ble President has been pleased to reject the instant representation.

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

The Chairman,
Federal Board of Revenue,
Islamabad.

No.03/FTO/2019 dated 09.08.2019

Copy for information to:

1. M/s Ascent Developers (Pvt) Ltd, Office No. 14, 3rd Floor, Elyslum Tower, Plot No. 05, Sector F-8/G-8, Jinnah Avenue, Islamabad.
2. The Registrar, Federal Tax Ombudsman's, Islamabad
3. Reema Masud, Commissioner-Inland Revenue, Corporate Zone Regional Tax Office, Islamabad.
4. Ch. Iftikhar Ahmad, CEO, Ascent Developer (Pvt) Ltd, Office No. 14, 3rd Floor, Elyslum Tower, Plot No. 05, Sector F-8/G-8, Jinnah Avenue, Islamabad.
5. ✓ The Chief (Legal), Federal Board of Revenue, Islamabad
6. Master file.

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

2/19