

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

Federal Board of Revenue
Versus
M/s Pardhan Oil Industries (Pvt) Ltd, Karachi

16 AUG 2019
M(L)

REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS / RECOMMENDATIONS DATED 05.12.2018 PASSED BY THE FTO IN COMPLAINT NO. 1408 & 1529 to 1531/KHI/IT/2018

Kindly refer to your representation dated 02.01.2019 on the above subject addressed to the President in the background mentioned below:-

1. M/s Pardhan Oil Industries (Pvt) Ltd., Karachi approached the Federal Tax Ombudsman against the Agency/ FBR for delay in issuance of Income Tax Refund for Tax Year 2014, 2015, 2016 and 2017 of Rs. 441 million.

2. The stance of the Agency/ FBR was that eligibility of refund was entirely based on qualifications and conditions mentioned in Section 65D of the Ordinance. Thus, it was required to examine whether such conditions were fulfilled; that the complainant had also filed Constitutional Petition (C.P No. 1810 of 2018) before the Hon'ble High Court of Sindh, Karachi for issuance of refund for the above mentioned Tax Years which, however, was withdrawn on 16.10.2018, thus the delay was on account of pendency of the said petition. It was further averred that this forum has initiated Own Motion (OM) proceedings vide C.No. 0005/OM/2018 against the misuse of tax credit under the Ordinance. Accordingly, the zonal Commissioner's-IR had been directed to scrutinize misuse of above facility.

3. After perusing the available record and hearing the parties, the FTO vide order dated 05.12.2018 held/observed as under:

"Recommendations:

FBR to-

- i. Direct the Commissioner-IR Zone-II, LTU-II, Karachi to complete the verification of tax credit under Section 65D of the Ordinance for Tax Year 2017, as per law;
- ii. Settle refund for Tax Years 2014, 2015, 2016 and 2017, as per law; and
- iii. Report compliance within 45 days".

4. This representation has been filed by the Agency to assail the same. The parties are represented. Mr. Munir Ahmed Chaudhary, AC (HA), CTU-II, Karachi represented the FBR while M. Mazhar Rashid was present on behalf of the respondent. They have been heard.

During the course of proceedings, it has transpired that while processing the matter of refund the Agency issued the Show Cause Notices to the complainant which were assailed before the Hon'ble High Court Sindh in CP No. D-8666/2018 and interim order dated 13.12.2018 was passed by the Learned Division Bench restraining the Agency that " *till next date no adverse final order may be passed pursuant to impugned show cause notice*". It is the stated position of the parties that the said order is operative and is in the field.

6. Adverting to the recommendations of the FTO impugned through this representation suffice it to observe that the directions given were merely to the effect to complete the verification of tax credit under Section 65D of the Ordinance and to settle the refund for Tax Years 2014, 2015, 2016 and 2017 as per law. No direction of a positive nature has been issued by the FTO which could give rise to any cause to assail the same. Needless to mention that to complete the verification or to settle the refund as per law is the statutory duty of the officials of the Agency in accordance with law. The direction of FTO is merely of reminding them of their lawful duty to be performed in accordance with law without delay. Nothing wrong has been done by the learned FTO.

Chief(L-II)
S(L)-HC
SS(L)-A&A
Chief(L-III)
S(L)DT
S(L)DT
OS

FBR e-DOX No. 105748
(Received in M/L Office on 16/1/19)

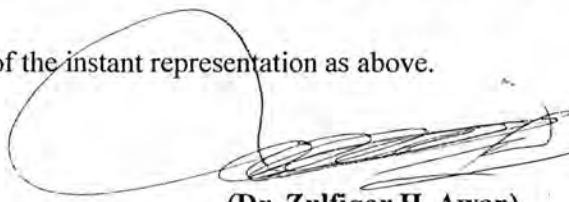
BR eDOX Dy.No. 105748
Received in Chairman's Sectt.
16/1/2019

SS(TO-1)

214

7. Be that as it may now that the matter is pending before the Hon'ble High Court of Sindh and the interim order passed by it statedly is in the field, the representation in the circumstances has lost its efficacy and become infructuous, it is thus liable to be disposed of accordingly.

8. Accordingly Hon'ble President has been pleased to dispose of the instant representation as above.



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

1/ ✓
The Chairman,
Federal Board of Revenue,
Islamabad.

No.02/FTO/2019 dated 09.08.2019

Copy for information to:

1. Mr. Wazir Ali Pardhan, Chairman: M/s Pardhan Oil Industries (Pvt) Ltd, Plot No. 97, Edible Oil & Molasses Zone, Karachi.
2. The Registrar, Federal Tax Ombudsman's, Islamabad
3. Syed Shakeel Ahmed, Commissioner-Inland Revenue, Zone-II, LTU-II, Karachi.
4. The Chief (Legal), Federal Board of Revenue, Islamabad
5. Mr. Mazhar Rasheed, ACMA, Advocate, Office No.512, 5th floor, Madina Plaza, M.A. Jinnah road, Karachi.
6. Master file.


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

215