

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

*Federal Board of Revenue
Versus
Syed Jamil Hussain Bukhari, Rahim Yar Khan*

REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS /
RECOMMENDATIONS DATED 26.09.2019 PASSED BY THE FTO IN COMPLAINT NO. 1477/MLN/IT/2019

Kindly refer to your representation dated 23.10.2019 (received in this Secretariat on 24.10.2019) on the above subject addressed to the President in the background mentioned below:-

1. This Representation dated 23.10.2019 (received in this Secretariat on 24.10.2019) has been filed by the Agency/FBR, against the orders of the learned FTO dated 26.09.2019, whereby it has been held that:

"FBR to:

- (i) *Direct the Commissioner-IR, Rahim Yar Khan to complete the verification and dispose of refund application of the complainant for Tax Year 2013, after providing him opportunity of hearing, as per law; and*
- (ii) *Report compliance within 45 days."*

2. The background of the matter is that the complaint was filed under Section 10(1) of Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against undue delay in issuance of refund for the Tax Year 2013. The Complainant, a salaried individual, e-filed return of Income for Tax Year 2013 under Section 114(1) of the Income Tax Ordinance, 2001 (the Ordinance), claiming refund amounting to Rs. 0.154 million. The refund arose on account of excess tax deducted at source under Section 149 of the Ordinance, on arrears of salaries paid to the Complainant. The refund application was e-filed on 12.06.2014 and hard copies of the same were submitted in the office of Inland Revenue Officer (IRO) Unit -12, Rahim Yar Khan. However, despite repeated efforts of the Complainant, the Deptt failed to pass order under Section 170(4) of the Ordinance, within the stipulated time.

3. The complaint was forwarded by the FTO for comments to the Secretary Revenue Division. In response thereto, the Chief Commissioner-IR, RTO, Bahawalpur forwarded comments of the Commissioner-IR, Rahim Yar Khan Zone, dated 22.08.2019. It was confirmed that the Complainant e-filed return for the Tax Year 2013, followed by refund application dated 12.06.2014.

4. During the hearing before the FTO, the Complainant vehemently contended that the documentary evidence had already been provided to the Deptt in soft form as well as hard copies furnished to the office of the IRO, Rahim Yar Khan. The Deptt is, however, using delaying tactics on one or the other pretext. The Departmental Representative (DR) on his part confirmed that documentary evidence, as claimed by the Complainant, is available on record. He assured to complete the verification and dispose of refund application for the Tax Year 2013, within 30 days, as per law.

5. With this background, after due consideration, the learned FTO has passed the aforementioned order.

6. The instant representation has been made by the Agency. The hearing of the case has been held on 07.01.2020. Mr. Asghar Niazi CIR has represented the FBR. On the other hand, Syed Jamil Hussain Bukhari Complainant himself has appeared. Both sides have been afforded opportunity of hearing.

7. A thorough perusal of record and examination of all documents on record has been undertaken. It has been noted that the complainant e-filed refund application for the Tax Year 2013 on 12.6.2014. The Deptt was required to dispose of the refund application, within 60 days of filing, in terms of Section 170(4) of the Ordinance. But it failed to act in accordance with law. Thus, delay in disposal of refund application for the Tax Year 2013 within the stipulated time under Section 170(4) of the Ordinance attracted the interference by the learned FTO.

8. The recommendations of the learned FTO are only to the extent to "direct the Commissioner-IR Rahim Yar Khan to complete the verification and dispose of refund application of the complainant for Tax Year 2013, after providing him opportunity of hearing, as per law, within 45 days". It is merely a reiteration of the duty of the Departmental authority to decide the matter as per law. The Agency has the lawful powers to decide the matter on its merits in accordance with the law. There is thus no valid justification to assail the order of the learned FTO. In such circumstances, this representation is liable to be rejected.

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

The Chairman,
Federal Board of Revenue,
Islamabad.

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

No.71/FTO/2019 dated 10.02.2020

Copy for information to:

1. Syed Jamil Hussain Bukhari, R/o House N. 174-A, Block-Z, Scheme-3, Gulshan-e-Iqbal, Rahim Yar Khan
2. The Registrar, Federal Tax Ombudsman's, Islamabad
3. Chief (Legal-I), Federal Board of Revenue, Islamabad.
4. The Commissioner, Inland Revenue, Regional Tax Office, Bahawalpur.
5. Master file.

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

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