

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

Federal Board of Revenue
Versus
Mr. Muhammad Shoaib, Karachi

REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS / RECOMMENDATIONS DATED 16.01.2019 PASSED BY THE FTO IN COMPLAINT NO. 1650/KHI/IT/2018

Kindly refer to your representation dated 08.02.2019 on the above subject addressed to the President in the background mentioned below:-

1. Mr. Muhammad Shoaib, resident of Karachi approached the Federal Tax Ombudsman against Agency/FBR for failure to allow the complainant to submit "Statement of Amnesty" under Voluntary Declaration of Domestic Assets Act, 2018. According to the complainant due to some "system error" he could not deposit the statement and requested for condonation which was rejected by the Chief Commissioner-IR, CRTO, Karachi on 10.09.2018 as the date i.e. 31.07.2018 had expired. A similar request had been filed by him before Member, BOR which had remained pending.

2. The stance of the Agency/FBR was that the complainant deposited tax amounting to Rs. 5.0 million within due date i.e. 30th June, 2018. However, he failed to submit the "Statement of Amnesty" as required under the said Act till the extended date i.e. 31.07.2018. The complainant vide application dated 03.08.2018 contended that he was unable to file the "Statement of Amnesty" due to some system error and requested for granting permission to submit the same which was rejected on 16.09.2018. It was averred that the complainant in the meanwhile had also approached the Member-IR, Operations FBR, Islamabad vide letter dated 12.09.2018 requesting condonation of delay and the matter was pending.

3. Perusing the available record and after hearing the parties, the FTO vide order dated 16.01.2019 held/observed as under:

"Findings:

Delay in disposing of request for condonation tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance.

Recommendations:

FBR to:

- i. Direct the Member-IR Operation to dispose of request of the complainant for condonation of delay, as per law; and
- ii. Report compliance within 45 days."

4. Order of the learned Federal Tax Ombudsman (FTO) dated January 16, 2019 has been assailed through this representation by the Agency/ FBR whereby it was directed that the Member-IR Operation will dispose off the request of the complainant for condonation of delay, as per law. On receipt of the representation, intimation was sent to the parties for information/ comments. Comments have been received. The matter was fixed for 07.05.2019. Departmental representative namely Gobind Kumar, Deputy Commissioner was present in person and respondent represented through the counsel namely Mr. Hammad Raza. They were heard.

5. During the course of proceedings, it has been reiterated by the departmental representative that applications made by the complainant for condonation of delay in filing the statement under the amnesty scheme had already been rejected. It is, however, pointed out that application of the complainant moved before the Member-IR Operation, Islamabad dated 12.09.2018 had remained un-responded. It was in that context that the learned FTO issued the recommendations to the Agency directing the Member to dispose of the request of the complainant as per law. No direction of a positive nature has been issued by the FTO as to in what way the application will be disposed of. It was, however, the duty of the state functionaries to dispose of the matter in accordance with law. In such view of the matter there is nothing wrong with the direction issued by the learned FTO. The representation in the context is misconceived and is liable to be rejected accordingly.

6. After perusal of the case the Hon'ble President has been pleased to order that the representation is rejected and the orders of the FTO are upheld.

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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.07/FTO/2019 dated 07.08.2019

Copy for information to:

1. Mr. Muhammad Shoaib, R/o House No. L-68, 11-C-2, North Karachi.
2. The Registrar, Federal Tax Ombudsman's, Islamabad
3. Mr. Yousif Hyder Shaikh, Commissioner-Inland Revenue, Zone-III, Corporate RTO, Karachi.
4. The Chief (Legal), Federal Board of Revenue, Islamabad.
5. Master file.

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

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