

PRESIDENT'S SECRETARIAT (PUBLIC)
AIWAN-E-SADR, ISLAMABAD

M/s Al-Abid Silk Mills (Pvt) Limited, Karachi
Versus
Federal Board of Revenue

REPRESENTATION FILED BY M/S AL-ABID SILK MILLS (PVT) LIMITED, KARACHI AGAINST FINDINGS/RECOMMENDATIONS DATED 22.01.2020 PASSED BY THE FTO IN COMPLAINT NO. 2433/KHI/ST/2019

Kindly refer to your representation dated Nil (received in this Secretariat on 13.03.2020) on the above subject addressed to the President in the background mentioned below:-

This Representation dated Nil (received in this Secretariat on 13.3.2020) has been filed by Complainant – M/s Al-Abid Silk Mills (Pvt) Limited Karachi against the order of the learned FTO dated 22.01.2020, whereby, it has been held that:-

"As the subject matter of the complaint is subjudice before the Hon'ble Supreme Court of Pakistan, hence bar on jurisdiction in terms of Section 9(2)(a) of the FTO Ordinance is applicable. Accordingly, the complaint stands rejected for want of jurisdiction. File be consigned to record."

2. Without reference to the merits of the case, it may be noted at the outset that under Article 32 of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order 1983 read with Section 14 of the Federal Ombudsmen Institutional Reforms Act 2013, any person aggrieved by an order of the Mohtasib may within 30-days file a representation before the Honourable President of Pakistan. The remedy of representation, being a statutory remedy is available to an aggrieved person within the prescribed limitation of 30-days.

3. It has been held by the Hon'ble Supreme Court Pakistan in Federation of Pakistan through Secretary Revenue Division Vs Messrs Sahib Jee and others (2017 PTD 1481) that "when the Revenue Division or any person was aggrieved of a recommendation made by the Federal Tax Ombudsman in terms of S.11 of the Establishment of Office of Federal Tax Ombudsman Ordinance, 2000, it/he may file a representation to the President of Pakistan within 30 days of such recommendation---Said remedy of representation, though not stricto sensu akin to an appeal, was nevertheless a statutory remedy and, therefore, the provision must be strictly construed and applied, meaning thereby that a representation was only available to either the Revenue Division or an aggrieved person as against a recommendation of the Federal Tax Ombudsman within 30 days' time."

4. In the instant case, the impugned order had been passed against the Complainant – M/s Al-Abid Silk Mills (Pvt) Limited Karachi on 22.01.2020. The complainant could have availed the remedy of representation within 30-days. However, he allowed the said period to lapse and preferred the instant representation that was received in this Secretariat on 13.3.2020, which is fatally hit by the bar of limitation. Suffice it to observe that the extant law does not empower the condonation of delay to entertain a time barred representation. It is, thus, liable to be rejected out rightly without going into the merits of the case.

Accordingly, the Hon'ble President has been pleased to reject the instant representation of the Complainant - M/s Al-Abid Silk Mills (Pvt) Limited Karachi as time barred.

09 JUL 2020

M(L)

(Muhammad Saleem)
Director (Legal-I)

M/s Al-Abid Silk Mills (Pvt) Limited,
c/o M/s Sales Tax Advisory Services,
Having Office at Suit # 301, 3rd Floor,
Progressive Center, 30-A, PECHS,
Block-6, Shahrah-e-Faisal,
Karachi

No.40/FTO/2020, dated 06.07.2020

Copy for information to:

1. The Chairman, Federal Board of Revenue, Islamabad.
2. The Registrar, Federal Tax Ombudsman, Islamabad.
3. The Chief Commissioner, Zone-IV, LTU, Karachi.
4. Master file.

M. Saleem
(Muhammad Saleem)
Director (Legal-I)

FBR e-DOX No. 111318-P
Received in Chairman's Sectt
on 09 JUL 2020

Handwritten signatures and initials: Mgt, P, OF, AS, 13/7/20