

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

1. No.77/FTO/2022

Dated: 21.12.2022

2. No.85/FTO/2022

Federal Board of Revenue VS *MB Feeds (Pvt) Ltd*

MB Feeds (Pvt) Ltd VS *Federal Board of Revenue*

Subject: TWO (02) REPRESENTATIONS FILED BY FEDERAL BOARD OF REVENUE & MB FEEDS (PVT) LTD AGAINST FINDINGS / RECOMMENDATIONS DATED 02.03.2022 PASSED BY THE LEARNED FTO IN COMPLAINT NO. 2723/ISB/ST/2021

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

1. Rep. No.77/FTO/2022 in C. No. 2723/ISB/ST/2021
2. Rep. No.85/FTO/2022 in C. No. 2723/ISB/ST/2021

Two representations have been filed by Federal Board of Revenue and M/s MB Feeds (Pvt) Ltd on 31.03.2022 and 05.04.2022 against the Order of the learned Federal Tax Ombudsman (FTO) dated 02.03.2022, whereby it has been held that:

"in view of supra, the complainant has failed to establish any maladministration against the Department. The complaint is, therefore, rejected. File be consigned to record."

2. The above-mentioned complaint was filed against the Director, Directorate of Intelligence & Inspection (Inland Revenue) (I&I-IR) Faisalabad in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (hereinafter the Ordinance) for insisting on personal appearance of the Managing Director/Chief Executive despite provision of the required information and record.

3. M/s MB Feeds (Pvt) Ltd (the complainant) alleged that the Investigation Officer of the Directorate I&I-IR, Faisalabad issued summons under Section 160/161 of the Code of Criminal Procedure, 1898 to provide evidence regarding transactions made with certain parties from Tax Year 2016 to date. The Investigation Officer Inland Revenue sought information from Tax Year 2016 to date without pointing out any specific transaction. Moreover, the complainant had never undertaken any sale / purchase with the parties pointed out by the Department. Instead, the complainant received payment from third party on their behalf. He therefore took up the matter with the learned Federal Tax Ombudsman by filing complaint under Section 10(1) of the FTO Ordinance 2000.

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4. The learned Federal Tax Ombudsman called the comments of the Secretary Revenue Division, Islamabad. In response thereof, Director 1&1-IR, Faisalabad averred that the Honorable Federal Tax Ombudsman (FTO) did not have the jurisdiction to investigate cases falling under Anti-Money Laundering (AML) Act 2010, as this Act did not fall under "Relevant Legislation" as defined in Section 6 of Chapter 1 of the Federal Tax Ombudsman Ordinance, 2000. In view of that the Department prayed that the complaint was liable to be filed.

5. Considering the respective stances, the learned Federal Tax Ombudsman proceeded to pass the above-mentioned orders. Hence, the representation by the FBR.

6. The hearing of the case was fixed for 06.12.2022. Mr. Shafique Anwar Khan, Assistant Director has represented the FBR, whereas, Mr. M. Naeem, Chartered Accountant has appeared on behalf of the complainant.

7. The learned Federal Tax Ombudsman thrashed the matter vide Para-4 of the order as follows:

"4. Both parties were heard and the relevant record was perused. The Departmental contention regarding bar on jurisdiction in the instant case in terms of "Relevant Legislation" is misconceived. In ambit of Inland Revenue Department of FBR, the Anti Money Laundering (AML) proceedings under AML Act, 2010 are initiated on the basis of a "Predicate Offence" under the Sales Tax Act, 1990, the Income Tax Ordinance, 2001 or the Federal Excise Act, 2005, as the case may be. The same are, therefore, within the meaning of "Relevant Legislation" in terms of Section 2(6) of the FTO Ordinance, 2000. However, seeking any information/ personal appearance under the law does not constitute maladministration in terms of Section 2(3) of the FTO Ordinance, 2000."

Thus, these are findings arrived at on due consideration of the record and there is no cavil with such an approach to the matter.

8. It is worth mentioning that the impugned order of the learned FTO has been assailed by both parties i.e. the complainant and the FBR. Firstly, the FBR has challenged the jurisdiction of the learned FTO to investigate the cases falling under the Anti Money Laundering (AML) Act 2010 pleading that this Act does not fall under "Relevant Legislation" as defined in FTO Ordinance, 2000. Some cogent reasons have been given by FTO to reject such a plea, which is unassailable. Thus, the representation is liable to be rejected accordingly. Conversely, the complainant has assailed the order contending that although all information/requisite documents have been provided to the Investigation Officer-IR but the officer is insisting on personal appearance of the MD/CEO allegedly due to malicious intentions. However, the learned FTO has observed that "seeking any information/personal appearance under law does not constitute maladministration". But a public officer is expected to be just and fair in handling the matter and treat all equally in accordance with the law. A taxpayer should not have a feeling of harassment and victimization in a particular matter. If the relevant record/information has been supplied, there should not have been insistence for personal presence of the taxpayer, who is entitled to due respect. Thus, the representation of the complainant is disposed of with these observations.

9. Accordingly, the Hon'ble President, as per his decision above, has been pleased to reject the Representation of FBR and dispose of the representation of the complainant accordingly.


(Anwar-ul-Haq)
Director General (Legal)

The Chairman,
Federal Board of Revenue,
Islamabad.

M/s. MB Feeds (Private), Limited,
Office No. 34-C, Satelite Town,
Chandni Chowk, **Rawalpindi.**

Copy for information to:

1. The Registrar, Federal Tax Ombudsman, Islamabad.
2. The Chief (Legal-III), Federal Board of Revenue, **Islamabad.**
3. The Directorate General Intelligence & Investigation (IR) First Floor, Immigration Tower, G-8/1, Islamabad.
4. Syed Imtiaz Ali Shah, 2nd floor, The Professional's Arcade, MPCHS, E-11/3, Islamabad
03452466060
5. Master file


(Anwar-ul-Haq)
Director General (Legal)