

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

Federal Board of Revenue
Versus
Mr. Muhammad Akram, Multan

REPRESENTATION REFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS
RECOMMENDATIONS DATED 19.08.2019 PASSED BY THE FTO IN COMPLAINT NO. 1340/MLN/ST/2020

Kindly refer to your representation dated 17.09.2020 on the above subject addressed to the President in the background mentioned below:-

This representation has been filed by the Federal Board of Revenue on 17.09.2020 against the order of the learned Federal Tax Ombudsman dated 19.08.2020, whereby it has been held that:

"FBR to direct:

- (i) *the concerned officer, Multan Zone, RTO Multan to finalize post-refund audit and the Chief Commissioner-IR, RTO, Multan to communicate audit findings to FBR within 30 days;*
- (ii) *the Chief (CSTRO), FBR to transfer payment against pending RPOs as per FBR policy upon receipt of audit findings; and*
- (iii) *report compliance within 45 days."*

2. The background of the case is that Mr. Muhammad Akram (the complainant) who is an exporter filed complaint against the Commissioner-IR, Multan Zone, RTO, Multan in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) for failing to issue cheque amounting to Rs.368.206 million, in respect of Refund Payment Orders (RPOs) of various tax periods from January 2013 to July 2018, issued to the complainant.

3. The complaint was referred to the Secretary, Revenue Division, Islamabad for comments. In response thereto, the Chief Commissioner-IR, RTO, Multan vide letter dated 17.06.2020 forwarded para-wise comments. It was contended that FBR vide letter dated 13.03.2019 had directed for thorough scrutiny of all refund claims as it was observed that refund claimant and a Senior Database Administrator of Pakistan Revenue Automation (DBA, PRAL) as a facilitator, had connived to incur loss to national exchequer by manipulating return/refund data to get refund processed through Expectations Refund System (ERS) by fraudulently inflating the export figures by-passing ERS checks. Accordingly, the Commissioner-IR, Multan Zone, RTO re-constituted a team vide order dated 14.01.2020 to conduct scrutiny of refund claims and requested the complainant to produce record for early completion of post-refund audit in respect of already sanctioned refund claims as directed by the FBR. It was further contended that the cheque would be issued upon completion of detailed scrutiny.

4. After considering the stance of both sides, the learned FTO passed the above referred order dated 19.08.2020. Hence, this representation by the FBR.

5. The hearing of the case has been held on 27.01.2021. The representative of FBR has not appeared despite notice. On the other hand, Mr. Inayat-ur-Rehman, Advocate has appeared on behalf of the complainant. Needless to mention that Section 15 of the Federal Ombudsmen Institutional Reforms Act 2013 states that the representation can be decided on the basis of available record.

6. After perusal and consideration of the matter, the learned FTO dealt with the case vide paras 5&6 i.e.:
"5. Evidently, the post-refund audit is pending since 13.03.2019, although the Complainant had submitted the relevant record in November 2019. It means that the payment of sanctioned refund is withheld by the Deptt without any fault of the Complainant. Thus, delay on the part of the Deptt is evident.

6. Inordinate delay in finalizing post-refund audit by the Deptt, is tantamount to maladministration, in terms of Section 2(3)(ii) of the FTO Ordinance."

He has come to the conclusion that undue delay in finalizing post-audit refund by the Agency amounts to maladministration. Such an observation is consistent with the material on the record.

7. Be that as it may, the recommendations of the learned Federal Tax Ombudsman are only to the extent directing "the concerned officer, Multan Zone, RTO Multan to finalize post-refund audit and the Chief Commissioner-IR, RTO, Multan to communicate audit findings to FBR within 30 days; the Chief (CSTRO), FBR to transfer payment against pending RPOs as per FBR policy upon receipt of audit findings; and report compliance within 45 days". The Agency has the lawful authority to finalize the matter on its merits in accordance with the law. There is thus no valid justification to assail the order of the learned Federal Tax Ombudsman. In such circumstances, this representation is liable to be rejected.

8. Accordingly, the Hon'ble President has been pleased to reject the instant representation of the Agency- Federal Board of Revenue.

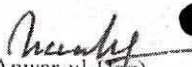
(Anwar-ul-Haq)
Director (Legal-II)
Ph: 051-9103571

The Chairman,
Federal Board of Revenue,
Islamabad

No.125/FTO/2020, dated 15.02.2021

Copy for information to:

1. Mr. Muhammad Akram, Mohallah Koh Noor Colony, Multan.
2. The Registrar, Federal Tax Ombudsman, Islamabad.
3. The Chief (Legal-1), Federal Board of Revenue, Islamabad.
4. The Commissioner Inland Revenue, Regional Tax Office, Multan.
5. Mr. Inayat ur Rehman, Advocate, H.No.1334-Qadeerabad Near Tinan Walli Khuhi, Multan.
6. Master file.


(Anwar-ul-Haq)
Director (Legal-1)