

15 DEC 2021

M(L)

1

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

Federal Board of Revenue

Vs

M/s. Pak Ethanol (Pvt) Ltd, Karachi

Subject: REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS/RECOMMENDATIONS DATED 22.09.2020 PASSED BY THE FTO IN COMPLAINT NO. 2057/KII/ST/2020

Chief (L-I)  
S-1(L)(SC)  
S-1(AA)  
S-1  
Chief (L-III)  
S-1(L)(SC)  
S-1(L)(SC)  
S-1(L)(SC)  
Chief (L-III)  
S-1(L)(SC)  
S-1(L)(SC)  
S-1(L)(SC)

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

This representation has been filed by the Federal Board of Revenue (FBR) on 21.10.2020 against the orders of the learned Federal Tax Ombudsman dated 22.09.2020, whereby it has been held that:-

"FBR to direct:

- i. the concerned officer of Zone-V, Corporate RTO, Karachi to settle pending refund claim and decide compensation request of the Complainant expeditiously, as per law; and
- ii. report compliance within 45 days."

2. M/s Pak Ethanol (Pvt) Ltd Karachi (the complainant) filed the complaint under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against the FBR for failing to settle sixteen fresh refund claims of Rs.155.304 million pertaining to various tax periods from March 2017 to November 2018. The complainant also demanded compensation under Section 67 of the Sales Tax Act, 1990 (the Act). Despite the complainant's continuous efforts, the Deptt failed to dispose of the refund appeals within stipulated time. The complainant, therefore took up the matter with the learned Federal Tax Ombudsman by filing complaint under Section 10(1) of the FTO Ordinance 2000.

3. The learned Federal Tax Ombudsman called comments from the Secretary, Revenue Division Islamabad. In response thereto, the FBR vide letter dated 20.08.2020 forwarded the parawise comments of the Commissioner-IR, Zone-V, Corporate RTO, Karachi. At the outset, preliminary objection in terms of Section 10(3) of the FTO Ordinance was raised. Further, the complainant was included in the cases of suspicious transactions through benami accounts pending before the Hon'ble Supreme Court of Pakistan and since the complainant was involved in suspicious/benami transactions, the admissibility of refund claims were hit by the mischief of Section 73 of the Act. Moreover, refund claims of the complainant could not be processed as name of the complainant was included in the list of Suspicious Transaction Report of Financial Monitoring Unit (FMU) till completion of proceedings before the Hon'ble Supreme Court of Pakistan.

4. The learned Federal Tax Ombudsman proceeded to pass the above mentioned order. Hence, this representation by the FBR

5. The case had been fixed number of times but was adjourned for representation of the parties. Finally it was fixed for 30.11.2021, when Mr. Mansoor Wisal, Deputy Commissioner-IR has represented the FBR, whereas Mr. Nisar Ahmad, FCA has appeared on behalf of the complainant.

6. The learned Federal Tax Ombudsman observed vide paras 5 & 6 of order i.e.:

"5. In view of supra, it is observed that the Deptt failed to furnish any direction of the Hon'ble Supreme Court of Pakistan or any competent authority for keeping the refund claims of the complainant pending. It is, therefore, evident, that so far, the Deptt has failed to finalize action on pending refund claims of the complainant without any reason either by sanctioning admissible refund claims within 45 days or rejecting inadmissible refund claims within 60 days in terms of Section 10(1) & (3) of the Act, respectively. Delay on the part of the Deptt is, therefore, evident.

6. Delay in settling pending refund claims of the Complainant, within the time limit stipulated under Section 10 of the Act, is tantamount to maladministration, in terms of Section 2(3)(ii) of the FTO Ordinance."

Thus, he concluded on consideration of the matter that delay in disposal of refund within prescribed period amounts to maladministration.

17/12


FBR e-DOX No. 203680  
Received in M(L) Office on 17/12/21

FBR e-DOX No. 203680  
Received in Chairman's Sectt

ppr  
21/12

7. Be that as it may, the recommendations of the learned Federal Tax Ombudsman are merely to the extent directing "the concerned officer of Zone-V, Corporate RTO, Karachi to settle pending refund claim and decide compensation request of the complainant expeditiously as per law; within 45 days." The Agency has the lawful authority to decide the matter on its merits in accordance with the law on consideration of all aspects taking a holistic view regarding pending proceedings except the matters pending before any court of law. Suffice it to state that a statutory body is duty bound under the law to perform its functions/duties in accordance with law and unless restrained to proceed in a matter by a competent forum go ahead as per mandate of law. There is thus no valid justification to interfere with the order of the learned Federal Tax Ombudsman. In such circumstances, this representation is liable to be rejected with these observations.

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

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


✓ The Chairman,  
Federal Board of Revenue,  
Islamabad.

M/s. Pak Ethanol (Pvt) Ltd,  
CL 5/4, State Life Building No. 10-A,  
Abdulah Haroon Road,  
Karachi

No.160/I/TO/2020 dated 08.12.2021

Copy for information to:

1. The Registrar, Federal Tax Ombudsman, Islamabad.
2. The Chief (Legal-III), Federal Board of Revenue, Islamabad.
3. The Commissioner, Inland Revenue, Corporate RTO, Karachi, 12<sup>th</sup> Floor, Room No.1207, Income Tax Building, Shahrah Kamal Atta Turk, Karachi.
4. Mr. Nisar Ahmad, FCA, Rao & Company, 4, Karachi Chambers, Hasrat Mohani Road, P.O. Box 5061, Karachi (Phone No.021-32412778 & 021-32412779).
5. Master file.

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