

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

Federal Tax Ombudsman Suo Moto Action

REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE ON
SUO MOTO NOTICE THROUGH OWN MOTION BY THE HONOURABLE FEDERAL TAX
OMBUDSMAN FINDINGS / RECOMMENDATIONS DATED 19.08.2020 PASSED BY THE
FTO COMPLAINT NO. 0094/OM/2019

Kindly refer to your representation received in this Secretariat on 25.09.2020 on the above subject addressed to the President in the background mentioned below:-

This Representation has been filed by the Federal Board of Revenue (FBR) on 25.09.2020 against the order of the learned Federal Tax Ombudsman dated 19.08.2020, whereby it has been held that:-

"FBR to-

- i. Direct the Chief Commissioner-IR, RTO-II, Karachi to investigate and identify officials/officers involved in the processing and sanctioning refund of Rs.77.359 million sanctioned to the RP prior to Red Alert and take appropriate criminal/disciplinary action against them;
- ii. identify the officials/officers failed to initiate proceedings to recover input tax adjusted by the RP amounting to Rs.79.119 million including sanctioned refund of Rs.77.359 million and take appropriate criminal /disciplinary action against them;
- iii. Initiate appropriate action including criminal proceedings leading to prosecution of RP and recovery of amount swindled from public exchequer through claiming inadmissible input tax/refund; and
- iv. Report compliance within 45 days."

2. Without reference to the merits of the case, it may be noted that under Section 32 of the Establishment of the Office of Federal Tax Ombudsman Ordinance 2000 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 period of limitation i.e. 30-days.

3. In the instant case, the impugned order was passed on 19.08.2020. It was received by FBR on 20.08.2020. The Agency could have availed the remedy of representation within 30-days. However, it allowed the said period to lapse and preferred the instant representation on 24.09.2020 which was received in this Secretariat on 25.09.2020 that is 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.

4. Section 15 of the Federal Ombudsman Institutional Reforms Act, 2013 is as follows:-

"It shall not be necessary for the President or the Ombudsman to give personal hearing to the parties and the matter may be decided on the basis of available record and written comments filed by the Agency."

This law thus empowers the decision of a representation without personal hearing of the parties, on the basis of available record.

CS/KS

SS (To-11)
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*E-Box# 29270-R
01/3/2021*

5. Accordingly, the Hon'ble President has been pleased to reject the instant representation of the FBR as time barred.

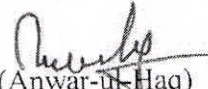
(Anwar-ul-Haq)
Director (Legal-II)

The Chairman,
Federal Board of Revenue,
Islamabad.

No.130/FTO/2020, dated 25.02.2021

Copy for information to:

1. The Registrar, Federal Tax Ombudsman, Islamabad.
2. The Commissioner, Inland Revenue, RTO-I, Karachi.
3. The Chief (Legal-I), Federal Board of Revenue, Islamabad
4. Master file.


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