

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

M/s Millat Tractors Limited, Lahore
Versus
Federal Board of Revenue

REPRESENTATION PREFERRED BY M/S MILLAT TRACTORS LIMITED, LAHORE
AGAINST FINDINGS / RECOMMENDATIONS DATED 08.01.2020 PASSED BY THE FTO
IN COMPLAINT NO. 2015/LHR/ST/2019

Kindly refer to your representation received in this Secretariat on 07.02.2020 on the above subject addressed to the President in the background mentioned below:-

1. This Representation has been filed by the Complainant - M/s Millat Tractors Limited, Lahore on 07.02.2020 against the findings of the FTO dated 08.01.2020, whereby it has been held that:

"It is crystal clear that STR No. 233644/2018 was filed before the Hon'ble Lahore High Court, Lahore on 31.07.2018, against the ATIR's order dated 07.05.2018, whereas the complaint was filed on 12.11.2019, during pendency of the reference, therefore, bar on jurisdiction of this forum in terms of Section 9(2)(a) of the FTO Ordinance is applicable. Accordingly, the complaint stands rejected for want of jurisdiction. Filed be consigned to record."

2. The hearing of the case has been held on 13.10.2020. Mr. Bilal Chaudhry, Manager Finance M/s Millat Tractors Limited alongwith Mr. Sumair Saeed Ahmed, Advocate High Court have appeared. On the other hand, Mr. Hassan Mabroor, Deputy Commissioner Inland Revenue, LTU, Lahore has represented the FBR.

3. The grievance of the petitioner is that Order of the Appellate Tribunal Inland Revenue (ATIR) dated 07.05.2018 regarding refund of Sales Tax was not being implemented; and that the learned FTO should have investigated the allegation of maladministration. On perusal and appreciation of documents on the record, it has been noted that the Agency/FBR had filed Tax Reference against the Order of the Tribunal before the Hon'ble Lahore High Court on 31.07.2018; whereas the subject complaint was filed on 12.11.2019 before the learned FTO, when the matter was already subjudice before the learned High Court.

4. Section 9(2)(a) of the FTO Ordinance 2000 provides that FTO shall not have jurisdiction to investigate or inquire into matters "(a) which are subjudice before a court of competent jurisdiction or tribunal or board or authority on the date of the receipt of a complaint, reference or motion by him." The legal position is quite established and obvious that in a matter about which proceedings are pending before the Court, the jurisdiction of FTO stands excluded. Therefore, the grievance of the Complainant that the FTO has rejected the complaint without adverting to other issues, is untenable as entering upon other aspects of the matter would have been a futile exercise by a forum which lacks jurisdiction in the matter and would have no effect whatsoever.

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5. The matter admittedly is pending before the Hon'ble Lahore High Court, the outcome of which will govern the situation. The Order of the learned FTO declining to assume jurisdiction is based on valid grounds. The Representation deserves to be rejected.

6. Accordingly, the Hon'ble President has been pleased to reject the instant Representation of the Complainant - M/s Millat Tractors Ltd Lahore accordingly.

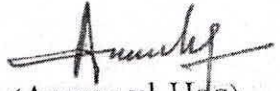
(Anwar-ul-Haq)
Director (Legal-II)

Col® Mukhtar Ahmed Bhatti,
Senior Manager,
M/s Millat Tractors Limited,
8.8 KM, Sheikhpura Road, Shahdara, Lahore.
(0321-4909404)

No.23/FTO/2020, dated 26.10.2020

Copy for information to:

1. The Chairman, Federal Board of Revenue, Islamabad.
2. The Registrar, Federal Tax Ombudsman, Islamabad.
3. Mr. Sumair Saeed Ahmed, Advocate High Court, 3rd Floor, LCCI Building, Near China Chowk, Lahore. (042-36282432-3)
4. ✓ The Second Secretary (TO-II), Federal Board of Revenue, Islamabad.
5. Master file.


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