

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 FTO AGAINST FINDINGS / RECOMMENDATIONS DATED 04.06.2020 PASSED BY THE FTO IN COMPLAINT NO.0173/OM/2019

Kindly refer to your representation received in this Secretariat on 16.07.2020 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 16.07.2020, against the Order of the learned Federal Tax Ombudsman (FTO) dated 04.06.2020, whereby it has been held that:

"FBR to: -

- i. *Direct the Chief Commissioner-IR, RTO-II, Karachi to investigate and identify the officials/officers involved in processing of sales tax returns filed by the RP prior to Red Alert and take appropriate criminal/disciplinary action against them;*
- ii. *Identify the officials/officers who failed to initiate proceedings to reject the refund claim of Rs.2.253 million, filed by the RP and recover inadmissible input tax adjusted by the RP and take appropriate criminal/disciplinary action against them;*
- iii. *Initiate appropriate action including criminal proceedings leading to prosecution of RP and recovery of the 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 S.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 learned 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 04.06.2020 by the learned FTO. It was received by FBR on 05.06.2020. The FBR could have availed the remedy of Representation within 30-days. However, the FBR allowed the said period to lapse and preferred the instant Representation on 16.07.2020 which 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. The Agency has pointed out that the Representation could not be filed in time due to lockdown on account of Pandemic Noval Corona Virus (Covid-19). But as mentioned above, there is no such power under the law to condone the delay.

4. 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.89/FTO/2020, dated 11.11.2020

Copy for information to:

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

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

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