

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

M/s. Be Be Jan Colors Limited  
Vs  
Federal Board of Revenue

REPRESENTATION REFERRED BY M/S BE BE JAN COLORS LTD AGAINST FINDINGS /  
RECOMMENDATIONS DATED 14.04.2021 PASSED BY THE FTO IN COMPLAINT NO. 0415/LHR/ST/2021

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 M/s Be Be Jan Colors Ltd on 06.05.2021 against the order of the learned Federal Tax Ombudsman (FTO) dated 14.04.2021, whereby it has been held that:

*"FBR to direct:-*

- i. *the Chief (Projects/Refund) ST FBR to rollback RPO dated 04.02.2021;*
- ii. *the officer concerned of CTO, Lahore to re-process and settle the claim discussed supra expeditiously, as per law; and*
- iii. *report compliance within 45 days."*

2. The above mentioned complaint was filed against the Chief (Projects & Refunds) Sales Tax (ST) in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) for delay in transfer of payment of Rs.18.645 million against Refund Payment Order (RPO) dated 04.02.2021 issued in respect of deferred refund claim for tax period August 2020.

3. M/s Be Be Jan Colors Ltd (the complainant) registered as a manufacturer of textile goods, filed deferred claim for tax period August 2020 which was processed and RPO No.8080383 dated 04.02.2021 was issued. However, FBR stopped payment against that RPO due to objection of having higher export value ratio. 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.

4. The learned Federal Tax Ombudsman called the comments from the Secretary, Revenue Division, Islamabad. In response thereto, the Chief, (Projects/Refund), FBR Islamabad submitted para-wise comments vide letter dated 18.05.2021. Further, the RPO dated 04.02.2021 had been processed by the LTO, Lahore which was appeared invalid in the Centralised Sales Tax Refund Office (CSTRO's) System due to having higher export value ratio, as the amount of refund claimed and sanctioned was more than twelve percent (12%) of the export value. Therefore, in order to remove the System based objection, the RPO was needed to be rolled back. It was further averred that the complainant was required to approach the LTO, Lahore for reprocessing of the claim within the limit set out by the FBR in terms of Rule 39(C) of Sales Tax Rules, 2006.

5. The learned Federal Tax Ombudsman proceeded to pass the above referred order. Thus, the representation by the complainant.

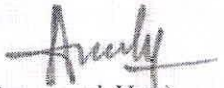
6. The hearing of the case was fixed for 16.11.2021. Mr. Tahir Saeed, SNR Manager Taxation and Mr. Muhammad Hamzah Sheikh, Advocate have appeared on behalf of M/s Be Be Jan Colors Ltd, Lahore whereas, Mr. Sohail Anjam, DCIR CTO, Lahore and Mr. Hasmat Ahmad, Audit Officer, CTO, Lahore have represented the FBR.

7. At the outset, the Departmental Representative (DR) intimated that the FBR have already revised the ceiling limit from 12% to 15% of the export value, therefore, the FBR was approached to get the latest update about the Refund Policy in vogue. In response thereof, the Board vide letter dated 17.11.2021 have intimated that the powers conferred upon the Board under Rule 39C of the Sales Tax Rules 2006 read with Section 10 of the Sales Tax Act 1990, the ceiling limit for issuance of refund to exporters had been set as 12% of the export value since July, 2019 for the claims to be processed through the Faster Module. Whereas, claims over and above the 12% ceiling limit were deferred by the CSTRO System. Further, the Board has revised the ceiling limit from 12% to 15% of the export value vide letter

No.14(7)/Chief(P&R)/FBR/2020-21 dated 08.06.2021. Due to the revision of the limit, the complainant's two claims have already been refunded by the Board which were within the ceiling limit 15% of the export value. This aspect has also been affirmed by the Counsel for the complainant during the hearing.

8. In view of the prevailing legal position when some of the claims of the complainant have already been processed, the pending claims needs to be dealt with as per law expeditiously.

9. Accordingly, the Hon'ble President, as per his decision above, has been pleased to dispose of representation of the complainant.

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

M/s. Be Be Jan Colors Limited.  
71-B, Block-II, Gulberg-II,  
Lahore. 0321.4900212

The Chairman,  
Federal Board of Revenue,  
Islamabad.

No.31/FTO/2021 dated 02.12.2021

Copy for information to:

1. The Registrar, Federal Tax Ombudsman, Islamabad.
2. The Chief (Legal-III), Federal Board of Revenue, Islamabad.
3. The Second Secretary (CSTRO/Refunds), Federal Board of Revenue, Islamabad.
4. Mr. Imtiaz Siddiqui & Associates, 179/180 A, Scotch Corner, Upper Mall, Lahore.
5. Master file.

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