

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

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*Federal Tax Ombudsman Suo Moto Action*

Subject: REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE ON SUO MOTO NOTICE THROUGH OWN MOTION BY THE LEARNED FTO DATED 01.09.2021 IN COMPLAINT NO. 0119/OM/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 Federal Board of Revenue (FBR) on 01.10.2021 assailing the order dated 01.09.2021 of the learned Federal Tax Ombudsman (FTO) whereby it has been held as under:

"FBR to -

- (i) address all existing inconsistencies, procedural loopholes and systemic flaws through an integrated FBR portal i.e. Iris. All standalone systems/soft wares/modules, currently governing inland taxes be configured in single Iris portal. (Income Tax, ST and FED);
- (ii) implement e-solution on priority basis. PRAL to configure ST/FED applications under Iris, not later than 31<sup>st</sup> December, 2021; the date proposed by FBR HQs.
- (iii) direct filed formations to ensure issuance of bar coded notices so as to avoid any possible misuse of powers by the Tax functionaries; and
- (iv) compliance report of recommendations (i) & (iii) be submitted within 45 days and that of (ii) in the first week of January, 2022."

2. This is an Own Motion Investigation initiated through exercise of jurisdiction conferred under Section 9(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) regarding procedural loopholes in the Sales Tax/Federal Excise Duty Regime. It was observed that the officials of Inland Revenue were blatantly misusing Section 11 of the Sales Tax Act, 1990 (the Act) by issuing out of System manual Show Cause Notices (SCN), which at times were scrapped as a result of illegal settlement with the Taxpayers. Such practice was facilitated by the procedural shortcomings whereby the FBR had failed to introduce Bar Coded and System Generated Notices (SGN) Regime under the Act. This procedural shortcoming was evident from the fact that neither any uniform pattern of the SGNs of the FBR's Portal were being used for all Inland Taxes, nor SGNs were being issued in all types of audit cases processed under the Sales Tax Act 1990. The Show Cause Notices (SCN) were issued through Tax Audit Management System (TAMS), in one category of Audit (Section. 72B of the Act) but in cases of regular audit approved by the Commissioner-IR concerned under Section 25 of the Act, such Notices were issued manually. Similarly, prima facie, on account of Systemic maladministration, the absence of Bar Coded SCNs in certain cases were being misused for corrupt or improper motives falling within the ambit of maladministration.

3. The learned FTO issued Notice to the Secretary, Revenue Division. The Secretary (ST-Operations), FBR, submitted comments wherein it was averred that the issuance of manual Show Cause Notices under Section 11 of the Act was examined and in order to deal with the matter keeping in view the interest of revenue and transparency, the FBR besides adopting administrative measures had initially introduced TAMS followed by another updated Online Portal with additional features, namely, Inland Revenue Information System (IRIS). The said e-solution was integrated end-to-end and covered all business processes. However, admittedly, IRIS catered for Income Tax only, whereas, to enable filing of Sales Tax Returns and issuance of e-Notices and Orders through IRIS, PRAL was working for development/ improvement of the said e-System and that exercise was likely to be completed by the end of the year 2021.

4. The learned Federal Tax Ombudsman proceeded to pass the impugned order, hence, the instant representation by the FBR.

5. The hearing of the case was fixed for 15.03.2022. Mr. Zulfiqar Ali Gopang, Second Secretary (BDT-IT) has represented the FBR.

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6. TAMS was introduced as a risk based automated system in 2013 to deal with income tax audit and partial coverage of sales tax and despite claimed improvements, it is confined to first stage of audit where data is entered and manually uploaded. FBR had admitted that TAMS coverage of sales tax/ federal excise duty is confined to audit alone and that too partially, whereas enforcement operations were not incorporated.


7. Admittedly, Iris is an integrated, logic based software providing end to end solutions. It can easily be configured for any federal or provincial tax. There is no reason to continue with various standalone applications for different business processes of ST/FED. FBR's record confirms that after 11 years of integration of inland taxes, an available integrated portal has not been configured for high risk areas under ST/FED regime.

8. The Chief Commissioner-IR, CTO, Karachi vide letter dated 31.05.2021 had brought to the notice of the Member-IT, FBR about the absence of any system for issuance of computerized bar-coded sales tax notices/orders under Section 11 of the Act resulting in difficulty in managing recovery as a result of created tax demand. The FBR had been directed to provide User ID and Password for entering sales tax notices/orders in TAMS as issuance of manual notices without bar-coding is a serious risk to the transparency of the system with possibility of misuse of powers and loss of legitimate Government Revenue. There is a need to provide access of this facility to the Enforcement Officers for issuance of e-notices and assessment orders under Section 11 of the Act, electronically with bar-coding in TAMS.

9. The perusal of the impugned order shows that the learned FTO has directed the FBR to address existing inconsistencies, procedural loopholes and systematic flaws through an integrated FBR portal, implement e-solution on priority basis and to ensure issuance of bar coded notices to avoid any misuse of powers by the tax functionaries. The preamble of the Establishment of the Office of Federal Tax Ombudsman Ordinance 2000 provides that it is meant for rectification of maladministration by functionaries administering tax laws and the recommendations of the learned FTO revolve around the said objective to redress the flaws.

10. No interference is warranted in the impugned order which is consistent with the objects and purpose of law.

11. Accordingly, the Hon'ble President as per his decision above has been pleased to reject the instant representation.

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

✓ The Chairman,  
Federal Board of Revenue,  
Islamabad.

No.89/FTO/2021 dated 06.04.2022

Copy for information to:

1. The Registrar, Federal Tax Ombudsman, Islamabad.
2. The Chief (Legal-III), Federal Board of Revenue, Islamabad.
3. The Chief (BDT-IT), FBR (HQ), Islamabad.
4. Master file.

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