

7. Suffice it to observe that the preliminary objection invoking Section 9(2) of the Ordinance was dealt with by the Federal Tax Ombudsman as follows:-

"6. Preliminary' objection as regards jurisdiction of this office in terms of Section 9(2)(b) of the FTO Ordinance, 2000 is overruled as the matter under reference is that of delay in implementing the interim order of ATIR, which fact is established from record. Order of ATIR dated 21.06.2021 was implemented on 02.07.2021 despite 'directions to this effect by the Hon'ble LHC dated 29.06.2021 as well, causing huge loss to the Complainant Company on account of excessive billing by M/s SNGPL. This is an already concluded matter but with delay, in which no appeal, review or revision can be expected."

It was correct approach to the matter and there can be no cavil with it as a matter involving maladministration duly falls within the jurisdiction of the learned Federal Tax Ombudsman.

8. The learned Federal Tax Ombudsman thrashed the matter vide paras 7&8 of the order as follows:

"7. Case papers examined and verbal arguments of both, the AR and DR heard. It is an admitted fact that order of the ATIR dated 21.06.2021, granting stay for 30-days against suspension order of the department, dated 09.06.2021 was given effect only after order of LHC dated 29.06.2021 in W.P No.41366/2021 directing the department to comply with the aforesaid orders of ATIR in letter and spirit, and that too after a further delay of four days, on 02.07.2021. Had this restoration been done by the department immediately under the directions of the ATIR dated 21.06.2021 or even after the orders of the LHC dated 29.06.2021, the complainant, a textile manufacturing concern would have been' in the ATL on 30.06.2021 and hence entitled to the concessionary rate on Natural Gas.

8. Delay on part of the department in giving effect to the orders of ATIR dated 21.06.2021 resulted in excessive billing on Natural Gas to the complainant's unit to the tune of Rs.4.037 million which amounts to maladministration u/s 2(3)(i)(ii) of the FTO Ordinance, 2000."

Thus, he concluded that failure to give effect to the orders of the ATIR and the Lahore High Court amount to maladministration.

9. The recommendations of the learned Federal Tax Ombudsman directing "FBR to direct the Chief Commissioner-IR, CTO Lahore to (i) clarify to SNGPL that the complainant's unit was an active taxpayer as a consequence of stay by ATIR dated 21.06.2021 against suspension of the complainant company. through suspension order of the department dated 09.06.2021; and report compliance within 45 days", are unassailable in the circumstances of the case. Suffice it to observe that it is merely a reiteration about the duty of the Departmental Authority to give effect to the ATIR's Order and of the Hon'ble High Court. Thus, the order of the learned FTO is well justified and based on valid reasoning. There is thus no justification to interfere with it. In such circumstances, this representation is liable to be rejected.

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

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

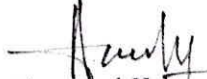
The Chairman,
Federal Board of Revenue,
Islamabad.

M/s. Madina Cotton Mills,
Chak No. 51/2-L, Road Depalpur Pur,
District Okara.
0321-8410255

No.150/FTO/2021 dated 22.04.2022

Copy for information to:

1. The Registrar, Federal Tax Ombudsman, Islamabad.
2. The Chief (Legal-III), Federal Board of Revenue, Islamabad.
3. The Commissioner-IR, Corporate Tax Office, Lahore
4. Mr. Ghulam Murtaza, Advocate, Suit No.4, 2nd floor Syed Plaza, 30-Ferozpur road, Lahore. 0321-4036155
5. Master file.


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