

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

**No.71/FTO/2022**

**Dated: 26.12.2022**

***Federal Board of Revenue Vs M/s Sapphire Bay Islamic Development REIT***

Subject: **REPRESENTATION FILED BY FEDERAL BOARD OF REVENUE AGAINST THE FINDINGS / RECOMMENDATIONS DATED 23.02.2022 PASSED BY THE LEARNED FTO IN COMPLAINT NO. 0153/KHI/IT/2022**

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

This representation has been filed by Federal Board of Revenue on 25.03.2022 against the order of the learned Federal Tax Ombudsman (FTO) dated 23.02.2022, whereby it has been held that:

***“FBR to direct-***

- (i) the Member (IT) for necessary correction in 'Registration Process' of IRIS FBR web portal so that all new registration cases automatically fall in correct jurisdiction in terms of FBR jurisdiction orders;***
- (ii) direct the Secretary (IR-Jurisdiction) FBR Islamabad, to transfer the Complainant's jurisdiction from RTO-1 Karachi to CTO Karachi in terms of FBR jurisdiction order F. No. 7(2)Jurisdiction/2017/145343-R dated 01.09.2020; and***
- (iii) report compliance within 45 days.”***

2. The above mentioned complaint was filed in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against incorrect allocation of jurisdiction by the FBR Web Portal 'IRIS' in violation of the FBR jurisdiction order F.No.57(2) Jurisdiction/2017/145343-R dated 01.09.2020.

3. M/s Sapphire Bay Islamic Development (the complainant) a Real Estate Investment Trust (REIT) got registered itself on 29.12.2021 in Karachi. But the IRIS System had placed the complainant's case in the jurisdiction of RTO-1 Karachi instead of CTO Karachi in violation of the FBR Jurisdiction Order F. No. 57(2) Jurisdiction/2017/145343-R dated 01.09.2020. The complainant submitted applications to RTO-1 and CTO Karachi on 04.01.2022 to grant NOC so that the Board could transfer the jurisdiction from RTO-I to CTO Karachi. However, the Department (Deptt) failed to transfer his jurisdiction to CTO Karachi. He 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 of the Secretary, Revenue Division, Islamabad. In response thereto, the Additional Commissioner-IR (HQs) CTO Karachi vide letter dated 04.02.2022 instead of examining the issue & contents of the complaint replied that the said complaint pertained to RTO-1 Karachi on the point of jurisdiction.

5. Considering the respective stances, the learned Federal Tax Ombudsman proceeded to pass the above-mentioned orders. Hence, the representation by the FBR.

6. The hearing of the case was fixed for 13.12.2022. Mr. Ehsan Ullah Khan, Secretary-IT and Mr. S. Shabi Haider, Second Secretary, FBR HQs have represented the FBR, whereas, the complainant has not appeared despite notice. Needless to mention that Section 15 of the Federal Ombudsman Institutional Reforms Act, 2013 empowers the decision of a representation on the basis of available record without personal hearing of the parties.

7. The learned Federal Tax Ombudsman thrashed the matter vide paras 5 to 7 of the order as follows:

*“5. Evidently, as per FBR jurisdiction order F. No. 57(2) Jurisdiction/2017/145343-R dated 01.09.2020, the jurisdiction of all `REIT cases whose place of business is situated in the areas falling within limits of Karachi lie with CTO Karachi. The Complainant, a `Real Estate Investment Trust` (REIT) whose place of business is in Karachi got registered itself with FBR on 29.12.2021. As per `Taxpayer Profile Inquiry` extracted on 08.02.2022 from FBR web portal, the jurisdiction of the complainant has been placed with RTO-1 Karachi. This shows that the IRIS System of FBR web portal had placed the complainant’s case erroneously in the jurisdiction of RTO-I Karachi instead of CTO Karachi in violation of FBR jurisdiction order F. No. 57(2) Jurisdiction/2017/145343-R dated 01.09.2020. This is a `system error` which needs correction in `Registration Process` of IRIS, FBR web portal. The registration process must strictly follow jurisdiction orders of FBR. Thus allotting wrong jurisdiction to the complainant specially in REIT cases during registration process in IRIS web portal contrary to FBR jurisdiction order F. No. 57(2) Jurisdiction/2017/145343-R dated 01.09.2020 is evident.*

*6. As regards the case of this complainant who had applied for change of jurisdiction having discovered himself in wrong jurisdiction of RTO-1; FBR vide notification dated 17.12.2019 has delegated powers & functions for correction and transfer of jurisdiction. The relevant portion of the procedure is reproduced below;*

*“(i) The taxpayer having any problem with present jurisdiction, shall submit an application to the Chief Commissioner IR having current jurisdiction for change of his/her jurisdiction wherein the taxpayer shall give the reasons for transfer of his / her jurisdiction;*

*(ii) The Chief Commissioner IR, within 30 days from the date of receipt of such application, shall examine the request and if found reasonable forward to the Chief Commissioner IR to whom the taxpayer intends to transfer his / her jurisdiction, for issuance of NOC. Upon receipt of such NOC, the CCIR having jurisdiction over, shall transfer the jurisdiction accordingly.*

*(8) If the request of taxpayer is found not well grounded, the Chief Commissioner IR shall reject such request in writing giving therein the reasons for such rejection.”*

*However, it has been learnt that the requisite access for change of jurisdiction by respective Chief Commissioner in IRIS portal of FBR, has been disabled by FBR (Hq). Now practically, the Secretary (IR-Jurisdiction) FBR is transferring the jurisdiction after obtaining NOC from the respective Chief Commissioners. CTO Karachi vide letter dated 25.01.2022 addressed to Secretary (Jurisdiction), FBR already issued NOC for transfer of jurisdiction from RIO-1 Karachi to CTO Karachi.*

*7. Allotting wrong jurisdiction to the complainant specially in REIT cases during registration process in IRIS web portal contrary to FBR jurisdiction order F. No. 57(2)Jurisdiction/2017/145343-R dated 01.09.2020 is tantamount to maladministration in terms of Section 2(3)(1)(a) & (ii) of the FTO Ordinance.”*

Thus, he concluded that allotting wrong jurisdiction especially in REIT cases during the registration process amounts to maladministration.

8. At the outset, the FBR’s representatives have informed that the learned FTO’s direction (ii) has already been implemented. Regarding direction (i), it has been stated that the PRAL has already implementing the registration process through IRIS System allocating all new registered applicants correct jurisdictions in terms of the FBR Jurisdiction Order dated 01.09.2020. Further, the IT team of the PRAL continuously upgrades its System of registration and allocation of jurisdiction in consultation with the FBR HQs and all Field Formations so that the existing System could formidably be able to cope with the requisite requirements. Suffice it to observe that the FBR has already been processing the new registration applications and allotting the correct jurisdictions through its IRIS System successfully. Thus, the representation is liable to be disposed of with the directions to the FBR for submitting a holistic report regarding its registration and allocation of jurisdiction System to the FTO’s Secretariat within 90 days positively. **Additionally, the report should consider and respond to the query that why was this matter not settled when the complainant approached them? and why did this matter come to an appeal to the President. This seems to be very callous.**

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

-Sd-  
(Muhammad Saleem)  
Director (Legal)

The Chairman,  
Federal Board of Revenue,  
**Islamabad.**

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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 Headquarters, Islamabad.
4. Master file

-Sd-  
(Muhammad Saleem)  
Director (Legal)