

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

Rep.No.72/FTO/2022
Date of Decision:06.01.2023

Federal Board of Revenue Vs Mian Muhammad Haroon Akbar

Subject: **REPRESENTATION FILED BY FEDERAL BOARD OF REVENUE AGAINST THE FINDINGS / RECOMMENDATIONS DATED 21.02.2022 PASSED BY THE LEARNED FTO IN COMPLAINT NO. 2782/LHR/IT/2021**

Kindly refer to your representations 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 21.02.2022, whereby it has been held that:

“The Deptt is, thus, directed to obtain original bills from the Complainant and dispose of refund applications for Tax Years 2017 & 2020, after providing hearing opportunity in accordance with law and report compliance within.45 days.”

2. The petition was filed U/S 23 of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) seeking the learned FTO's intervention for issuance of partial refund claim earlier rejected vide orders dated 03.11.2021 passed U/S 170(4) of the Income Tax Ordinance, 2001 (the Ordinance) for Tax Years 2017 & 2020.
3. Mian Muhammad Haroon Akbar (the complainant) stated that the Deptt passed refund orders U/S 170(4) of the Ordinance on 03.11.2021 for Tax Years 2017 & 2020 wherein admissible refund amounting to Rs.3.186 million and Rs. 0.124 million was issued respectively. However, a sum of refund claim was rejected due to non-verification of tax payments deducted U/S 235 of the Ordinance on account of electricity bills. He therefore took up the matter with the learned Federal Tax Ombudsman by filing his complaint U/S 23 of the FTO Ordinance 2000.
4. The learned Federal Tax Ombudsman called the comments of the Secretary, Revenue Division, Islamabad. In response thereto, the Deptt filed comments vide letter dated 20.01.2022 contending that taxpayer could not provide original electricity bills and deduction certificates under Rule 42 of the Income Tax Rules, 2002 were also missing.
5. Considering the respective stances, the learned Federal Tax Ombudsman proceeded to pass the above-mentioned orders, which is assailed by the FBR.
6. The hearing of the case was fixed for 20.12.2022. Ms. Amra Sarwar, Additional Commissioner-IR, Lahore has 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 para 4&6 of the order as follows:

“4. During hearing, AR and DR reiterated their respective stance taken in the complaint and parawise comments. Further AR of the Complainant submitted photocopies of original electricity bills for the month of July 2017 & 2020 alongwith tax deduction certificates issued by the VVAPDA under rules 42 of the Income Tax Rules, 2002. It is stated that original bills/documents will be provided to the Deptt as and when requisitioned by the concerned quarter.

6. During the proceedings the Complainant has consented to provide the required original electricity bills and tax deduction certificates issued by the withholding agent i..e. WAPDA under Rule 42 of the Income Tax Rules, 2002.”

These are findings arrived at on due consideration of the matter and no cavil could be found with such approach to the matter.

8. The recommendations of the learned FTO directed the FBR to *“The Deptt is, thus, directed to obtain original bills from the Complainant and dispose of refund applications for Tax Years 2017 & 2020, after providing hearing opportunity in accordance with law and report compliance within.45 days”* is unassailable in the circumstances of the case. Suffice it to observe that the Departmental Representative has assured that the matter will be dispose of as per learned FTO’s direction after affording opportunity of hearing to the complainant as soon as possible. In such circumstances, the representation is liable to disposed of accordingly. **“Moreover, the Hon’ble President has observed that the FBR is also directed to avoid such appeals where the directives are clear and there can hardly be a question regarding encouragement by FTO to decide a case on merit. It will save time and money of all institutions.”**

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

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

The Chairman,
Federal Board of Revenue, Islamabad.

Mian Muhammad Haroon Akbar,
Fajar Building 1st Floor, 19-A,
Abbott Road, Lahore.

Copy for information to:

- (1) The Registrar, Federal Tax Ombudsman, Islamabad.
- (2) The Chief (Legal-III), FBR, Islamabad.
- (3) The Chief Commissioner, Corporate Tax Office, 1st Floor, Tax House, Syed Mauj Darya Road, Lahore. 042-99211825.
- (4) Master file.

-Sd-

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