

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

Rep.No.83/FTO/2022

Date of Decision: 12.01.2023

Federal Board of Revenue VS Mr. Ramzan Khan

Subject: REPRESENTATION FILED BY FEDERAL BOARD OF REVENUE AGAINST THE FINDINGS / RECOMMENDATIONS DATED 11.03.2022 PASSED BY THE LEARNED FTO IN COMPLAINT NO. 0317/MLN/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 14.04.2022 against the order of the learned Federal Tax Ombudsman (FTO) dated 11.03.2022, whereby it has been held that:

"FBR to-

- (i) direct the Member (IT), FBR and CCIR, RTO- Lahore to ensure immediate correction of particulars in the CPRs for Tax Year 2016;***
- (ii) direct CIR concerned RTO Sargodha to dispose of refund claim as per law and after providing an opportunity of being heard to the complainant; and***
- (iii) report compliance within 30 days."***

2. The above-mentioned complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against delay in issuance of refund for Tax Year 2016.

3. Mr. Ramzan Khan, Proprietor of Ramzan Khan Contractor (the complainant) an individual, previously filed complaint C. No. 0440/LHR/IT/2018 on the same issue which was disposed of vide Findings dated 12.04.2018, with the following observations:

"5. During hearing on 04.04.2018, the DR assured to settle refund dues as per law, on receipt of documents and completion of the process of verification within a period of three weeks. In view of this assurance, which by all means is an undertaking to dispose of the matter, there is no need to go into the details of preliminary objection raised by the Deptt. The complaint stands disposed of with direction to the Complainant to provide evidence to the Deptt to enable them to settle the claim as per law and in line with their assurance/undertaking. File be consigned to record."

4. Briefly, the complainant an individual, e-filed return of income for Tax Year 2016 under Section 114(4) of the Income Tax Ordinance, 2001 (the Ordinance), claiming refund amounting to Rs.0.606 million. The refund arose on account of Advance Tax at the time of purchase by auction under Section 236A of the Ordinance. Further, refund application for Tax Year 2016 was e-filed on 02.12.2017 followed by respective reminders on 16.03.2019, 15.03.2020, 24.03.2021, 28.08.2021 and 22.12.2021. Despite that the DCIR, Unit Piplan failed to issue order under Section 170(4) of the Ordinance for Tax Year 2016 on the ground of that the payment Section was not correct on the face of Computerized Payment Receipts (CPRs) and promised to issue refund after correction. The complainant e-filed application for correction of CPRs on 18.03.2019 on IRIS Portal which was turned down for the reason that CPRs were not reflected in the System. He filed another application for correction of CPRs as per the SOP issued by the FBR which was still lingering on. Although, he also approached to the Member (IT), FBR but without any result. He therefore took up the matter with the learned Federal Tax Ombudsman by filing complaint under Section 10(1) of the FTO Ordinance 2000.

5. The learned Federal Tax Ombudsman called the comments of the Secretary, Revenue Division, Islamabad. In response thereto, the Chief Commissioner-IR, RTO, Sargodha forwarded para-wise

comments of the Commissioner-IR, Zone-II vide letter dated 14.02.2022. It was averred that the complainant failed to furnish original Certificates of collection/deduction alongwith return in terms of Section 164(2) of the Ordinance read with Rule 42 of the Income Tax Rules, 2002. The Unit Officer issued Notices dated 07.03.2018, 31.01.2022 & 07.02.2022 for compliance by 21.03.2018, 07.02.2022 and 11.02.2022 respectively for furnishing Tax Deduction Certificate under Section 164(2) of the Ordinance and copy of agreement containing terms & condition with regard to Tax deduction under Section 236A as well as copy of lot-wise work order but he failed to provide the required documents and filed this complaint. Due to non-correction of CPR, the refund could not be issued. However, request for correction of CPR was forwarded by the DC1R (HQ) to RTO, Lahore through IRIS for necessary verification/correction in the light of facts and material available on record for further necessary lawful action.

6. Considering the respective stances, the learned Federal Tax Ombudsman proceeded to pass the above-mentioned orders, which is assailed by the FBR.

7. The hearing of the case was fixed for 03.01.2023. Mr. Ehshan Ullah Khan, Secretary-BDT 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.

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

“7. It is a matter of record that the Complainant is striving for correction of particulars in the CPRs since years. He has approached all the concerned offices for this purpose but of no avail. Delay on the part of the Deptt is established.

8. Delay in correction of CPR for Tax Year 2016 by the RTO-11, (now RTO) Lahore and RTO Sargodha is tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance.”

He concluded that inordinate delay in correcting the CPR amounts to maladministration.

9. The Departmental Representative has informed that correction of Computerized Payment Receipts (CPRs) has already been made, as a result whereof, the refund will be processed as soon as possible. However, on a query regarding specific time frame, he has assured that the refund will be processed and finalized within three weeks positively. In such circumstances, when the Departmental Representative has given assurance to process the refund within three weeks positively, the representation deserves to be disposed of accordingly.

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

-Sd/-

(Anwar-ul-Haq)

Director General (Legal)

(1) The Chairman, Federal Board of Revenue, Islamabad.

(2) Mr. Ramzan Khan, Prop: Ramzan Khan Contractor, Faisal Chowk, Khisoor P/o Khas, Tehsil Kallur Kot, Bhakkar

Copy for information to:

1. The Registrar, Federal Tax Ombudsman, Islamabad.
2. The Chief (Legal-III), FBR, Islamabad.
3. The Chief (BDT-IT) Federal Board of Revenue, Islamabad.
4. Mr. Kashif Siddique, Kashif and Company, Ghosia Chowk, Lodhran.
5. Master file.

-Sd-

(Anwar-ul-Haq)

Director General (Legal)

