BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

Complaint No.3016/MLN/IT/2022
Dated: 07.07.2022* R.O. Multan

M/s Prime Lubricants (Pvt) limited,
8-C/1, Industrial Estate, Multan. ... Complainant

Versus

The Secretary,
Revenue Division,
Islamabad. ... Respondent

Dealing Officer	:	Dr. Khalil Ahmad, Advisor
Appraisal by	:	Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representative	:	Mr. Riaz Ahmad Raja, ITP
Departmental Representative	:	Syed Nadeem Akhtar, IRAO, RTO, Multan

FINDINGS/RECOMMENDATIONS

The complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against order passed under Section 182 of the Income Tax Ordinance, 2001 (the Ordinance) for Tax Year 2017 and notice under Section 182(2) of the Ordinance for Tax Year 2020.

2. The Complainant previously filed complaint No. FTO-MLN/000004/2016 which was disposed of vide Recommendations dated 18.08.2016, with the following:

> "7. *FBR to-*
>
> (i) *direct the Commissioner-IR to dispose of pending applications dated 16.05.2013, 06.07.2013, 24.09.2013 and 26.05.2016 for deletion of Complainant's NTN, after providing opportunity of hearing to the Complainant within 21 days; and*
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> (ii) *report compliance within 07 days thereafter."*

3. The facts of the complaint as stated are that the earlier grievance of the complaint is for deletion of NTN through PRAL which is still under process. However, again ACIR issued notice

* Date of registration in FTO Sectt.

under Section 182 (2) of the Ordinance and passed order under Section 182 of the Ordinance dated 28.06.2022 and charged penalty of Rs.20,000, on the date when no hearing was fixed, which is against the law. The ACIR issued illegal notice under Sections 182 (2) of the Ordinance (Notice to impose penalty for failure to furnish return under Section 114) for Tax Year 2020 dated 24.09.2021 for compliance on 04.10.2021 but still order has not been passed.

4. The complaint was referred to the Secretary Revenue Division, for comments, in terms of Section 10(4) of the FTO Ordinance read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. In response thereto, the Chief Commissioner-IR, RTO, Multan forwarded para-wise comments of the Commissioner-IR, Corporate Zone dated 21.07.2022vide letter dated 21.07.2022.

5. It has been contended that the Hon'ble FTO's Findings/recommendations dated 18.08.2016 i.e., to delete Complainant's NTN 1416040 have to be implemented as provided in 'IRIS' module. The taxpayer company got registration of NTN on 20.06.2002 and STRN 0407271001055 on 19.03.1998. Order for cancellation of NTN registration is to be processed through IRIS module which was attempted but system did not process it showing an alert "transaction is not allowed as taxpayer is registered in sales tax". Prior to passing order or cancellation of NTN registration in 'IRIS', de-registration of STRN through computerized system envisaged under Section 21(1) of the Sales Tax Act, 1990 (the Act) read with Rule 11 of the Sales Tax Rules, 2006 is a pre-requisite. The Unit officer has called for record from the taxpayer's company regarding de-registration of Sales Tax Registration Number for its further processing. In view of the above, Findings/Recommendations of the Hon'ble FTO referred above are

still pending.

6. No comments have been offered on imposition of penalty under Section 182 of the Ordinance and issuance of show cause notice under Section 182 of Ordinance for Tax Year 2020.

7. During hearing, the DR explained that prior to deletion of NTN, the blacklisted status of STRN is to be resorted enabling IRIS to delist it. The AR has contested that penalty for non-filing of return under Section 182 of the Ordinance for Tax2017 and show cause for non-filing of return for Tax Year 2020 have been wrongly issued.

8. Arguments heard and record perused.

9. The grievance of the Complainant emanates from his earlier complaint No. FTO-MLN/000004/2016. The recommendations given therein still stand unimplemented. The instant prayer of Complainant is deletion of order under Section 182 of the Ordinance for Tax Year 2017 and withdrawal of show cause notice for Tax Year 2020. No serious effort has been by the Deptt since 20.04.2017 to resolve the issue. Now after lapse of five years the Deptt has initiated proceedings for de-registration.

FINDINGS:

10. Imposition of penalty under Section 182 of the Ordinance for Tax Year 2017 and issuance of notice under Section 182 for Tax Year 2020 during the pendency of de-registration proceedings is tantamount to maladministration in terms of Section 2(3)(i)(a) of FTO Ordinance, 2000.

RECOMMENDATIONS:

11. FBR to direct the Chief Commissioner-IR, RTO Multan -

(i) to revisit the order dated 28.06.2022 passed under Section 182 of the Ordinance for Tax Year 2017 for Tax Year 2020;

(ii) dispose of pending applications dated 16.05.2013, 06.07.2013, 24.09.2013 and 26.05.2016 for deletion of Complainant's NTN, after providing opportunity of hearing to the Complainant in the light of Hon'ble FTO's earlier recommendations dated 18.08.2016; and

(iii) report compliance within 30 days.

(Dr. Asif Mahmood Jah)
(Hilal-i-Imtiaz) (Sitara-i-Imtiaz)
Federal Tax Ombudsman

Dated: 23/08/2022

Director
FTO Secretariat
Islamabad