BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

COMPLAINT NO. 0493/MLN/IT/2022

Dated: 15.02.2022* R.O. Multan

Ms. Suriya Jabeen,
House # 30, Block-A, Khaiban-e-Sarwar,
D. G. Khan. ... 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 Representatives	:	Dr. Athar Ishaq, Addl. CIR Syed Nadeem Akhtar, IRAORTO, Multan

FINDINGS/RECOMMENDATIONS

The complaint has been filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against un-due delay in issuance of refund for Tax Year 2020.

2. Precisely, the Complainant, an individual, e-filed return of income for Tax Year 2020 under Section 114(1) of the Income Tax Ordinance, 2001 (the Ordinance), claiming refund amounting to Rs.0.253million. The refund arose on account of tax deducted on Rent of Property under Section 155 and on certain banking transactions under Section 231AA of the Ordinance. According to the Complainant, refund application for Tax Year 2020 was e-filed on 24.12.2021. However, despite repeated efforts of the Complainant, the Deptt failed to pass order under Section 170(4) of the Ordinance, within the stipulated time.

* Date of registration in FTO Sectt.

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3. The Complainant has also prayed for additional payment for delayed refund in terms of Section 171(1) of the Ordinance.

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, Multan Zone dated 26.02.2022 vide letter dated 28.02.2022. It was contended that refund application of the Complainant for Tax Year 2020 is already under process and sent to the Addl CIR for administrative approval. Since, the refund is already under process the issue of compensation under Section 171 of the Ordinance does not arise.

5. During the course of investigation proceedings, the DR produced a copy of the refund order dated 21.03.2022 passed under 170(4) of the Ordinance for Tax Year 2020 wherein the refund has been rejected. The AR agitated that claim has been rejected unlawfully.

6. On the next date of hearing, the Addl. CIR appeared and explained that refund claim has been rejected by disallowing repair expenses. The AR, however, argued that rejection of repair expenses under the head of property income is unlawful.

7. Arguments heard and record perused.

8. Admittedly, the IRO, Unit-II, Multan Zone disposed refund application of the Complainant for Tax Year 2020, under Section 170(4) of the Ordinance, vide order dated 21.03.2022 without allowing the repair expenses. However, during the complaint

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proceedings the Addl. CIR conceded that repair expenses has been wrongly disallowed in disregard to relevant provisions of the Ordinance and Circular No.09 of 2019 dated 30.07.2019 and agreed to rectify the order under Section 170(4) of the Ordinance.

9. The Complainant's request for additional payment for delayed refund for Tax Year 2020 is, however, premature at this stage in terms of Explanation to Section 171(2)(c) of the Ordinance.

10. **In view of the assurance given by the DR to rectify the refund order for Tax Year2020, within 15 days, as per law, the Deptt is, directed to rectify the order dated 21.03.2022 passed under Section 170(4) of the Ordinance and dispose of Complainant's refund application for Tax Year 2020, within 15 days, after providing opportunity of hearing, as per law.**

11. **Report compliance within 30 days.**

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

Dated: 18/4/2022
U.f

Certified to be True Copy

Deputy Registrar
FTO Secretariat
Islamabad

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