



## FEDERAL TAX OMBUDSMAN SECRETARIAT

No. 1-1676-MLN-21-IMP

Dated: 21-10-2021

### Complaint No 1676/MLN/ST/2021

To,

- (i) The Secretary  
Revenue Division, Islamabad.
- (ii) The Chairman  
FBR, Islamabad.

### FINDINGS/RECOMMENDATIONS/ORDER

A copy of the Findings/Decision/Order of the Hon'ble Federal Tax Ombudsman dated 20-10-2021, in the complaint cited above is sent herewith for compliance.

2. Compliance report be submitted to this office within the prescribed time mentioned in the Findings/Recommendations.
3. It is intimated that the aggrieved party has an option to seek a review of this order before the Ombudsman or to file a representation before the President. The limitation for both these remedies is 30-days, however, the remedies are not concurrent.

### THIS ISSUES WITH THE APPROVAL OF HON'BLE FEDERAL TAX OMBUDSMAN

(Nisar Ahmed)  
Registrar

Federal Tax Ombudsman Secretariat  
Islamabad

A copy of the Findings/Decision/Order is forwarded for information to:

1. Mr. Muhammad Yaqoob Khan, Main G.T. Road, Mohallah Muhammad Pura, Khan Garh, Muzaffar Gard, Muzaffargarh, (Cell # 03006789992)
- ✓ 2. Mr. Muhammad Imran Ghazi, Ghazi and Company, Chartered Accountants, Tawakal Autos Palaza, Chowk Children Hospital, Abdali Road, Multan. (Cell # 03006789992)
3. The Commissioner, RTO Multan, L.M.Q. Road, Nawan Shehar, Multan
4. Mr. Saleem Raza Asif (Advisor), RO Multan.
5. Mr. Shahid Ahmad (Advisor), RO Karachi.
6. Secretary to Hon'ble FTO.
7. Office Copy.

(Nisar Ahmed)  
Registrar

Federal Tax Ombudsman Secretariat  
Islamabad

**BEFORE  
THE FEDERAL TAX OMBUDSMAN  
ISLAMABAD**

**Complaint No.1676/MLN/ST/2021**

Dated: 16.08.2021 R.O. Multan

**Mr. Muhammad Yaqoob Khan,**

Main G.T. Road, Mohalla Muhammad Pura,  
Khan Garh, Muzaffar Garh.

... Complainant

**V E R S U S**

The Secretary,  
Revenue Division,  
Islamabad.

... Respondent

Dealing Officer : Mr. Saleem Raza Asif, Advisor  
Appraisal Officer : Mr. Shahid Ahmad, Advisor  
Authorized Representative : Mr. Muhammad Imran Ghazi, Advocate  
Departmental Representative : Syed Nadeem Akhtar, IRAO, RTO, Multan

**FINDINGS / RECOMMENDATIONS**

The above-mentioned complaint was filed against the Commissioner-IR, Multan Zone, RTO, Multan in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) for delay in restoring Sales Tax Registration (STR) and failure to provide attested copies of suspension order/Show Cause Notice (SCN) to the Complainant, as requested vide application dated 27.05.2021.

2. Precisely, STR of the Complainant was suspended w.e.f 03.07.2013, without serving any SCN or suspension order. The Complainant filed application dated 27.05.2021, under Section 69 of the Sales Tax Act, 1990 (the Act) along with fee for providing attested copies of suspension order and SCN. However, despite repeated efforts of the Complainant, the Deptt; failed to evoke any response, hence, the instant complaint.

3. 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,

<sup>\*</sup> Date of registration in FTO Sectt.

2013. In response thereto, the Chief Commissioner-IR, RTO, Multan forwarded vide letter dated 08.09.2021, para-wise comments of the Commissioner-IR, Multan Zone, RTO, Multan dated 03.09.2021. It was contended that due to consecutive non-filing of sales tax returns for six months, STR of the Complainant was suspended through system without notice in terms of clause 34 of the Sales Tax General Order (STGO) No.03/2004 dated 12.06.2004, as amended vide STGO No.35 of 2012, hence, no question of suspension order or SCN arises. It was averred that proceedings under Section 11 of the Act, had been finalized against the Complainant and he was required to pay the assessed penalty for restoration of his STR, while the application dated 27.05.2021 and reminders could not be responded due to rush of work.

4. During hearing, the AR contended that suspension has become void *ab initio* under Rule 12(a)(vii) of Sales Tax Rules, 2006 (the Rules), as the SCN for blacklisting was not issued within 7 days of the order of suspension and attested copies of suspension order and SCN were not provided in terms of Section 69 of the Act, as requested by the Complainant vide application dated 27.05.2021. The DR averred that the system can suspend, STR of the consecutive non-filer without any SCN, therefore, no maladministration was committed by the Deptt.

5. Arguments heard and record perused.

6. It is noted that Section 21 of the Act, read with Rule 12(a)(iii) of the Rules, empowers the Commissioner-IR, to suspend STR of a registered person without any prior notice but under Rule 12(a)(vi) of the Rules, the Deptt is bound to issue SCN within seven days of suspension in order to afford opportunity of hearing to the Complainant. Rule 12(a)(vi) of the Rules enunciates that suspension shall become void *ab initio*, if SCN is not issued within seven days of suspension. Furthermore, Rule 12(b)(iii) of the Rules, requires that if

blacklisting order is not passed within ninety days of issuance of SCN, the suspension shall become void *ab-initio*.

In the instant case, STR of the Complainant was suspended through system w.e.f 03.07.2013 but neither any SCN, as required under Rule 12(a)(vi) of the Rules, was issued within seven days of suspension nor blacklisting order was passed within ninety days as required under Rule 12(b)(iii) of the Rules. It is, therefore, evident that due process of law was not followed by the Deptt, hence, suspension of STR is 'void *ab-initio*' in terms of Rule 12(a)(vii) and 12(b)(iii) of the Rules. Moreover, the assessment order passed under Section 11 of the Act, is not relevant as the instant complaint relates to proceedings under Section 21 of the Act, read with Rule 12 of the Rules and against this negligence, ineptitude and inefficiency of the tax employees of the Deptt; the Complainant has no other legal remedy available before any forum.

#### **FINDINGS:-**

7. Suspension of STR being violative of Rule 12(a)(vii) as well as Rule 12(b)(iii) of the Rules, is void *ab initio*, and is tantamount to maladministration, in terms of Section 2(3)(i)(a) of the FTO Ordinance.

#### **RECOMMENDATIONS:-**

8. FBR to-

- (i) direct the Commissioner-IR, Multan Zone, RTO, Multan to restore STR of the Complainant, as per law/rules; and
- (ii) report compliance within 45 days.

**Dr. Asif Mahmood Jah)**

(Hilal-i-Imtiaz)(Sitara-i-Imtiaz)

Federal Tax Ombudsman

Dated: 20/10/2021  
My/Satti

Certified to be True Copy  
  
Deputy Registrar  
FTO Secretariat  
Islamabad