

**FEDERAL TAX OMBUDSMAN
REGIONAL OFFICE
LAHORE**

Complaint No. 03/LHR/IT(03)/13/2011

Dated: 06.01.2011*

Mr. Muhammad Ishaq
Govt Higher Secondary
School Yaroo Khosa
D.G. Khan

... Complainant

Versus

The Secretary
Revenue Division
Islamabad

... Respondent

FINDINGS / RECOMMENDATIONS

Dealing Officer	:	Muhammad Munir Qureshi Advisor
Authorized Representative	:	Complainant in person
Departmental Representative	:	Dr Kashif Azhar, DCIR

This complaint is against excess deduction of income tax at source and for refund of the same.

2. The Complainant, a senior subject specialist and full-time teacher in a government teaching institution, earned taxable salary income in Tax Year 2010 and was entitled to 75% rebate in income tax deducted at source as provided for in Part-III of the First Schedule to the Income Tax Ordinance, 2001. He was allowed 75% rebate till April 2010 and his monthly tax deduction at source on salary income earned by him came to Rs.125/-. However in May 2010 the tax deduction was suddenly made at Rs.4356/-. On a query, the Complainant was told that the rate table on the basis of which the withholding tax agent (Distt Accounts Officer, DG Khan)

* Date complaint registered in FTO Sectt.

charged tax deduction at source, was changed by FBR without any prior notice and subject specialists were removed from the list of those entitled to 75% rebate in tax. The Complainant contends that this abrupt change in the rate table by FBR was not correct and the excess tax deducted at source in the month of May 2010 should be refunded. He says that all subject specialists similarly placed were affected and the excess deductions so made amounted to many hundreds of thousands of rupees and had caused hardship to the teachers as their take home salary had been arbitrarily curtailed. The Complainant said that he had earned taxable income for the first time in tax year 2010 and Return was not filed due to lack of familiarity with Income Tax law and steps had already been taken to remedy the deficiency.

3. When confronted the Deptt submitted reply in which it was contended that the Deptt was not to blame as the Complainant had not filed any Return of Income inspite of the fact that he had earned taxable income. Furthermore, the matter was not brought to the notice of concerned departmental officials.

4. The Complainant produced evidence to show that the rate table had been 'purged' of 'fake and fictitious entries' by FBR when in fact many genuine cases entitled to 75% tax rebate, such as the Complainant, had their rate category arbitrarily removed from the table. The withholding agent thus had no choice but to charge tax deduction at source at a higher rate. The Deptt in their reply had not explained how and why subject specialists had been adjudged not to qualify for 75% rebate in income tax. If Return was not filed, the defaulter could not be punished by resorting to a higher rate of at-source tax deduction than that provided for in law. Filing of Return was a separate matter altogether and the relevant provision of law could be invoked to get the defaulter to file the Return.

5. That the arbitrary revision of the rate list by FBR was not correct is evident from the fact that FBR had subsequently restored the 75% rebate in tax for subject specialists. Apparently, the earlier deletion had been made in haste and as a consequence subject specialists throughout the Punjab province had to suffer excessive deduction of tax at source in the month of May 2010.

Findings:

6. The arbitrary revision of the tax deduction rate list by FBR caused avoidable hardship to subject specialists employed in government teaching institutions and was tantamount to maladministration under Section 2(3) of the FTO Ordinance.

Recommendations:

7. FBR to -
- (i) ensure that the rate table for tax deduction at source is at all times consistent with the statutory stipulation and any change therein is subject to strict oversight;
 - (ii) refund excess amount deducted at source, in accordance with law, not only to the Complainant but in all identical cases; and
 - (iii) report compliance within 30 days.

(Dr. Muhammad Shoaib Suddle)
Federal Tax Ombudsman

Dated: 03-03-2011
mmq/my

Approved for reporting