



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

Federal Board of Revenue Vs M/s Al Feroz Cold Storage

Subject: REPRESENTATION FILED BY FEDERAL BOARD OF REVENUE AGAINST THE FINDINGS / RECOMMENDATIONS DATED 17.09.2021 PASSED BY THE LEARNED FTO IN COMPLAINT NO. 1059/PWR/CUST/2021.

Kindly refer to your representation on the above subject addressed to the President in the background mentioned below:-

2. This representation has been filed by Federal Board of Revenue on 12.11.2021 against the order of the learned Federal Tax Ombudsman dated 17.09.2021, whereby it has been held that:

FBR to direct the Collector, MCC (Enforcement & Compliance), Peshawar

- i. To investigate the irregularities committed by the staff and take appropriate disciplinary action followed by corrective measures to avoid such overt acts in future;*
- ii. Dispose of request of the complainant for award of compensation equal to the market price in respect of lawfully imported receivers with valid NOCs expeditiously, as per law; and*
- iii. Report compliance within 45 days.*

3. The complaint was filed against the Collector, MCC, (Enforcement & Compliance), Peshawar in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 for failing to release seized goods to the complainant in pursuant to Order-in-Remand No.24/2021 dated 14.01.2021 passed by the Collector, (Adjudication), Islamabad.

4. Without reference to the merits of the case, it may be noted that under Section 32 of the Federal Tax Ombudsman Ordinance, 2000 read with Section 14 of the Federal Ombudsmen Institutional Reforms Act 2013, any person aggrieved by an order of the Mohtasib may, within 30-days, file a representation before the Honourable President of Pakistan. The remedy of representation, being a Statutory remedy is available to an aggrieved person within the prescribed period of limitation i.e. 30-days.

5. In the instant case, the impugned order was passed by the learned Federal Tax Ombudsman on 17.09.2021. The Agency could have availed the remedy of representation within 30-days. However, Agency allowed the said period to lapse and preferred the instant representation to this Secretariat on 12.11.2021 that is badly hit by the bar of limitation. Suffice it to observe that the extant law does not empower the condonation of delay to entertain a time barred representation. It is, thus, liable to be rejected out-rightly without going into the merits of the case.

6. Section 15 of the Federal Ombudsman Institutional Reforms Act, 2013 is as follows:-
"It shall not be necessary for the President or the Ombudsman to give personal hearing to the parties and the matter may be decided on the basis of available record and written comments filed by the Agency."

The law thus empowers the decision of a representation on the basis of available record without personal hearing of the parties.

7. Accordingly, the Hon'ble President, as per his decision above, has been pleased to reject the instant representation of the FBR as time barred.

(Anwar-ul-Haq)
Director General (Legal)

The Chairman,
Federal Board of Revenue,
Islamabad.

M/s Shahid Ud Din Paracha,
Satellite System, Kohati Chowk,
Peshawar
03008594696

No.102/FTO/2021 dated 13.07.2022

Copy for information to:

- ✓(1) The Registrar, Federal Tax Ombudsman, Islamabad.
- (2)The Secretary (Legal Customs), Federal Board of Revenue, **Islamabad.**
- (3)The Collector of Customs (Enforcement) Customs House, Jamrud road, Peshawar.
- (4)Master file.

(Anwar-ul-Haq)
Director General (Legal)