

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

*Federal Board of Revenue VS M/s Khyber Electric Lamp Manufacturing Co. Ltd*



Subject: **REPRESENTATION FILED BY FEDERAL BOARD OF REVENUE AGAINST FINDINGS / RECOMMENDATIONS DATED 23.11.2021 PASSED BY THE LEARNED FTO IN COMPLAINT NO. 1744/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 30.12.2021 against the order of the learned Federal Tax Ombudsman dated 23.11.2021, whereby it has been held that:

***FBR to direct***

- i. *The Collector of Customs (Appraisalment & Facilitation), Peshawar to process the refund claim as per law, subject to final decision of the CAT, Peshawar in lieu of surety bond to the satisfaction of the Collector concerned; and*
- ii. *Report compliance within 45 days.*

3. The complaint was filed against the Collector of Customs, MCC, Peshawar under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 for refund of Rs.5,900,045/- and Rs.8,724,951/- forcibly recovered from the complainant.

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 23.11.2021 received by the Agency on 25.11.2021. The Agency could have availed the remedy of representation within 30 days. However, the Agency allowed the said period to lapse and preferred the instant representation to this Secretariat on 30.12.2021 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. Khyber Electric Lamp Mfg Co. Ltd,  
483/E-1, Tariq Road,  
**Peshawar Cantt.**

**No.160/FTO/2021 13.07.2022**

Copy for information to:

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

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