

THE FEDERAL TAX OMBUDSMAN ISLAMABAD

COMPLAINT NO.15494 TO 15496 & 15499/LHR/IT/2026

Dated: 25.08.2026 RO Lahore*¹

M/s Agard Nine Limited,

Ismail Aiwan-e-Science Ferozepur,
Road, Lahore.

... Complainant

Versus

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer	: Mr. Asem Iftikhar, Advisor
Appraised by	: Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representative	: Mr. Mahmood Ahmed, ASC Mr. Muhammad Ishaq, SMT
Departmental Representative	: Ms. Shahida Nazeer, DCIR, LTO, Lahore Ms. Zonaira Rana, DCIR, LTO, Lahore
Date of hearing	: 24.09.2026, 16.09.2026, 02.10.2026

FINDINGS/RECOMMENDATIONS

The above-mentioned four (04) complaints were filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against non-issuance of refund for Tax Years 2014, 2015, 2022 & 2025 respectively. The complaints being identical in nature are disposed of by a single consolidated order.

2. Briefly, Complainant (having NTN#1319140) main business is production and marketing of denim focused textile and apparel products, ranging from yarn to retail ready made goods, filed returns of income u/s 114 of the Income Tax Ordinance, 2001 for Tax Years 2014, 2015, 2022 & 2025 claiming refund of Rs.6.235 million, Rs.13.649 million, Rs.2.291 million & Rs.245.474 million respectively. The refund arose on account of excess tax deductions under different Sections of the Income Tax Ordinance, 2001 and withholding taxes claimed as adjustable are of Sections 148, 151,



¹ Date of Registration in FTO Sectt.

153(1)(a), 231A, 231B, 234, 235 236(1)(a) of the Income Tax Ordinance, 2001. Furthermore, Complainant declared final/fixed/minimum tax on account of export proceeds u/s 154(1). According to the Complainant, refund applications for Tax Years 2014, 2015, 2022 & 2025 were e-filed on 16.07.2018, 31.12.2022 & 08.06.2026. Despite repeated effort, Deptt failed to pass orders under Section 170(4) of the Ordinance, within the stipulated time period.

3. The complaints were sent for comments to the Secretary, Revenue Division, 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 Commissioner-IR Refund Zone LTO, Lahore submitted parawise comments vide letter dated 07.09.2026. On merits, Deptt submitted year wise details as given below;

Tax year	Refund Claimed As per return	Refund as per amendment	Date of Assessment 120/122(5A)	Refund issued/ Paid	Balance Refund	Date of application u/s 170	Department's Stance
2014	6,234,877		15.01.2015	182,006	6,052,871	16.07.2018	The application of the taxpayer barred by time in view of section 170(2) (c) of the Ince, 11e Tax Ordinance, 2001. Furthermore, the taxpayer has not availed condonation as provided in Section 214A of the Income Tax Ordinance, 2001. Hence application of the taxpayer merits rejection.
2015	13,648,781	13,037,101	08.07.2019		13,037,101	16.07.2018	As per amendment u/s 122(5A) refund was determined at Rs.13,037,101/- whereas the taxpayer filed application u/s 170 for refund of Rs.26,529,055/-. The said application of the taxpayer barred by time in view of section 170(2)(c) of the Income Tax Ordinance, 2001. Furthermore, the taxpayer has not availed condonation as provided in section 214A of the Income Tax Ordinance, 2001. Hence application of the taxpayer merits rejection.
2022	2,290,542	No refund due to amendment	28.09.2023			31.12.2022	No determined refund is available for the tax year 2022 as the assessment was amended u/s 122(5A) on 28.09.2023 by creating tax demand of Rs.30,103,244/-. As per IRIS, the taxpayer filed appeal before the CIR(A) who vide order dated 27.5.2024 modified the requisite order. In the absence of appeal effect order u/s 124 of the Income Tax Ordinance, 2001, this office is unable to proceed further as per law.



2025	245,474,323		31.12.2025		245,474,323	08.06.2026	As per record, show cause notice u/s 122(9) read with section 122(5A) of the income Tax Ordinance, 2001 was issued on 15.04.2026 for the tax year 2025. The proceedings are still pending Therefore; it is requested that complaint filed by the taxpayer may please be filed consigned to record until the final assessment order.
------	-------------	--	------------	--	-------------	------------	---

- i) NOC received from Unit-01, Zone-III, L TO, Lahore bearing No. U-01/3794 dated. 07.09.2026 which indicates position of outstanding demands as under;

Income Tax			
Tax Year	Section	Demand (Rs)	Remarks
2016	122(5A)	2,695,104/-	No stay is available
2017	122(1)/122(4)	112,510,698/-	No stay is available
2018	4B	15,377,988/-	No stay is available
2020	122(5A)	18,590,676/-	No stay is available
Total		149,174,466/-	

- ii) Tax Year 2025 proceedings u/s 122(9) read with Section 122(5A) are pending. Tax Year 2022 appeal effect pending.
- iii) Tax deductions claimed are verifiable from IRIS/ITMS alongwith external verification also required from the taxpayers.
- iv) Notices u/s 170(4) for Tax Year 2014 & 2015 have been issued.

4. In rebuttal, the Authorized Representative (AR) of the Complainant submitted that Deptt's objection regarding time barred in terms of Section 170(2)(c) of the Ordinance for Tax Years 2014 & 2015 is unsustainable as the matter has been settled by Hon'ble Supreme Court of Pakistan citation PLD 1998 SC 64.

5. Both the parties heard and available record perused.

6. **Preliminary Objection:** Deptt raised objection of time barred in terms of Section 170(2)(c) of the Ordinance for Tax Years 2014 & 2015. The stance of the department is based on its reasoning originating from its views aired in detail in the case of M/S Rupali LTD. In view of departmental judgement, it is imperative to analyze the said stance. Details are shared hereunder:

- I. While defending non-following the already settled judicial norms enunciated by Supreme Court of Pakistan





through its famous judgement in the case of **Pfizer Laboratories Limited vs Federation of Pakistan (SCP 1998-64)**, CIR (Refund) LTO Lahore's first argument is that the impugned judgement was penned in a Custom related case therefore not binding on other taxes. Learned CIR couldn't appreciate (or conveniently ignored) that;

Though this landmark judgement has been penned down in a Custom related case, yet dozens of cases involving **other taxes** and the orders passed therein, through various landmark judgements by Indian, English and Pakistani judiciary constitute the integral part of this judgement. Therefore, this judgement is not a tax specific, rather it sets the parameters for all such cases, involving different taxes, wherein the state owes money to its citizens and the money is declined on time limits or technical grounds. Thus, this **State Vs Citizens** judgement transcends individual tax boundaries.

While the opening part of this judgement lays down some basic & broader principles, its judgmental Para 13 reiterates the same principles. Extracts from both are reproduced hereunder:

"Following are the principles on the point in issue:"

- (i) If one party under a mistake, whither of fact or law, paid some money to another party (which includes a Government department), **which was not due by law or contract or otherwise**, that must be repaid in view of section 72 of the Contract Act, 1872.
- (vi) To return what has been taken wrongly is as much a duty and grace of Government as to levy relentlessly and fully what is due.
- (vii) Where some money is received by the Government not lawfully due, the plea of limitation by its departments was violative of the principles of morality and justice.
- (viii) When moneys are paid to the State which the State had no legal right to receive, it was ordinarily the duty of the State, subject to special provisions of any particular statute or special facts and circumstances of the case, to refund the amount so received and in case of failure, a superior Court in exercise of its Constitutional jurisdiction could direct the refund of the same if no disputed questions of facts were involved.
- (ix) There may not be legal liability on the part of a Government functionary to refund any amount received by it, as a tax or other levy by virtue of certain special provisions under the special law

but keeping in view democratic society governed by the rule of law and every Government, which claims to have ethical and moral values, must do what is fair and just to the citizens regardless of legal technicalities.

(xi) The retention of moneys known to have been paid under a mistake at law, although it was a course permitted to an ordinary litigant was not regarded as a 'high-minded thing' to do, but rather as a 'shabby thing' or a 'dirty trick'."

Para 13 of impugned judgement reads.

"From the above. Case law and the treatise, the following principles are deducible: -

(i) That if one party under a mistake, whether of fact or law, pays some money to another party (which includes a Government department) **which is not due by law or contract or otherwise**, that must be repaid in view of section 72 of the Contract Act, 1872.

(vi) To return what has been taken wrongly is as much a duty and grace of Government to levy relentlessly and fully what is due.

(ix) That there may not be legal liability on the part of a Government functionary to refund any amount received by it as a tax or other levy by virtue of certain special provisions under the special law but keeping in view that we are living in a democratic society governed by the rule of law and every Government, which claims to have ethical and moral values, must do what is fair and just to the citizens regardless of legal technicalities."

- II. Notwithstanding the above the landmark judgment reported as PLD 1998 SC 64 (M/s Pfizer Laboratories Ltd. v. Federation of Pakistan) categorically enunciated that the state must refund any money collected from a citizen under a mistake of fact or law, and government departments cannot use limitation pleas to withhold such payments.

Core Principles of the Judgment.

- a. **Restitution of Unlawful Receipts:** Under Section 72 of the Contract Act, 1872, if money is paid to a party (including the government) that is not legally due, it must be repaid.
- b. **Disapproval of Limitation Pleas:** A democratic government cannot rely on technical time limits or limitation pleas to keep



funds it collected by mistake, as this violates basic standards of justice and morality.

- c. **Protection of Property Rights:** Genuine tax or duty refunds cannot be delayed or denied on administrative technicalities, which are guarded under Article 24(1) of the Constitution of Pakistan.
- d. **The "Morality and Justice" Exception:** The Supreme Court authoritatively ruled that if a citizen pays money to a government department under a mistake of fact or law, the state is legally obligated to return it.
- e. **Discouraging Technical Defenses:** It firmly established that the state cannot use technicalities or **statutory limitation periods** to deny or delay genuine citizen refunds. Doing so is deemed a violation of public trust and basic morality.
- III. Secondly CIR (Refund) LTO Lahore quoted the following two judgements in support of his contentions:
- Khushi Muhammad (PLD 2016 SC 872), and**
 - PLD 2026 LHR 146 (Jamshed Khan v. Akbar Khan)**

While making these two judgements as core argument the following facts were either not considered or intentially ignored by the department: (Analysis: Both judgements vis-à-vis judgement in Pfizer Labs)

A. Khushi Muhammad (PLD 2016 SC 872)

Dimension	<i>Pfizer Laboratories</i> (PLD 1998 SC 64)	<i>Khushi Muhammad</i> (PLD 2016 SC 872)
Primary Domain	Fiscal / Public Revenue Law	Civil Litigation / Procedure
Core Subject Matter	Refunding taxes/duties erroneously collected or paid to state authorities under a mistake of law or fact.	Condonation of delay for filing standard civil appeals (Section 5 of the Limitation Act).
Rule Formulated	The State/FBR cannot hide behind a technical plea of limitation to unfairly withhold a citizen's money.	Substantive rights accrue to a private party once a time limit expires; delay must be explicitly justified day-by-day.
Underlying Principle	Unjust enrichment, morality, and equity under Section 72 of the Contract Act.	Statutes of limitation are strictly implemented to conclude "stale and waterlogged" private disputes.





Why They Co-Exist

- **The *Pfizer* Principle applies to Public Law Claims:** Courts and tribunals (including the Federal Tax Ombudsman and High Courts) routinely rely on *PLD 1998 SC 64* to hold that government departments cannot invoke limitation laws to refuse a genuine tax refund. The logic is rooted in morality and Article 24(1) of the Constitution—the State has no right to keep money that was never legally due to it.
- **The *Khushi Muhammad* Principle applies to Private Civil Litigation:** Conversely, *PLD 2016 SC 872* governs the general interpretation of Section 5 and Section 14 of the Limitation Act, 1908. It strictly targets litigants who approach the wrong judicial forum due to negligence or bad advice from a lawyer, ruling that such negligence does not warrant any structural premium or automatic condonation of delay.

Because *PLD 2016 SC 872* does not touch upon fiscal restitution or state enrichment under a mistake of law, it does not disrupt or negate the specific equity rule established in the *Pfizer* case.

B. *PLD 2026 LHR 146 (Jamshed Khan v. Akbar Khan)*

Feature / Case	PLD 1998 SC 64 (<i>Pfizer Laboratories</i>)	PLD 2026 LHR 146 (<i>Jamshed Khan v. Akbar Khan</i>)
Deciding Forum	Supreme Court of Pakistan	Lahore High Court
Core Subject	Taxation, state refunds, and public trust	Civil law, family inheritance, and property claims
Stance on Limitation	Disallowed / Disfavored: The state cannot hide behind technical limitation bars to withhold a citizen's money.	Strictly Enforced: Claims of inheritance must cross the hurdles of limitation, waiver, and acquiescence.
Key Principle	Money paid by mistake or unlawfully collected by the state must be returned under Section 72 of the Contract Act.	Unchecked property claims brought decades late under the guise of "inheritance" disrupt genuine title protections.

Core Principles of the Judgment: PLD 2026 LHR 146 (*Jamshed Khan & 05 others v. Akbar Khan & 15 others*)

- **The Bridge of Limitation in Civil Matters:** The Lahore High Court addressed the growing habit of litigants bringing decades-old property disputes to court disguised as "inheritance claims".
- **Protecting Bona Fide Title Holders:** The High Court ruled that the **question of limitation cannot be completely brushed aside** just because a suit involves inheritance. It clarified that stale claims are subject to the restrictions of



limitation, waiver, and acquiescence to prevent unnecessary legal exploitation and to protect the rights of genuine heirs.

• Summary of the Conflict

While **PLD 1998 SC 64** curtails the government's right to invoke limitation when it wrongfully holds a citizen's money, **PLD 2026 LHR 146** strictly enforces limitation guidelines in private civil disputes to ensure that property litigation does not drag on indefinitely over generations.

IV. Notwithstanding the above CIR (Refund) LTO Lahore's deviation from the time-honored practice of FBR and LTO Lahore itself in accepting and implementing **PLD 1998 SC 64** is outrageously glaring and unfair because;

- a. *this interpretation of Pfizer case by FTO has already been upheld by the president of Pakistan in a number of cases like in a representation filed by the FBR in an identical situation in complaint # 1144/KHI/ST/0222 in the case of M/s Unilever Pakistan Foods Limited.*
- b. *FBR's field formations have been implementing this implementation across the country, including LTO Lahore itself. Following recent cases where LTO Lahore has faithfully reported implementation of the said precedent are listed below:*

i. **COMPLAINT NOS. 24909 TO 24913 & 25512/LHR/IT/2025**

Dated: 01.10.2025 & 18.10.2025*RO, Lahore

Sheikh Nadeem Anwar,

C/o M/s. HH Cold Rolling & Tube Mills (Pvt) Ltd,
608, Urooj Centre, Farid Kot Road,
Lahore.

...Complainant

Versus

The Secretary,
Revenue Division,
Islamabad.

...Respondent

ii. **COMPLAINT NOS. 24859, 24861 & 24862/LHR/IT/2025**

Dated: 01.10.2025*RO, Lahore

M/s. Fazal Cloth Mills Ltd,

69/7, Abid Majeed Road,
Survey No. 248/7, Lahore Cantonment.

...Complainant

Versus

The Secretary,
Revenue Division,
Islamabad.

...Respondent

iii. **COMPLAINT NOS. 25662 TO 25670/LHR/IT/2025**

Dated: 23.10.2025*RO, Lahore

M/s. Askari Development & Holdings (Pvt) Ltd,
 75/76 D1, Main Boulevard Gulberg-III,
 Askari Tower, Lahore

...Complainant

Versus

The Secretary,
 Revenue Division,
 Islamabad.

...Respondent



In view of all the above implementations CIR (Refund) LTO Lahore's action is nothing but merely a change of opinion, clear departure from norm and disrespect for a settled principle enunciated by Supreme Court of Pakistan, held by Presidency and implemented by FBR: including LTO in question itself.

In view of above discussion, the objection is therefore overruled.

7. The detail of each tax year as under;

Tax Year 2014

During hearing, DR informed that notice has been issued u/s 170(4) on 30.01.2026 for submission of documentary evidence. On the other, AR of the Complainant stated that he submitted reply against the notice along with required documents on 13.02.2026 & 23.02.2026. DR could not put forth any justification for non-disposal of refund application till date.

Tax Year 2015

During hearing, it was observed that a discrepancy exists regarding the quantum of the refund claim, the Authorized Representative (AR) has before this Forum filed a complaint for non-issuance of refund of Rs. 13.649 million, whereas the online refund application u/s 170(4) reflects a claim of Rs.



26.529 million. Although the AR could not reconcile the underlying facts of this variance, he produced a copy of the assessment order passed under Section 122(5A) dated 08.07.2019, wherein the Department had determined a refundable amount of Rs. 13.037 million. Subsequently, the AR statement was recorded to the effect that the refund claim preferred in the original application filed before this Forum of Rs.13.649 million may be treated as amended under Section 122(5A) order at Rs. 13.037 million.

Tax Year 2022

Examination of record transpires that the Department passed an order under Section 122(5A) of the Income Tax Ordinance, 2001 which resulted in a tax demand against the Complainant. Aggrieved by the said order, the Complainant preferred an appeal before the Commissioner Inland Revenue (Appeals), who vide order dated 27.05.2024 remanded the case back to the Assessing Officer. Subsequently, the Complainant filed a second appeal before the Appellate Tribunal Inland Revenue (ATIR), Lahore. The learned ATIR, vide its order in ITA No. 3192/LB/2024 dated 15.12.2025, remanded the case back to the CIR(Appeals) with specific directions to re-adjudicate the core issue himself. Since, the said appeal remains pending adjudication before the CIR(Appeals), the underlying matter concerning the determination of tax refund or demand is currently *sub judice* before a competent appellate forum, thereby barring this Forum from assuming jurisdiction or finalizing adjudication on the matter. Furthermore, in the absence of any appeal effect order, the last operative assessment governing the field is the order passed under Section 122(5A), under which no

refundable amount stands determined or available to the Complainant.



Tax Year 2025

During hearing, DR informed that notice under Section 122(5A) read with Section 122(9) of the Income Tax Ordinance, 2001, was issued to the Complainant on 15.04.2026. The DR further acknowledged that the Complainant duly submitted a written reply against the said notice on 30.04.2026. However, despite the lapse of considerable time since the submission of the reply, the underlying assessment proceedings have not been finalized by the Department to date. Furthermore, it is pertinent to observe that the Income Tax Ordinance contains no provision authorizing the department to withheld income tax refund based on subsequent proceedings.

8. Regarding the outstanding tax demands, the Authorized Representative (AR) of the Complainant submitted year-wise status updates for the Forum's consideration. For Tax Year 2016, the AR informed that a formal communication has been dispatched to the Department requesting the recovery of the demand originally created through an order under Section 122(5A) of the Income Tax Ordinance, 2001 by way of a cross-refund adjustment against the refundable amount available for Tax Year 2010. For Tax Year 2017, the AR contended that the matter stands concluded by the Appellate Tribunal Inland Revenue (ATIR), Lahore, vide its order in ITA No. 2812/LB/2024 dated 18.12.2025, and a letter to this effect has already been moved to the Department for implementation. In respect of Tax Year 2018, involving a Section 4B demand amounting to Rs. 15.377 million, the AR pleaded that the said liability may be



adjusted against the Complainant's pending refund claims. Finally, for Tax Year 2020, the AR placed on record that the Commissioner Inland Revenue (Appeals) has extended interim relief by granting a stay against recovery operative until 10.10.2026, as validated by barcode 1000000324799878 dated 11.09.2026.

9. The department has unequivocally admitted that the refund applications for Tax Years 2014, 2015 & 2025 were e-filed. It is further admitted that the statutory period of sixty (60) days, prescribed under Section 170(4) of the Ordinance for passing an order on the refund application, has expired; yet no order has been passed in accordance with law. Furthermore, the refund application has neither been duly adjudicated nor has the petitioner been afforded a proper opportunity of hearing as mandated under Section 170 of the Ordinance. Thus, delay in disposing of refund applications for Tax Years 2014, 2015 & 2025 is evident and in clear violation of the mandatory statutory provisions governing the adjudication of refund claims.

10. **FINDINGS:**

- i. CIR (Refund) LTO Lahore owes an explanation for arbitrary interpretation of unrelated judgements for making a departure from departmental norms, evolved in the light of the landmark judgement of Supreme Court of Pakistan, upheld by the presidency and already implemented by FBR throughout Pakistan. His conduct is manifestation of maladministration in terms of section 2(3)(i)(a) & (b) of FTO Ordinance, 2000.
- ii. Non-processing of refund applications in accordance with the provision of Section 170(4) of the Income Tax Ordinance, 2001 within stipulated time for Tax Years 2014, 2015 & 2025 is manifestation of departmental



neglect, inattention and ineptitude in discharge of its duties and the same tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance, 2000. As regards Tax Year 2022, being subjudice before the appellate Forum, the Complaint (C.No.15496/LHR/IT/2026) proceedings are dropped and file be consigned to record.

RECOMMENDATIONS:

11. FBR to-

- (i) direct the Commissioner-IR, Refund Zone, LTO Lahore to satisfy himself that taxes in the Tax Years 2014, 2015 & 2025 have been overpaid and to apply the excess in reduction of any other tax due from the taxpayer under the Income Tax Ordinance, 2001 or if there is any outstanding liability of the taxpayer to pay other taxes after providing opportunity of hearing to the Complainant and dispose of refund applications for Tax Years 2014, 2015 & 2025, as per law;
- (ii) CCIR, LTO Lahore to obtain the explanation of CIR (Refund) and share with this office; and
- (iii) report compliance within 30 days.

Dated:
Azeem

13 OCT 2026

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman



13 OCT 1957