

THE FEDERAL TAX OMBUDSMAN ISLAMABAD

COMPLAINT NO.16278/LHR/IT/2026

Dated: 08.09.2026 RO Lahore*¹

M/s Qadbros Engineering (Pvt) Ltd.,
Second Floor, 84-B-I, Ghalib Road,
Gulberg-III, Lahore.

... Complainant

Versus

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer	: Mr. Asem Iftikhar, Advisor
Appraised by	: Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representative	: Malik Muzaffar Hayat, Advocate
Departmental Representative	: Ms. Zonaira Rana, DCIR, LTO, Lahore
Date of hearing	: 24.09.2026

FINDINGS / RECOMMENDATIONS

The above-mentioned complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 against delay in disposal of refund applications for Tax Years 2020, 2022, 2024 & 2025 respectively.

2. Briefly, principal activity of Complainant (having NTN#0683570), a private limited company is to manufacture and sell all kinds of accessories, parts and spares of sugar mills and all other factories within and outside Pakistan. Complainant filed returns of income u/s 114(1) of the Income Tax Ordinance, 2001 for Tax Years 2020, 2022, 2024 & 2025 claiming refund of Rs.5.650 million, Rs.9.960 million, Rs.11.467 million and Rs.20.976 million respectively (cumulatively of Rs.48.053 million). 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 Section 148, 153(1)(a), 231B(1), 231B(2), 234,



¹ Date of Registration in FTO Sectt.

235, 236(1)(a), 236(1)(b) & 236(1)(d) of the Ordinance. Furthermore, Complainant declared fixed/final/minimum tax declared on account of export proceeds u/s 154(1) of the Ordinance. According to the Complainant, refund applications for Tax Years 2020, 2022, 2024 & 2025 were e-filed on 12.03.2026, 25.01.2023, 12.03.2026 & 17.02.2026. Despite repeated efforts of the Complainant, Deptt failed to pass orders under Section 170(4) within the prescribed statutory period of sixty (60) days, hence the instant complaints.

3. The complaint was 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 15.09.2026. At the outset, preliminary objection of bar of jurisdiction under Section 170(5)(b) of the Ordinance was raised on the ground that FTO does not hold jurisdiction in such matters where legal remedy is provided. Reference was made to the decision of Hon'ble Lahore High Court, Lahore in W.P. No.599/2017. The Deptt contended that there was no maladministration on the part of the Deptt, since the taxpayer failed to comply with the law and rules applicable in its case and failed to file its refund application on the prescribed format.



4. On merits, Deptt contended that:

i) **Tax Year 2020**

as per record refund application u/s 170 filled on 12.03.2026 for the tax year 2020 after the expiry period of 3 Years as prescribed in sub clause (c) of sub section (2) of section 170. Hence application is barred by time and liable to be rejected.

For the tax year 2020, an order under Section 122(5A) was issued vide an order dated 23.06.2026, creating a demand of Rs.48,721,924/- and reducing the refund to nil. Moreover, verification from the ITMS has been made, and the following adjustment was noticed:

Cr Year	Dr Year	Amount	Date
2021	2020	Rs.5.398(M)	29.01.2021

ii) **Tax Year 2022**

No refund has been claimed in the income tax return filed on 24.12.2022 for the tax year 2022.

iii) **Tax Year 2024**

According to the IRIS system records, Order 170(4) was issued on 28.03.2025, granting a refund of Rs. 4,840,404. However, the remaining refund claim of Rs. 6,626,345 was rejected in the same order as unverifiable. Moreover, the said issue is appealable under the law and the taxpayer has not filed an appeal before the CIR(A) to date according to the available records, the matter has attained finality.

iv) **Tax year 2025:**

The Department is strictly bound to operate within the prescribed statutory framework and official guidelines issued by the Board's Notification. No. 1 (8) FTO/IMP/2024/205508-R dated 17-10-2024, all pending refund applications must be processed systematically utilizing the FIFO (First In, First Out) method.

v) The IRIS system records show that no supporting documentation has been attached with the refund application.

vi) As per NOC dated 15.09.2026: the following demand are outstanding;

Income tax demand:

Demand of Rs. 48,721,924/- u/s 122(5A) is recoverable for the tax year 2020. An appeal has been filed before the CIR(A) by the taxpayer.

Sales Tax:

A tax demand of Rs. 835,000 is recoverable under Section 11E for the tax period 2023-2024.



- vii) the department performs both external and portal verification during hearing the refund process.
- viii) no pending audit proceedings for the tax years 2020, 2022, 2024 & 2025.

5. **Both the parties heard and record perused.**

6. The preliminary objection of bar raised under Section 170(5)(b) of FTO Ordinance is misconceived as the Hon'ble President vide Orders dated 04.02.2016 and 04.03.2016 in that:

“Notwithstanding Section 170(5) of the Ordinance, delay in disposal of the refund application within the mandatory time limit prescribed under Section 170(4) of the Ordinance is tantamount to maladministration.”

Moreover, the findings/recommendations in C.No.329/KHI/IT/2017 were assailed by the Department before the Hon'ble President of Pakistan by placing reliance on the decision of Hon'ble Lahore High Court in Writ Petition 599/2015. While rejecting the representation of the Department vide Order No.165/FTO/2017 dated 29.01.2018, the Hon'ble President has observed that:

“It is as clear as the crystal that FTO has made recommendations which are only to the extent to direct the Commissioner-IR to complete the verification process and settle refund claims for tax years 2014 and 2015, as per law and report compliance within 45 days thereafter. It is just a harmless order and only the Agency has to decide the issue as per law which never denied in its written reply even by the Agency. The Agency has full powers to decide the issue either way, on merits and in accordance with provisions of law. Thus the findings of the learned FTO are quite sustainable and the Agency has unnecessarily filed this representation. In such circumstances, this representation is liable to be rejected having no merits and recommendations of FTO are sustainable and maintainable being unexceptional in nature in the eyes of law”.



It is settled by the Hon'ble Superior Courts that money of a Complainant outstanding with the Deptt, is trust money which should be refunded expeditiously, by using good conscience. The preliminary objection regarding bar of jurisdiction having no force is, thus, overruled.

7. Even, the Department's contention regarding non processing of refund claim due to FIFO is misconceived on the grounds that the FBR has issued clear guidelines/instructions of the Chief Commissioners vide letter dated 17.10.2024 regarding FTO's cases, that in order to process the refund claims explicit approval from the authority must be obtained which means that there is no bar for processing of refund claims against which complaints are pending/decided before the FTO. It may be added here that the taxpayer's legal right given by substantive law/legislature cannot be restricted through administrative circular(s). Board's notification dated 17.10.2024 itself excludes Court/FTO cases from the operations of said circular. Statutory timeline u/s 170(4) cannot be overturned/replaced through administrative instructions. This plea of FBR has already been dismissed by Presidency in a large number of representations filed by FBR on this account. Matter has attained finality.

8. Further, DR raised objection of time barred in terms of Section 170(2)(c) of the Ordinance for Tax Years 2020. The stance of the department regarding time barred refund application is not acceptable in view of various pronouncements of superior courts & decision of Hon'ble President of Pakistan on departmental representations on similar issue. Reliance is placed on reported judgments as PLD 1998 SC 64, LHC 2008 PTD 370, 2012 PTD 309 (FTO), (2008) 1997 Tax 16 (Trib.) (1999)79 Tax 27 and PTD (Trib.) 2007, in which it is held as under:

"No person can be deprived of his property save in accordance with law. Refund claim cannot be declined on the basis of being time barred."

In other cases, reported as PLD 1998 SC 64 and 2008 PTD 320 (Trib.) in which it is held as under:



"genuine refund cannot be refused even if application for refund is filed late."

The objection is therefore overruled.

9. The details of each year as below;

Tax Year 2020

The Complainant e-filed refund application on 12.03.2026 claiming a refund of Rs.5.650 million. Order under Section 122(5A) of the Income Tax Ordinance, 2001 was passed for Tax Year 2020 on 23.06.2026 by the Deptt resulting in tax demand of Rs. 48.721 million. This assessment order has been challenged before the Commissioner Inland Revenue (Appeals), who has granted a stay of demand operating until 21.10.2026, with the main appeal scheduled for hearing on 29.09.2026. The Department contends that a refund of Rs. 5.398 million from Tax Year 2020 was previously adjusted against the liabilities of Tax Year 2021, leaving a nominal arrear balance of Rs. 0.252 million against the original claim, while also alleging an outstanding Sales Tax demand of Rs. 0.835 million. The principal Income Tax demand of Rs. 48.721 million remains legally payable unless revoked in appeal being sub-judice before the appellate forum and is also subject to adjustment against outstanding demands.

Tax Year 2022

The Authorized Representative (AR) of the Complainant stated that refund application for Tax Year 2022 was inadvertently e-filed on 25.01.2023, erroneously claiming a refund of Rs. 9.960 million. The AR clarified that the said amount actually constituted an admitted tax liability of the Complainant and was mistakenly declared as a refund due to a clerical oversight. Accordingly, the AR, acting on behalf of the Complainant, has requested that the aforementioned refund claim for Tax Year 2022 be treated as withdrawn. The case proceedings are thus dropped.

Tax Year 2024

A perusal of the parawise comments reveals that the refund application for Tax Year 2024 has already been disposed of by the Department through an order passed under Section



170(4) of the Income Tax Ordinance, 2001, dated 28.03.2025. Out of the total claimed refund of Rs. 11.467 million, refund amounting to Rs.4.840 million was duly issued, while the remaining balance of Rs.6.626 million was rejected on the grounds of being unverifiable. On the other, AR of the Complainant stated that it was not in their knowledge due to which the Complaint was filed and did not object. Keeping in view said facts, the proceedings are dropped.

Tax Year 2025

10. Deptt contends that refund application for Tax Year 2025 was pending due to FIFO. The department has unequivocally admitted that the refund application for Tax Year 2025 was e-filed on 17.02.2026. 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. Notwithstanding the lapse of the prescribed limitation period, 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 application for Tax Year 2025 is evident and in clear violation of the mandatory statutory provisions governing the adjudication of refund claims.

FINDINGS:

11. The non-processing of refund application in accordance with the provision of Section 170(4) of the Income Tax Ordinance, 2001 within stipulated time for Tax Year 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.



RECOMMENDATIONS:

12. FBR to-

- (i) direct the Commissioner-IR, Refund Zone, LTO Lahore to satisfy himself that taxes in the Tax Year 2025 has 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 application for Tax Year 2025, as per law; and
- (ii) report compliance within 30 days.



(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

Dated: 17 4 OCT 2026