

THE FEDERAL TAX OMBUDSMAN ISLAMABAD

COMPLAINT NO.16657/KHI/IT/2026

Dated: 15.09.2026 * RO, Karachi

Mr. Muhammad Ali Ahmed,

Plot No.1,2,3,14,15 and 16, Sector C-4, ...Complainant
Export Processing Zone, Karachi East, Gulshan Town,
Karachi.

Versus

The Secretary,
Revenue Division,
Islamabad.

...Respondent

Dealing Officer

: Mr. Badruddin Ahmad Quraishi, Advisor

Appraising Officer

: Mr. Muhammad Tanvir Akhtar, Advisor

Authorized Representative

: Syed Salman Ali, ITP

Departmental Representative

: Mr. Imran Falak Sher, DCIR, LTO, Karachi

Date of hearing(s)

: 01.10.2026

FINDINGS/RECOMMENDATIONS

The above-mentioned complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against non-issuance of income tax refunds for Tax Years 2019 and 2025.

2. Briefly, the Complainant, an individual; e-filed the returns of income for Tax Years 2019 and 2025 u/s 114(1) of the ITO, 2001 and subsequently filed applications for refund u/s 170 of the ITO, 2001 on 06.03.2026 and 28.01.2026, claiming refund of Rs.1,957,632/- and Rs.100,792,125/-. Since the Deptt. had failed to process applications for refunds, the Complainant filed identical complaints bearing Nos.05494, 05496 & 05499/KHI/IT/2026 before this Forum of tax years 2018, 2019 and 2025, which were disposed of through order dated 23.04.2026 carrying the following Recommendations:

"8. *FBR to direct:-*

(i) *the Commissioner-IR, AEOI Zone, LTO, Karachi, to conclude necessary legal proceedings on the issues raised by the Refund Zone vide letter dated*

08.04.2026 for tax year 2025 after obtaining the requisite evidence and after affording a proper opportunity of hearing to the Complainant on its merit in accordance with law;

(ii) the Commissioner-IR Refund Zone, to dispose of refund claims for tax years 2018 & 2025 after affording a proper opportunity of hearing to the complainant, in accordance with law; and

(iii) report compliance within 60 days.



3. In compliance of Recommendations dated 23.04.2026 relating to tax year 2025, the Deptt. submitted copy of assessment order dated 28.07.2026, passed u/s 122(1) of the ITO, 2001, whereby demand of Rs.1,174,811,010/- was created against the Complainant. Since the Deptt. had complied with recommendations of this Forum, implementation proceedings were accordingly closed.

4. As per the Complainant, being aggrieved with the assessment order dated 28.07.2026, he filed an appeal before the Commissioner-IR (Appeals-I), Karachi, who, through order dated 11.09.2026, annulled the demand of Rs.1,174,811,010/-. It was contended by the Complainant that the income tax demand for tax year 2025 was imposed purposefully and with mala fide intention to nullify the income tax refund claim, as the Complainant had filed complaints before FTO against the Deptt. The intentional mala fide behavior of the Deptt. can be judged from the following facts:

- i. The Deptt. sent all but one of the notices for hearing to the wrong addresses, as can be observed from the table on page 5 of 15 of the Assessment Order. This has also been observed by the Commissioner-IR (Appeal-I) on page 8 of 11 of the Order dated 11.09.2026, thereby depriving the Complainant of a proper opportunity of hearing.
- ii. The Capital Gain was purposefully calculated by the Assessing Officer on Other sources of Income to get the highest tax calculable.



- iii. The actual Capital Gain amount was Rs.2,375,960,753/- whereas at page 7 of 15 of the Assessment Order, the Capital Gain amount is wrongly stated to be Rs.2,378,998,253/-
- iv. According to Section 37 Subsection (1A) of the Income Tax Ordinance 2001, the rate of Gain Tax is to be calculated in accordance with Division VIII Part One, First Schedule, where it is clearly stated in Serial No.7 that "where the holding period exceeds six years" the rate of tax is to be calculated at 0% (zero percent). It is, therefore, apparent that since the Complainant purchased the property in 2010, the rate of Gain Tax to be applied to the property was to be calculated at 0% (zero percent).

5. In pursuance of Commissioner-IR (Appeal-I), Karachi order dated 11.09.2026, he submitted a letter dated 11.09.2026 to the Deptt. for passing the requisite order giving effect u/s Section 124 of the ITO, 2001, but no action has been taken so far. It was further contended that the Deptt. has also yet to process the refund claim of Rs.1,957,632/- filed for tax year 2019.

6. The complaint was referred to the Secretary Revenue Division for comments 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, Karachi submitted comments dated 30.09.2026, wherein it was asserted that the jurisdiction of FTO is barred in terms of Section 9(2)(b) of the FTO Ordinance as the matter relates to assessment of income/wealth, determination of liability of tax, where legal remedy of filing appeal u/s 127(1)/131 of the ITO, 2001 is available to the Complainant. On merits of the case, it was stated that, regarding the allegation that the notices for hearing were sent to "wrong addresses" with mala fide intent, the complainant has at no stage furnished any address of his own on the record. The service addresses adopted by the department were drawn from the complainant's own filings, namely Form 181 (Registration) for Tax Year 2026 and the wealth statement for Tax Year 2025, as is evident



from the order itself. The particulars of service, as recorded at page 5 of the order u/s 122(1) bearing Barcode No.100000281425760, are reproduced below:



S. No.	Notice/Statutory provision	Document Date	Service Address	Compliance
1	Notice u/s 111(1)	30.04.2026	Plot No.1,2,3,14,15 & 16, Sector C-4, Export Processing Zone, Karachi (address available in Form 181 for Tax Year 2026)	Nil
2	SCN u/s 122(9)	06.07.2026	Plot # 419 - Deh Phihai, Korangi Industrial Area, Karachi (address available in wealth statement for Tax Year 2025)	Nil
3	SCN u/s 122(9)	16.07.2026	Authorized Representative, M/s Reanda Haroon Zakaria Office No.M1-M4, Progressive Plaza, Beaumont Road, Civil Lines, Karachi (as per Form 181 for Tax Year 2026)	Nil
4	SCN u/s 122(9)	23.07.2026	Authorized Representative, M/s Reanda Haroon Zakaria Office No.M1-M4, Progressive Plaza, Beaumont Road, Civil Lines, Karachi (as per Form 181 for Tax Year 2026)	Nil



As is evident from the above, notice u/s 111(1) dated 30.04.2026 was served at the address available in Form 181, and the show cause notice u/s 122(9) dated 06.07.2026 was served at the address available in the complainant's own wealth statement for Tax Year 2025, while the remaining two notices were served upon the complainant's authorized representative as per Form 181. The addresses so adopted were the addresses available in the complainant's own record; the department cannot be faulted for



effecting service at the addresses furnished by the complainant himself, particularly where the complainant furnished no other address. The complainant, having chosen not to keep his registration particulars updated, cannot be permitted to take advantage of his own default. This issue has, in any event, been examined by the Commissioner Inland Revenue (Appeals-I), Karachi, who allowed the complainant relief on the ground of opportunity of hearing. The department has given effect to those directions by issuing a fresh notice and passing a fresh order after affording the complainant full opportunity of hearing. The grievance, if any, on the score of hearing thus stands wholly redressed within the statutory process, and no occasion survives for the intervention of the FTO.

Secondly, the capital gain declared by the complainant himself at 0% was subjected to verification u/s 111(1) read with section 37(1A) of the Ordinance because the complainant failed to substantiate the nature, source and holding period of the underlying assets despite repeated opportunity. The addition was made under the head "Income from Other Sources" in terms of section 111(1)(b) precisely because the amount, having been left unexplained, falls to be so treated under the statute. This is a treatment mandated by law upon the complainant's own non-compliance, and not a device to "maximize" tax. In any event, the said addition has since been substantially modified in the appellate and appeal-effect proceedings. The point taken is that the capital gain on the properties in question was Rs.2,375,960,753/- whereas the order records Rs.2,378,998,253/-. The difference of Rs.3,037,500/- is explained by the fact that the figure of Rs.2,378,998,253/- is the aggregate capital gain declared by the complainant on disposal of immovable property (code 64220050 of the return), which includes



Rs.3,037,500/- declared on disposal of Plot No.146/II, DHA Phase VI, Karachi (offered to tax at the applicable rate) in addition to Rs.2,375,960,753/- declared on the Landhi properties at 0%. There is thus no misstatement, much less a mala fide one; the figure reflects the complainant's own return. This has been reconciled in the appeal-effect order passed u/s 124 of the ITO, 2001. The complainant's reliance on Serial No.7 of the table in Division VIII of Part I of the First Schedule (0% where the holding period exceeds six years) is not disputed as a matter of law. The dispute at the assessment stage was not the rate but the complainant's failure to establish, by documentary evidence, the holding period and the nature and source of the underlying assets, which the complainant declined to furnish despite notice. The entitlement to the concessional rate is a matter to be established by the person claiming it. This very issue has now been adjudicated in the complainant's favour to the extent of the property found to have been duly declared, and against him to the extent of the property found not to have been so declared, as recorded in the appeal-effect order.

Further, the allegation that the demand for Tax Year 2025 was created purposefully and with mala fide intention to nullify the Income Tax Refund claim, it was argued that the demand arose solely from the complainant's own failure to substantiate the amounts declared in his return and wealth statement, despite repeated statutory notices. There is no nexus, causal or temporal, between the assessment proceedings and the refund claims, which stand governed by two separate zones headed by different ADCs and CIRs. Moreover, the demand impugned in the complaint no longer subsists in its original form. The Commissioner Inland Revenue (Appeals-I), Karachi, through Appellate Order dated



11.09.2026 passed u/s 129(1) bearing Barcode No.100000324602877, annulled the addition of Rs.2,378,998,253/- with directions, and deleted the addition of Rs.200,000,000/- made u/s 39(3). The Deptt. has duly given effect to the appellate directions by passing an appeal effect order u/s 124 read with Section 122(1)/(5) of the ITO, 2001 after issuing a fresh notice dated 18.09.2026 and considering the Complainant's reply dated 25.09.2026 and the documents furnished therewith, affording the complainant full and proper opportunity of being heard. The very grievance forming the basis of the complaint - the opportunity of hearing and the quantum of the addition - has thus been addressed through the statutory appellate and appeal effect machinery. The complaint, filed and pursued in parallel with those proceedings, is rendered infructuous and is, in any event, an attempt to have the FTO sit in judgment over the assessment of income and the determination of tax liability, a matter expressly excluded from its jurisdiction u/s 9(2)(b) of the FTO Ordinance.

7. The departmental objection related to the preliminary objection on jurisdiction with regard to tax year 2019 is overruled on the following points:

- i. The contentious matter in the instant case neither relates to assessment of income or wealth nor to determination of liability of tax or duty, in respect of which legal remedies are available under the Relevant Legislation. **It relates to refund i.e. taxpayer money which has not been listed at section 9(2)(b) of FTO Ordinance, 2000.**
- ii. In cases wherein the aggrieved Taxpayer has been given two or more options: to file an appeal or lodge a Complaint before FTO (on a/c of maladministration), fundamental rights under the Constitution of Pakistan ensure the state cannot compel a person to surrender a legal right unless authorized by an act of parliament.

Therefore, FBR cannot force a citizen to abandon one lawful choice for another arbitrarily.



8. Hearings were held on 01.10.2026. During the hearing, DR furnished a copy of the appeal effect order dated 30.09.2026 issued for tax year 2025 and stated that no amount is refundable; instead, tax liability of Rs.173.892 million is outstanding against the taxpayer. For tax year 2019, it was averred that the Deptt. through letter dated 30.09.2026 has sought documents for verification of refund application. Arguments heard, and available record perused.

9. FINDINGS

i. It has been observed that after filing of the subject complaint, the Deptt., in pursuance of Commissioner-IR (Appeal-I), Karachi's order dated 11.09.2026, has passed an appeal effect order u/s 124 read with Section 122(1)/(5) of the ITO, 2001 on 30.09.2026 creating tax demand of Rs.173.892 million against the complainant. Hence, the grievance of the Complainant to the extent of non-passing of appeal effect order has been redressed. Nevertheless, the Complainant may file an appeal against the aforesaid order before the appellate authority if he feels aggrieved; as jurisdiction of this forum is explicitly barred in terms of Section 9(2)(b) of the FTO Ordinance in respect of matters relating to assessment of income/wealth, determination of liability of tax, where legal remedy of filing appeal is available to the Complainant.

ii. In so far as tax year 2019 is concerned, it is palpable from record that the Complainant filed an application for refund u/s 170(1) of the ITO, 2001 on 06.03.2026 claiming refund of Rs.1,957,632/-. Evidently, no action was taken by the Deptt. on the said refund application of the taxpayer. The Deptt. woke up only after filing of the subject complaint before this Forum and issued a letter dated

30.09.2026 requiring documents from the taxpayer, while the Deptt. was not inclined to do so. Refund claims are required to be processed within sixty days from the date of filing of the application in terms of Section 170(4) of the ITO, 2001.



This omission is a manifestation of Departmental neglect, inattention, and ineptitude in the discharge of its duties, and the same is tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance.

RECOMMENDATIONS:

10. FBR to-

- i) direct the Commissioner IR (Refund Zone), LTO, Karachi to dispose of the Complainant's refund application for tax year 2019 as per income tax law; and
- ii) report compliance within 30 days.

Dated: 21 OCT 2026

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman