

THE FEDERAL TAX OMBUDSMAN ISLAMABAD

COMPLAINT NO.15283/LHR/ST/2026

Dated: 21.08.2026*RO, Lahore

M/S Makson Packaging Co. (Pvt)
Ltd, 521, Sundar Industrial Estate
Raiwind 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. Adnan Mansoor, Advocate
Departmental Representative	:	Mr. Gulfam Afzal, DCIR, CTO, Lahore
Date of hearing	:	07.09.2026, 12.10.2026

FINDINGS/RECOMMENDATIONS

The above-mentioned complaint was filed against the Corporate Tax Office, Lahore under section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) for rejection of the complainant's application for condonation of delay under section 74 of the Sales Tax Act, 1990 for filing of Annexure-H against sales tax refund claims for the tax periods July, August and October, 2024.

2. Brief facts of the complaint are that the complainant, a manufacturer of paper and paper board packing material, exported goods during the tax periods July, August and October 2024 and duly filed its monthly sales tax returns declaring refund claims under serial No.29 amounting to Rs.4,628,736/- Rs.4,074,021/- and Rs.857,621/- respectively (total Rs.9,560,378/-) against a total export value of Rs.81,530,196/-. Owing to technical difficulties and unavailability of relevant staff, the complainant could not upload Annexure-H within the prescribed period of 120 days under Rule 39D of the Sales Tax Rules, 2006. The complainant filed an

application dated 25.11.2025 before the Commissioner Inland Revenue, Zone-I, Corporate Tax Office, Lahore seeking condonation of delay under section 74 of the Sales Tax Act, 1990 submitting that the delay was neither deliberate nor intended to evade compliance and that all underlying records relating to exports, purchases and sales tax returns were duly maintained and available for verification. No action having been taken on the application the complainant submitted a reminder dated 28.01.2026 requesting its expeditious disposal. The Commissioner Inland Revenue nevertheless rejected the condonation application vide order No.3165/J dated 15.05.2026 the sole basis recorded therein being that the explanation regarding technical issues was allegedly not supported by documentary evidence.

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 Ombudsman Institutional Reforms Act, 2013. In response thereto parawise comments were received from the Commissioner Inland Revenue, Zone-I, Corporate Tax Office, Lahore through letter No.447/J dated 05.09.2026 forwarded by the Chief Commissioner Inland Revenue, Corporate Tax Office, Lahore through letter No. CCIR/CTO/FTO/J-18/SO.II/1806 dated 07.09.2026. The Department raised a preliminary objection that the complaint pertains to rejection of an application for condonation under section 74 of the Sales Tax Act, 1990 an appealable order and therefore does not fall within the ambit of this Office under section 9(2)(b) of the FTO Ordinance relying on the orders of the Honourable President of Pakistan dated 13.06.2018, 16.01.2017 and 27.05.2019. On merits, the Department contended that the complainant did not file Annexure-H within the statutory time limit of 120 days under Rule 28 of the Sales Tax



Rules, 2006 that no documentary evidence was furnished to justify the delay and that the condonation application was rejected in the lawful exercise of discretion under section 74 of the Sales Tax Act, 1990 which is not automatic and remains subject to the satisfaction of the competent authority. The Department prayed that the complaint be rejected as devoid of merit.

4. Hearing in the matter was held on 24.08.2026 & 08.09.2026. Both AR for the complainant and DR for the Department appeared and were heard at length.

5. As regards the preliminary objection, it is observed that the instant complaint does not assail any determination of tax liability or refundable amount indeed. The Department's own parawise comments do not dispute the refund claims declared by the complainant in its monthly sales tax returns, nor point out any discrepancy in the exports or underlying records. The grievance is confined to the manner in which discretion under section 74 of the Sales Tax Act, 1990 was exercised in rejecting the condonation application, which is a procedural/administrative function distinct from assessment of tax liability. The bar under section 9(2)(b) of the FTO Ordinance is attracted where an alternate forum exists to correct a matter on merits; it does not oust this Office's jurisdiction to examine whether a discretionary power has been exercised fairly, reasonably and through a speaking order, as ordered by apex courts of Pakistan.

6. FINDINGS:

- i. In the cases involving condonation the Federal Board of Revenue (FBR) frequently takes a rigid, mechanical stance on time-barred matters—such as tax refunds or delayed appeals—by arguing that **every single day's delay must be mathematically and rigidly accounted for**. This strict posture typically leans on a classic,



decades-old Supreme Court precedent, specifically *Commissioner of Sales Tax vs. Chenab Textile Mills* (1980), which observed that when a matter is time-barred, "each and every day's delay must be explained before it can be condoned." However, the evolving jurisprudence of the **Supreme Court of Pakistan** and various High Courts has progressively curbed this hyper-technical approach, drawing a clear line between arbitrary bureaucratic rigidity and the true legal test of "sufficient cause".



The Supreme Court has repeatedly clarified that condonation of delay under the law (such as Section 74 of the Sales Tax Act) is **discretionary and must be guided by rational, convincing, and justifiable reasons**, rather than a mechanical daily arithmetic countdown. In landmark rulings like *Federal Board of Revenue vs. Abdul Ghani* (2021 SCMR 1154), the Apex Court noted that condoning or refusing to condone a delay cannot be done mechanically. The FBR cannot simply issue a blanket rejection or an arbitrary approval using the "day-by-day" rule as a shield without evaluating the core facts and exceptional circumstances. The judiciary maintains that the primary requirement is establishing a bona fide, plausible explanation. While the legal burden to explain a delay remains intact, the Supreme Court rejects the FBR's tendency to use limitation laws as an arbitrary trap. Condonation is a tool to advance **substantive justice**, meaning that a robust, credible macro-explanation for a delay overrides a rigid mathematical calculation.

- ii. The second material issue is whether rejection of the complainant's condonation application amounts to maladministration. On merits, it is observed that the impugned order dated 15.05.2026 rejected the condonation application on the solitary ground that the explanation regarding technical difficulties was "not cogent"/not supported by documentary evidence, without specifying what evidence was expected or found wanting and without controverting the complainant's categorical submission that the delay was neither deliberate nor intended to evade compliance and that all underlying records relating to exports, purchases and sales tax returns were duly maintained and available for verification. The Department's parawise comments,

likewise, do not identify any specific discrepancy in the complainant's exports or sales tax returns, nor dispute that the refund claims are otherwise verifiable. A discretionary power under section 74 of the Sales Tax Act, 1990 though not to be exercised automatically, must nonetheless be exercised judiciously, reasonably and through a reasoned, speaking order.

- iii. The complainant, having exported goods and paid input tax in excess of its liability, has thereby been deprived of its lawful right to pursue a legitimate refund claim of Rs.9,560,378/- on a purely technical/procedural ground, without the genuineness of the underlying exports or refund claims ever having been questioned by the Department. Denial of a substantive right of this nature on such technical grounds, without due application of mind, itself constitutes maladministration and has caused undue hardship to the complainant.
- iv. Rejecting a condonation application in a mechanical and nonspeaking manner, without recording cogent reasons or affording the complainant a meaningful opportunity to substantiate its explanation, amounts to an arbitrary exercise of discretion and reflects delay, neglect and inattention within the meaning of Section 2(3)(i)(b) of the FTO Ordinance, 2000.

RECOMMENDATIONS

7. FBR to direct:

- (i) the Commissioner Inland Revenue, Zone-I, Corporate Tax Office, Lahore to revisit the complainant's application for condonation of delay under section 74 of the Sales Tax Act, 1990 for filing of Annexure-H for the tax periods July, August and October 2024 afresh after affording a proper opportunity of hearing and pass a speaking order strictly in accordance with law; and
- (ii) report compliance within 30 days.

Dated:

22 OCT 2026

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

