

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT NO.16940/LHR/IT/2026

Dated: 21.09.2026 RO Lahore*¹

M/s Business Hospital Trust,
Shalamar Hospital Shalimar Link,
Mughalpura, 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. Umar Farooq, Advocate
Departmental Representative	: Ms. Shahida Nazeer, DCIR, LTO, Lahore
Date of hearing	: 12.10.2026, 13.10.2026

FINDINGS/RECOMMENDATIONS

The above-mentioned complaint has been filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), against undue delay in processing of income tax refund for Tax Year 2024.

2. Briefly, the complainant (having NTN#2696301), is a trust registered under the Punjab Trust Act, 2020, and is a non-profit and charitable organization engaged in providing healthcare and education services through the operation of a hospital. The complainant filed its income tax return for Tax Year 2024 under Section 114(1) of the Income Tax Ordinance, 2001, on 27.12.2024 claiming refund of Rs. 22.780 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 151 & 236(1)(d) of the Ordinance. Furthermore, Complainant declared fixed/final/minimum tax declared on account of payment of services u/s 153(1)(b) of the Ordinance. According to



¹ Date of Registration in FTO Sectt.

the Complainant, refund application was e-filed on 15.12.2025 followed by reminder dated 14.09.2026. Despite repeated efforts of the Complainant, Deptt failed to pass order under Section 170(4) within the prescribed statutory period of sixty (60) days, hence the instant complaint.

3. The complaint was referred to the Respondent Agency for comments in terms of Section 10(4) of the FTO Ordinance, 2000, 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 05.10.2026. 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 submitted that:

- i) the Complainant filed refund application for Tax Year 2024 claimed refund on the basis of tax deductions under various heads is admitted.
- ii) regarding the processing of the refund application, the Department relied upon the Board's notification/instructions No. I(8) FTO/IMP/2024/205508-R dated 17.10.2024 and stated that refund applications were to be processed according to the First-In-First-Out (FIFO) principle. It was further stated that the complainant's application was in the queue and would be processed in due course.
- iii) as per NOC letter No.U-03/6768 dated 05.10.2026, the Department reported the following outstanding tax demands against the complainant:



Tax Year	Amount	Relevant provision/status
2024	Rs. 359,762,305/-	Demand under Section 122(5A), reported as recoverable income tax
2020	Rs. 299,763/-	Demand under Section 161, reported as recoverable income tax
2019	Rs. 245,165/-	Demand under Section 161, reported as recoverable income tax

The Department further reported that no stay against recovery of the above demands had been granted by the superior courts or tribunals.

- iv) no audit, rectification or revision proceedings were pending for the relevant tax year. It identified the major withholding tax deductions claimed by the complainant as relating to Sections 151, 236(1)(a) and 150 of the Income Tax Ordinance, 2001.
- v) the relevant tax deductions and Computerized Payment Receipts (CPRs), along with other supporting records, would be verified through CPRs, Goods Declarations (GDs), IRIS and the Integrated Tax Management System (ITMS).
- vi) For the calculation of minimum tax under Section 113, the turnover has been incorrectly taken as Rs.2,938,191,356/- whereas the revenue declared in the return is Rs.3, 9,474,000. Accordingly, the taxpayer's minimum tax liability will increase by Rs.5,641,033/-

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

6. Following Preliminary objection has been raised by the Deptt in its comments which are rebutted as under:

Objection	Rebuttal
That the matter of delay in disposal of refund beyond statutory timelines is an appealable matter u/s 170(5)(b). FTO doesn't hold jurisdiction because legal remedy is available.	<u>"In the cases of delay beyond statutory timelines the Taxpayer has been given to options: to file an appeal or lodge a Complaint because such delay has been categorized as an act of maladministration u/s 2(3)(ii) of FTO Ordinance, 2000.</u> <u>Fundamental rights under the Constitution of Pakistan ensure that citizens are dealt with in accordance with law, and the state cannot compel a person to surrender a legal right unless authorized by an act of parliament.</u>



	<u>Therefore, FBR cannot force a citizen to abandon one lawful choice for another arbitrarily.”</u>
That the refund application is in a queue as per Board's notification dated 17.10.2024 refund application shall be processed by following FIFO (First in-First Out) method.	• 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.



7. During hearing, regarding the outstanding demand for the Tax Year 2024, the Authorized Representative (AR) of the Complainant submitted a copy of the Appellate Tribunal Inland Revenue (ATIR) order dated 22.10.2025, whereby the learned ATIR cancelled the departmental impugned order dated 25.08.2025. Furthermore, the AR presented documentary evidence of an application dated 16.02.2026, seeking the implementation of the appeal effect, which was duly served upon the concerned officer. The Complainant strongly contended that under the mandatory provisions of Section 124 read with Section 132 of the Income Tax Ordinance, 2001, the Department was under obligation to pass appeal effect order within 60 days of receiving the appellate order. However, despite the lapse of the prescribed statutory timeline, the Department has failed to fulfill its legal obligation, resulting in an unlawful and non-obligatory delay.

8. As regards other tax demands for Tax Years 2019 & 2020, the Authorized Representative (AR) proposed their adjustment after the establishment of refund for the Tax Year 2024. Perusal of parawise comments reveals that the Department raised contentions regarding the calculation of minimum tax under Section 113 of the Income Tax Ordinance, 2001. In response, the AR submitted a detailed computation sheet clarifying the minimum tax liability. So, it

is observed that the determination of the final computation and overall tax liability remains an open matter to be verified and decided by the Department strictly in accordance with the law.

9. Examination of record transpires that after cancellation of departmental impugned orders dated 25.08.2026 vide ATIR's order 22.10.2025, Deptt was bound to pass appeal effect but no action was taken u/s 124(4) read with section 132, by the Deptt till date. Similarly, the refund application for Tax Year 2024 is also still pending. Thus, delay in giving appeal effect in the light ATIR's order and non-disposing of refund application for Tax Year 2024 is evident.

10. **FINDINGS:**

- i. Shalamar Hospital is operated by the Businessmen Hospital Trust as a major 500-bed, non-profit tertiary care medical facility located on Shalimar Link Road, Mughalpura, Lahore. The hospital oversees the following affiliated Institutions under its banner:
 - Shalamar Nursing College (SNC)
 - Shalamar Medical & Dental College (SMDC)
 - Shalamar School of Allied Health Sciences
- ii. Under the legal framework of the **Pakistan Medical and Dental Council (PMDC)**, to obtain and maintain official recognition from the PMDC, a charitable trust must fulfil specific legal, financial, and infrastructural preconditions outlined in the PMDC Initial Recognition Framework:
 - a. The trust must be fully registered and approved as a public religious or charitable trust under applicable Pakistani laws. Alternatively, it can operate as a body corporate registered under the relevant laws of societies or trust.
 - b. Charitable trusts must maintain operational sustainability through specific financial benchmarks.
 - c. **Bank Guarantees & Audits:** Requires financial guarantees such as PKR 30 Million for the college and PKR 20 Million for the hospital, alongside



annual audits by a chartered accountant submitted to the PMDC.

- iii. Neglect, delay, negligence, inattention, inefficiency and ineptitude in passing appeal effect order u/s 124/132 in the light of ATIR's order dated 22.10.2025 and non-disposal refund application u/s 170(4) for Tax Year 2024 tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance.



RECOMMENDATIONS:

11. FBR to direct;

- i) the concerned CIR to pass appeal effect order u/s 124/132 in the light ATIR's order dated 22.10.2025 immediately;
- ii) the Commissioner-IR, Refund Zone, LTO Lahore to satisfy himself that taxes in the Tax Year 2024 has become due and overpaid and to apply the excess in reduction of any other tax due from the taxpayer under the Income Tax Ordinance, 2001 and apply the balance of excess, if any, in reduction of any outstanding liability of the taxpayer to pay other taxes, after providing opportunity of being heard and dispose of Complainant's refund application for Tax Year 2024, as per law; and
- iii) report compliance within 30 days.

Dated: 22 OCT 2026
Azeem

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman