

THE FEDERAL TAX OMBUDSMAN ISLAMABAD

COMPLAINT NOs. 16960, 16963 & 16964/KHI/IT/2026

Dated 21.09.2026 * R.O Karachi

Mr. Mohammad Arif,
CNIC No. 6110120135027
Office No. 608, Kashif
Center Shahrah-e-Faisal, Karachi

...Complainant

Versus

The Secretary,
Revenue Division,
Islamabad.

...Respondent

Dealing Officer	: Mr. Badruddin Ahmad Quraishi Advisor
Appraisal Officer	: Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representatives	: Mr. Nisar ul Haq, FCA
Departmental Representatives	: Mr. Muhammad Ali Baig, OIR, CTO-I, Karachi

Date of hearings : **07.10.2026 & 13.10.2026**

FINDINGS/RECOMMENDATIONS

These complaints were filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) for its delay in processing the application u/s 221 of the Income Tax Ordinance, 2001 for tax year 2025 against double taxation for the same income; once in the hands of an AOP and then again in the hands of the embers of the AOP in violation of Section 92(1) of the Income Tax Ordinance, 2001. The other two complaints of the other two members of the same AOP being identical in nature shall be dealt through one consolidated order.

2. Briefly, the complainant, a partner in M/s Kahf International (AOP), alleges that surcharge under section 4AB of the Income Tax Ordinance, 2001, has been calculated twice on the same income, despite the exemption of the members' share of profit under section 92(1) and the Tribunal's order dated 28.11.2025 in ITA No. 2155/KB/2023. The complainant filed an application under section



221 on 18.03.2026, followed by several reminders seeking rectification of the error, but the department failed to take action despite repeated follow-ups and visits. The application is deemed rectified under section 221(3) with effect from 30.06.2026. The complainant requests directions to the department to give effect to the deemed rectification, pass a speaking order, amend the assessment accordingly, and award costs; hence this complaint.



3. 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, the ACIR, Unit-3, Range-A, Zone-III, CTO-I, Karachi, vide letter dated 12.10.2026, has submitted comments stating that no application under section 221 of the Income Tax Ordinance, 2001, was found filed or pending on the IRIS portal; therefore, neither delay in processing nor deemed rectification under section 221(3) arises. It further contended that the taxpayer failed to establish payment of surcharge under section 4AB and that the cited Tribunal judgment in ITA No. 2155/KB/2023 relates to super tax under section 4C, making it distinguishable from the present case. The department maintained that the complaint lacks factual and legal grounds, challenges the applicability of surcharge under section 4AB, and should be pursued through the appropriate statutory appellate remedy. Accordingly, it requested dismissal of the complaint as not maintainable before the Federal Tax Ombudsman.

4. Argument heard, and record perused.

FINDINGS:

5. It is observed that the complainant alleges calculation of surcharge under section 4AB twice by IRIS for tax year 2025 on the

same income, despite the exemption of the partners' share of profit under section 92(1) of the Income Tax Ordinance, 2001, reproduced below:

" Section 92. Principles of taxation of associations of persons.—(1) An association of persons shall be liable to tax separately from the members of the association and 2 [where the association of persons has paid tax the] amount received by a member of the association in the capacity as member out of the income of the association shall be exempt from tax"

The above provision of the Ordinance is crystal clear. An Association of Persons (AOP) is taxed separately, and the share of profit received by a member/partner out of the AOP's income is exempt from tax. Therefore, the complainant alleges delay in processing the rectification application dated 18.03.2026, followed by several reminders filed under section 221 of the Income Tax Ordinance, 2001, seeking rectification of the alleged double computation of surcharge under section 4AB, but the department failed to take action to date. As per AR, the application is deemed to be rectified under section 221(3) with effect from 30.06.2026. The DR stated that the taxpayer did not file an online application under section 221 on the IRIS portal; therefore, the allegation of delay and deemed rectification under section 221(3) is not substantiated by the departmental record. On the other hand, the AR states that there is no provision of tab in IRIS to file an online application u/s 221 of the Income Tax Ordinance 2001. The AR has raised a critical systemic issue—that the IRIS portal currently lacks a dedicated tab or online facility for filing rectification applications under Section 221. A taxpayer cannot be penalized due to technical limitations, missing interface modules, or procedural omissions within the department's digital portal. If the AR submitted a physical or manual application on 18.03.2026, its failure to entertain or log it constitutes administrative negligence and procedural high-handedness.



6. Failure of the Deptt to process the application u/s 221 of the Income Tax Ordinance, 2001 dated 18.03.2026, followed by several reminders seeking rectification of the error within the prescribed period, is a manifestation of Departmental neglect, inattention and ineptitude in discharge of its duties and the same is tantamount to maladministration in terms of Section 2(3)(ii) of the FTO Ordinance, 2000.

RECOMMENDATIONS:

7. FBR to direct:-

- (i) the Commissioner-IR, Zone-III, CTO-I Karachi to dispose of rectification application u/s 221 after obtaining requisite evidence and after affording a proper opportunity of hearing to the Complainant on its merits in accordance with law;
- (ii) the DG (IT & DT) to review the IRIS portal architecture to ensure that a dedicated tab or functional workflow is available for taxpayers to file and track rectification applications under Section 221 without administrative friction; and
- (iii) report compliance within 30 days.

8. The recommendation of this instant complaint will apply mutatis mutandis

- In complaint No. 16964/KHI/IT/2026 (Mr. Abdul Majeed) and complaint No. 16960/KHI/IT/2026 (Mr. Muhammad Arshad)

Dated: 27 OCT 2026

(Mr. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

