



THE FEDERAL TAX OMBUDSMAN:

The Federal Tax Ombudsman (FTO) is a quasi-judicial forum that acts as a watchdog for systemic maladministration and corruption in the Federal Board of Revenue (FBR).

**A MODEL
INSTITUTE**

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Chapter 1

INTRODUCTION

This report evaluates and analyses the role FTO has played in reforming the notion of justice around Pakistan. In a country where going to courts and resolving your cases means spending a lifetime of money and time with no avenues of a speedy recovery, FTO has thereby changed incentives and settling cases in a time period of 45 To 60 days. The report will first consider the relevant objectives, statutes, and powers of FTO followed by several case studies, the advantages and disadvantages of ADR, and the how ombudsman has been used in other states as a model structure for resolving cases.

Federal Tax Ombudsman (FTO)

The Federal Tax Ombudsman (FTO) is a quasi-judicial forum that acts as a watchdog for systemic maladministration and corruption in the Federal Board of Revenue (FBR). It issues recommendations which are monitored for compliance and makes representations before the Honourable President of Pakistan. It is currently spearheaded by Dr. Asif Mahmood Jah who also serves as President of the Forum of Pakistan Ombudsmen. It serves as a useful conduit/link between taxpayers and tax-administration agencies. It also has a highly effective complaints management mechanism in place.

The FTO was founded in 2000 to reduce the issues and challenges of taxpayer's as well as to improve the cost of conducting business. Since its formation, this institution has helped thousands of resentful tax payers and made a substantial contribution in addressing the widespread maladministration of the taxation system. There are various ombudsmen for women, insurance, and banking, and FTO is in charge of them all. FBR-related cases dealing with various forms of administrative maladministration predominate. Pursuant to s.2(3) of the FTO Ordinance 2000, 'maladministration' pertains to a person being harassed over paying taxes. It could take the shape of pointless notifications or an excessively long wait time after being called. A taxpayer is considered an important individual who demands attention and ought to come first. Maladministration also includes bribery and inefficiency. The only organisation with officers who possess the necessary skills and expertise related to such matters is FTO.

Statues

The FTO Secretariat's most recent measures are aimed at giving taxpayers who have been aggrieved by the maladministration of the officials inexpensive and prompt justice. To cut down on the time and expense of filing complaints, a cutting-edge online system is also being implemented. The goal of information technology introduction is to create a highly enabled paperless environment. In addition, regular meetings with the Chambers of Commerce, Industry, and Tax Bars have built an FTO-taxpayer interface.

1. Establishment of the Office of FTO Ordinance, 2000 (FTO Ordinance)¹
2. Federal Ombudsmen Institutional Reforms Act, 2013 (FOIRA, 2013)²
3. FTO Investigation & Disposal of Complaints Regulations, 2001³
4. Federal Tax Ombudsmen Office Staff Service Rules, 2006⁴

Objectives

The central aim of FTO is to facilitate the tax payer and to act as their advocate. FTO through its smooth and easy mechanism has accentuated as a model institute, which has a single goal to protect the tax payer from harassment of the FBR and other tax related institutions. Data reflects a great deal of improvement in the number of complaints registered and those resolved in the year 2022 as compared to 2021.

Complaint Procedure

The complaint registration system at the FTO is easy and accessible to anyone requiring assistance. Complainants must register their grievances in writing either in person, or by mail, text or phone, or on the website or mobile app.

Once a complaint is registered, a complaint number is issued which, upon selection, the complainant must follow-up with supporting documentation. A letter is written to the FBR together with the complaint's contents and supporting documentation. When the FBR replies, the complainant and an FBR representative are both contacted to discuss the problem. If the FBR is responsible, they are contacted to rectify the situation and give updates every 10 to 15 days. Orders are passed in the form of recommendations, and they are put into effect after 41 days. Each complaint is assigned to an experienced Advisor through an automated Complaints Management Information System (CMIS). All concerns are resolved within the mandatory 60-day window. Moreover, the Federal Tax Ombudsman's office monitors compliance with the recommendations to ensure that they are carried out, and if they are not in the allotted period, required legal action is taken in case of non-implementation in the allotted period. Throughout the procedure, the off office of the relevant Advisor FTO updates the complainant on the progress of their case.

The Head Office, Regional Offices, and FTO website all include free copies of The Form "A" that must be filled out with requisite details in order to file a complaint is available to all free of cost at the Head Office, Regional Offices, and the FTO website. Additionally, the complaint solemnly affirms the following in Form "A": That no complaint regarding the same issue was lodged previously; that a representation regarding the allegations in the complaint was made to

¹ [Establishment of the Office of FTO Ordinance, 2000 \(FTO Ordinance\)](#)

² [Federal Ombudsmen Institutional Reforms Act, 2013 \(FOIRA, 2013\)](#)

³ [FTO Investigation & Disposal of Complaints Regulations, 2001](#)

⁴ [Federal Tax Ombudsmen Office Staff Service Rules, 2006](#)

a senior officer of the Revenue Division or one of its collectorates or RTOs, and that the representation was not responded to within a timely manner, or that the application was unfairly denied; or that no representation was made and the matter is not currently pending before any court, tribunal, board, or other authority of competent jurisdiction. This solemn affirmation need not be notarized.

The complainant will receive assistance from FTO staff in filing the complaint if requested. The jurisdiction of the Head office and Regional offices is specified in the Schedule of the FTO Investigation and Disposal of Complaints Regulations, 2001. The FTO may order a complaint falling within the territorial jurisdiction of a Regional office to be investigated at another Regional office, or the Head office. The place of jurisdiction for investigation is the place of residence of the complainant. An overseas complainant may join the investigation through telecommunication applications including Skype or Zoom.

Powers of the FTO

The office of Federal Tax Ombudsman is mandated to investigate, diagnose, redress and rectify maladministration of tax functionaries. The President of Pakistan takes disciplinary measures against the offending officer. The offending officer might possibly get a punishment of up to six months. Only departmental review processes or applications to the President of Pakistan are available for appeal. The officers conduct a preliminary inquiry. While the evaluation is carried out under the supervision of the President of Pakistan by the FTO representative.

Chapter 2

CASE STUDIES

Custom Cases

1. 1772/KHI/CUST/2022⁵

Case Facts:

The complaint has been filed by M/s AM. Corporation under section 10(1) of the FTO Ordinance 2000, against the Collector MCC (Appraisalment) East, Custom House, Karachi and Director General (Valuation), Custom House, Karachi on account of non-finalization of provisional assessment within the prescribed time under Section 81 of the CA-I 969 (the Act).

The complainant imported 08 consignments of Tyres and Tubes and filed Goods Declarations during the period December 2020 to February 2021 which were provisionally assessed under Section 81(1) of the Act as the complainants request for revision of Valuation Ruling was pending with the Director General (Valuation), Custom House, Karachi. The provisional assessment was to be finalized with six months extendable by 90 days by the competent authority which has not been done despite lapse of more than 2 years in some cases.

Sub-Section 4 of the Section 81 provides that: (i) “If the final determination is not completed within the specified period under sub-Section (2) of Section 81, the provisional determination shall in the absence of any new evidence, be deemed to be final determination.”

The Complaint was referred to Secretary Revenue Division for comments in terms of Section 10(4) of the FTO Ordinance read with Section 9(1) of the Federal Tax Ombudsman Institutional Reforms Act, 2013

Central issue:

Collector of Customs stated, inter alia, that the complainants request for revision of Valuation Ruling was pending with the Director General (Valuation) and since no response / advise was received, the cases of provisional assessment could not be finalized, within the stipulated time frame.

Further, once the goods are provisionally assessed by the appropriate officer, the Goods Declaration on WeBOC window is transferred to Directorate of Valuation for further necessary action without leaving any trace or link for the assessing officer to monitor the progress and finally determine the value of goods within the prescribed time frame.

⁵ [1772/KHI/CUST/2022](#)

In the revision application, the complaint was referred to the Directorate who contended the revision application was time barred as any importer/manufacture aggrieved by a Valuation Ruling can file a review petition under s.25 Customs Act 1969 to the Director General Valuation within thirty days from issuance of valuation ruling. In the instant case, the revision application was received more than 23 months. Moreover, as per section 25D of the Customs Act, there is no explicit provision for condonation of delay in revision application, therefore, such time barred application stands void ab initio. Further since the complainant's GDs were forwarded to the Directorate in consequence to his time barred application it can be constructed that no action in law was required on part of Directorate General of Customs Valuation in terms of advising values of imported goods.

However, it is evident that the Directorate failed to respond to the complainant's request for revision of Valuation Ruling despite lapse of almost two years and have returned the GDs to the Collectorate without any advice for final determination of value. The contention of the Directorate about in-admissibility of the revision application being time barred should have been communicated to the complainant two years back when the application was filed which was not done.

It is evident from record that the Directorate of Valuation, failed to finally determine the assessable value of imported goods within the prescribed time under Section 81(2) of the CA- 1969 and sought extension from FBR which was granted in a mechanical manner without ascertaining the reason for such delay on case to case basis.

Relief:

Failure to finalize the provisional assessment within prescribed time frame provided under Section 81(2) of the Act tantamount to mal administration as defined under Section of the FTC Ordinance, 2000. Hence relief was granted.

Recommendations:

FBR to direct;

- The Director General of Reform & Automation to ensure systemic improvements in WeBOC so as to enable the Assessing Collectrates to monitor the progress of provisional assessments on regular basis;
- The Director General Customs (Valuation) to ensure that all cases of provisional assessment are finalized within the prescribed time frame under Section 81(2) of the Act;
- The all Collector of customs to finalize the provisional assessment of cases strictly in accordance with dictates of Section 81(4) of the Act on merit according to the judgments of the superior judiciary in this regard and;
- Fix responsibility on delinquent officials who have failed to discharge their responsibility in accordance with law; and
- Report compliance in 60 days.

Complainant's comments:

Relief was provided by the FTO however, implementation by the Directorate (Valuation) is yet to be observed

Cost:

The complainant incurred no cost by going to the FTO.

2. 1815/ABD/CUST/2022⁶

Case Facts:

The complaint is filed under s. 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against Collectorate of Customs, Islamabad for not allowing release of gift parcel without duty and taxes.

A gift parcel was sent from UK to Complainant by his cousin containing Chocolates and Watch worth 500 GBP. Complainant requested to exempt goods from payment of duty and taxes or return goods back to UK.

The complaint was referred to the Secretary, Revenue division for comments in terms of S.10(4) of the FTO Ordinance, read with S.9(1) of the Federal Ombudsmen Institutional Reforms Act 2013. In response, Collectorate of Customs submitted that the complainant despite written notices and telephonic messages did not attend the hearing. The claimant via written reply had been requested to file Goods Declaration (GD) to process his case for clearance of goods on payment of duty and taxes but he did not respond.

Regarding the complainant's request to exempt goods, the Federal Government is empowered to grant exemption under S.19 Customs Act 1969. Regarding Complainant's request to return goods to the UK, the complainant has to file GD to examine his request under S. 138 CA 1969 – by reason of inadvertence, misdirection or untraceability of the consignee, on application by the consignor of goods and subject to rules, a customs officer, not below the rank of Additional Collector of Customs, may allow export of goods without payment of any duties (whether of import or export) chargeable, provided that such goods have remained and are exported under the custody of an officer of customs.

Central Issue:

Complainant did not attend hearings despite repeated attempts to contact thereby did not show his interest to get the gift parcel released on payment of such high duty and

⁶ [1815/ABD/CUST/2022](#)

taxes and requested for exemption of Customs duty and taxes which within the ambit of the Federal Government's power under S.19 of the CA 1969. Regarding request to return the parcel the Collector has quoted S.138 of the Customs Act 1969 which refers to how to deal with frustrated cargo brought into Customs station by reason of inadvertence, misdirection or untraceability.of consignee.

Further under current legislative dispensation, under S.19C of the CA 1969, no duties and taxes shall be demanded in case of value of imported goods not exceeding PKR 5000. In case of goods imported through postal service or air courier, the above exemption has been extended through Chapter xxxiv (De Minimis Rules for Imported Goods) of Custom Rules 2001- the postal or courier authorities shall not file goods declaration or demand payment of duty and taxes for goods with value of upto five thousand rupees.

Relief:

It is evident from the abovementioned legal provisions that the intention of the legislature as well as FBR is to safeguard collection of legitimate government revenue in shape of leviable duty/taxes. However, the current scenario under the instant case is related to a small gift sent to the complainant by his cousin residing abroad, and accordingly, deserves a different and more compassionate treatment by FBR as these small gifts cannot be termed as commercial import. Similar consignments are stuck at various customs stations across the country. FBR needs to facilitate the agents and means of friendship especially in the case of overseas Pakistanis and their close relatives residing in the country.

Recommendations:

In view of the above, FBR is to:

- Direct Collector, Collectorate of Customs, Islamabad to re-examine the case of complainant compassionately keeping in view the nature of goods being a small value gift on one hand and significant emotional value, associated with the goods under reference, on the other hand and decide the matter within 15 days.
- Develop a more facilitative approach towards such small value gift transactions and devise proper rules in this regard with more rational and facilitative duties and taxes exemption threshold, duly taking into account the current inflation trends and prevalent currency exchange rates. Compliance in this regard is to be reported within 90 days.

Complainant's Comments:

The complainant enunciated that he had received much support through the FTO after having filed a complaint via email, however, collectorate of Customs has not released his

goods and have directed him to make a taxable Goods Declaration and have therefore not observed the recommendations of the FTO.

Cost:

No cost incurred by the complainant.

3. 1608/QTA/CUST/2022⁷

Case Facts:

A Toyota Master Ace Surf vehicle was seized by Quetta's Directorate of Intelligence and Investigation. The car's number was allegedly changed, and it was claimed that the registration records listed the vehicle as a "Toyota Lite Ace Van" while it was actually a "Toyota Master Ace Surf Van." The automobile that had been tampered with was seized during the case's procedures and then sold to the Balochistan Accountant General's Office in Quetta (A.G.) for a nominal sum of Rs188,701.

The complainant filed Constitution Petition No. 1233/2020 with the High Court of Balochistan, asking that the Directorate be instructed to return the vehicle to the complainant without further delay in the same condition that it was seized on February 3, 2003. After the petition was withdrawn, a complaint was filed in accordance with Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000. (FTO Ordinance).

In response to the Federal Tax Ombudsman's notice, Customs Intelligence, Quetta rejected the accusations and said that the delay in the case's resolution was caused by the Tribunal's decision to rule on the appeal after a 12-year period had passed.

Central Issue:

FTO has instructed FBR to conduct a detailed analysis of all cases that have been pending at the Appellate Tribunal level for longer than five (05) years, frame an effective policy, and issue necessary guidelines to all field formations for the swift disposition of all such cases. This instruction came while resolving a complaint regarding customs intelligence in Quetta.

Relief:

It is a matter of record that the subject appeal in this case before the Learned Appellate Tribunal remained pending for nearly sixteen (16) years, which raises serious concerns about the Directorate's performance given that no significant efforts were made to expedite the subject proceedings.

⁷ [1608/QTA/CUST/2022](#)

Recommendations:

In light of the foregoing, the FBR is required to:

- Direct Member Legal (Customs) to conduct a thorough analysis of all cases that have been pending at the Appellate Tribunal level for longer than five (05) years, to frame an effective policy and to issue the necessary instructions to all field formations for the prompt resolution of all such cases.
- Report compliance within 60 days.

Complainant's Comments:

The complainant was not at all satisfied with the relief provided and stated that his case had been counderstated and the Judgement of the FTO directly contradicted a decision of the Sindh High Court on a similar precedent, which he had furnished in the case made before the FTO.

Cost:

Nominal cost incurred.

SALES TAX CASES

1. 0469/LHR/ST/2022⁸

Case Facts:

The complaint was filed against the Chief Commissioner-IR, RTO Lahore and M/s Pak Suzuki Motor Company Limited for charging the complainant excessive Federal Excise Duty at the time of delivery of the car rather than the actual rate of FED at the time of booking the car. The complaint was filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000. FBR offered para wise remarks in a letter, indicating that the legislature had increased the FED rate on motor vehicles in its wisdom.

Both AR and DR showed up and the DR went on to say that in accordance with Section 5(a) of the Sales Tax Act of 1990, if there was a change in the tax rate, a taxable supply made by a registered person would be subject to tax at the rate that was in effect at the time of supply. The complainant drew attention to Revenue Division's Notification SRO.837(1)/2021, in which it was stated that, under clause (i)(xivb) of paragraph 2 of the Notification, the importer-cum-assembler or OEM shall reimburse the customer for any deposit that is lost due to a delivery that is delayed more than 60 days after the initial booking at KIBOR plus 3 percent per year. The Authorized Dealer, M/s Pak Suzuki Motor & Co. Ltd/Ali Jan Motors, was contacted for comment in order to move the

⁸ [0469/LHR/ST/2022](#)

situation forward. Ali Jan Motors issued a response on March 16, 2022, claiming that the allegations made by the complainant against it are unfounded. A new date was set for the case where the complainant showed up for the hearing and said that M/s Ali Jan Motors had contacted him with the new rates in the third week of January 2022, and that he had deposited the difference amount on 03.02.2022, in accordance with them, as the new FED rate took effect on 15.01.202. The car wasn't delivered for more than three months.

Central Issue:

It is clear that the car was tentatively ordered on September 16, 2021, and was supposed to be delivered within 60 days of that date with an end date of November 17, 2021, far earlier than the new financial measure, but it was actually more than three months later. The complainant has been invited to attend Revenue Division's Notification SO.837(1)/2021, dated 30 June 2021, where it has been announced that the importer-cum-assembler or OEM shall pay the customer KIBOR plus 3 percent per year against delayed delivery exceeding 60 days after initial booking on the entire deposited amount.

Relief:

To make M/s Pak Suzuki Motor & Co. Ltd, Karachi/Ali Jan Motors, Lahore pay the complainant for the delayed delivery, FBR must implement the SRO's aforementioned clause. According to clause (li)(xivb) of paragraph 2 of the Revenue Division's Notification SRO.837(1)/2021 dated 30.06.2021, M/s Pak Suzuki Motor & Co. Ltd. and its dealer, Ali Jan Motors, Lahore, are required to provide compensation for delays in car deliveries that exceed 60 days after a provisional booking.

Recommendations:

FBR to direct:

- The concerned Commissioner-IR to ensure that M/s Pak Suzuki Motor & Co. Ltd, Karachi/Ali Jan Motors, Lahore complies with clause (xivb) of paragraph 2 of the Revenue Division's Notification SRO.837(1)/2021 to pay to Complainant KIBOR plus 3 percent per annum for delayed delivery beyond 60-days;
- Provide the EDB or IOC a complete statement that is presented twice a year that includes information on compensation given to recipients of deliveries that take longer than 60 days to arrive; and
- Provide a 45-day compliance report.

2. 1144/KHI/ST/2022

Case Facts

In 2020, Unilever Pakistan Foods Ltd. requested LTO, Karachi to condone the delay for filing refund claims relating to the period of 2012-2016 under Section 74 of the Sales Tax Act 2990; the 5-8 year delay in the request was the result of construction being carried out in the Unilever head office in Karachi, and the installation of a new ERP (SAP) system in this time. Some data was found to be missing after the transfer of data to the new ERP system but immediate action was taken and the auditors were called upon to

identify the missing data. In this process, some unclaimed GDs were identified; a sales tax amount of Rs. 88,501,852/- which failed to be adjusted or claimed in the previous sales tax returns and the FBR was approached for condonation of delay. The FBR forwarded the request to LTO, Karachi whose recommendation for condonation of the case was rejected by the FBR, as was the request for condonation vide letter dated 08.06.21. The complainant filed the application for review with member-IR (Operations) FBR vide letter dated 02.07.21 which was once again rejected by the FBR vide letter dated 28.09.21, leading to the instant complaint with prayer directly to the FBR to condone the delay as requested based on the abovementioned grounds.

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 Ombudsman Institutional Reforms Act 2013. In response, the FBR vide letter dated 12.04.2022 forwarded the comment of LTO Karachi submitted vide their letter dated 07.04.2022. It was stated that Section 74 of the STA 1990 empowers the Board to allow the relaxation of the prescribed time limit for any act or thing to be done within the time period as they may consider appropriate. Based on this power, the complainant's application was examined and rejected on merit and as per law. Additionally, the review application was once again rejected upon re-examination by the FBR as no plausible reason could be identified for the delay.

Central Issue:

The complaint was filed against the Member-IR (Operations) FBR, Islamabad under Section 10(1) of the FTO Ordinance 2000 for not failing to allow the condonation of delay under Section 74 of the Sales Act 1990 for filing refund claims relating to the period of 2012-2016.

Recommendations:

FBR to:

- Relief was provided to the Complainant. Direct the concerned Commissioner-IR to dispose of the refund application of the Complainant, after providing opportunity of hearing, as per law; and
- Report compliance within 45 days.

Complainant's Comments:

Complainant was highly satisfied with the performance of the FTO especially how quickly they had been given a hearing date and the thorough judgement issued.

Cost:

No cost incurred as the office of the FTO was located close to the Complainant.

INCOME TAX CASES

1- 1793/MLN/IT/2022⁹

Case Facts:

The complaint was filed under S. 10(1) of the FTO Ordinance against non-provision of withholding tax deduction certificate against PTCL.

The complaint was referred to the CEO, PTCL, HQ, Islamabad for comments in terms of S.10(4) of the FTO Ordinance read with S.9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. The Senior Manager (Income Tax) PTCL, Islamabad raised a preliminary objection that the Hon'able FTO has no jurisdiction as in any cases of maladministration at Federally controlled bodies, the jurisdiction lies only with the Federal Ombudsman.

Claimant had already availed the forum of the Federal Ombudsman on the same subject matter as that of the instant complaint and the Federal ombudsman closed the matter in favour of PTCL.

Central issue:

PTCL has argued that Jurisdiction in the present matter lies only with the Federal Ombudsman; the Complainant accepts the legal position and has also availed the jurisdiction of the federal Ombudsman; the complainant having deliberately hidden the fact from the FTO shows malafide intent to drag PTCL in unnecessary proceedings and cause harassment by abusing the process of the FTO after being thwarted by the Federal Ombudsman thus the Complainant should be punished for contempt under S.16(1)(a) of the FTO Ordinance.

However, FTO observed that PTCL is not justified to question the jurisdiction of the FTO under S.9(2)(b) of the FTO Ordinance. Complainant had availed arbitration of the FTO for issuance of refund on account of tax deduction under S.236(1)(a) and in Complaints Nos. 0873 to 0876/MLN/IT/2019 dated 23.05.2019 and the same was issued by the FBR to the complainant. The complainant is seeking a tax deduction certificate from PTCL authorities on the same analogy.

Relief:

It was held that the issue fell within the jurisdiction of the FTO office. PTCL is bound to facilitate the Complainant/taxpayer by issuing the required deduction certificate being under the consumers/customers facilitation. Moreover, tax is deducted by PTCL on behalf of FBR and issue of tax withholding statements/certificates also mandatory for withholding agents under tax laws. The FTO office showed evidence of being custodian of taxpayers' rights by refusing to sit idle in a situation where on the one hand FBR denies claim of tax deduction filed by the complainant quoting non-submission of

⁹ [1793/MLN/IT/2022](#)

withholding certificate and on the other hand neither was PTCL issuing the certificate nor denying the complainant's claim. Sanctity of the rights of citizens as guaranteed by the Constitution rules supreme over all other laws and is too serious an affair to be diluted on technical grounds.

Recommendations:

FBR is directed to ensure that:

- IR field formation (LTO Islamabad) holding jurisdiction over PTCL must resolve the instant issue through coordination with PTCL;
- The PTCL authorities are required u/s 23(1) of FTO Ordinance, 2000 to provide assistance, facilitating the issue of tax deduction certificate for the period March 2000 to June 2011 against the PTCL number 061-6535252 to the Complainant enabling him to lodge his claim of refund with the FBR authorities.
- Report compliance within 30 days.

Complainant's comments:

The aggrieved complainant expressed great satisfaction with the working of the FTO, however he also expressed concern over the fact that PTCL had yet to take action over issuance of the tax deduction certificates and therefore stated that on 04-08-2022 he had appealed the matter to the President. There was next to no compliance by PTCL authorities.

Cost:

No cost incurred by the complainant.

2- 2538/ISB/IT/2021

Case Facts:

Complaint filed under Section 10 (1) of the Federal Tax Ombudsman Ordinance, 2000. The complainant argued that he was employed as a temporary news caster in Pakistan Broadcasting Corporation (PBC). It was further contended that the salary/fees is paid subsequent to the deduction of income tax 17.5%. However, the concerned deduction was made on the gross amount without giving basic exemption(s) which are available to salaried Govt servants. The complaint was thereby referred to the Secretary Revenue Division. Daily wagers, as apprised by the FBR IR-Policy wing, do not classify as salaried persons and thereby are not classified as employees. The rate of tax that is to be deducted under 153 (1)(b) of the Ordinance is 10% while it is double that rate for non-filers.

Central Issue:

Sections 12 (2)(a) and 149 of the Income Tax Ordinance, 2001 do not "obligate" the nature of an employment contract as contended by the FBR. Moreover, the only

condition it imposes on the employer and employee is that of “Master-Servant Relationship” which is the basic criterion for any employment. Regular wages constitute a different shade of employment, constituting salary, and the law does not make distinction between any shade. Furthermore, PBC’s Letter expressly states that the Complainant’s services “will be governed by Rule of Master and Servant”.

Relief:

Consequentially, it is observed that the FBR’s treatment concerning the instant case u/s 153(1)(b) conflicts with the law and the excessive tax deductions from the wages of PBC’s low paid temporary employee constitutes maladministration as per FTO Ordinance 2000.

Recommendations:

The FBR is directed to:

- Ensure that low paid employees of PBC and other such organizations are not burdened with excessive tax dedications at withholding stage. Although Taxpayers facilitation constitutes the pivotal function of FBR, its implementation on ground should also be visible;
- Direct the concerned RTO to process the instant case on priority basis and under relevant legal provisions, so as to ameliorate the Complainant’s grievance;
- Issue necessitated clarification for all and sundry so as to safeguard the low paid employees against excessive deductions; and
- Report compliance within 60 days.

Complainant’s comments:

The complainant was pleased with the relief he received from PBC after FTO’s Order- all tax deduction was removed and full relief provided.

Cost:

No cost incurred.

OWN MOTION CASES

1 **0013/OM/2022**¹⁰

Own Motion Investigation of the delay in sanctioning of refund claims of Tractor Industry

Case Facts:

An own motion investigation was initiated by Federal Tax Ombudsman through exercise of jurisdiction conferred under Section 9(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance). The OM investigation was based on a media report published in Daily Dawn dated 5th March 2022 delineating the severe liquidity crunch the entire tractor manufacturing industry is facing as the industry's over Rs. 8 billion sales tax refunds are stuck with the FBR for the last two years. The industry pays 17% Sales tax to its vendors from whom it purchases parts. It is allowed to pass only 5% sales Tax to the buyers and FBR has to return the rest 12% to the Tractors Manufacturers. This differential, in case of one unit alone i.e M/s Millat tractors (Claimant) touched Rs. 6 billion. This scenario left no choice for the Claimant but to suspend operations. Hence the Claimant approached FTO Secretariat.

Central issue:

The OM complaint was referred to the Secretary, Revenue Division, During investigation, data furnished by the Chief Commissioner-IR, LTO Lahore was examined where different reasons of delay sales tax through Refund Payment Order (RPO) were provided. It transpired that procedure for payment of refund was provided that refund of admissible except input tax shall be recognized by manufacturers within three days of receipt of refund application by the CIR having jurisdiction. It was supplied that the Claimant files refund applications alongside documents specified in Rule 2, for sixteen different tax periods (April 2020 to February 2022) but the same were not sanctioned by the CIR(Enforcement) within three days. Department has still not sanctioned full amount of refund to the Claimant in respect of sixteen tax periods despite prior complaints being decided in the claimant's favour and against FTO's recommendations that had attained finality. In many of these months RPO's were yet to be issued or had been issued but payment was not transferred into the bank account. There were also issues with the ERS which inhibited the Claimant to file online application for refund for the months December 2021 to February 2022 but the department had not taken any action.

It was contended that transfer of remaining amount to Claimant's bank account was to be expedited on priority.

¹⁰ [0013/OM/2022](#)

Relief:

It was found that Claimants' contention that Department had not sanctioned due refund within three days as prescribed under Recognized Agricultural Tractors Manufacturers Rules 2006, is correct. Delay in sanctioning due refund claims and consequently, delay in transfer of sanctioned amount to Tractor Industry Claimant's bank accounts as per timelines prescribed vide SRO.363(I)/2012 dated 13.04.2012, is tantamount to maladministration in terms of S. 2(3) of the FTO Ordinance.

Recommendations:

FBR to direct :

- All CCIRs holding jurisdiction over Sales tax affairs of Tractor Industry, to strictly comply with timelines as prescribed vide SRO.363(I)/2012, dated 13.04.2012, while processing due refund claims, as per law; and
- Report compliance within 45 days

2 0008/OM/2022

Sales Tax Exemption on import by Diplomatic Missions and Privileged Persons

Case Facts:

This OM investigation was with regards to the exemption on imports by Diplomatic missions and privileged persons has been restored by FBR without any legal authority.

FBR was confronted under S. 10(4) of the FTO Ordinance 2000; through omission of the S.No.46 of the Sixth Schedule to the Sales Act, 1990 through Finance (Supplementary) Act 2022, the imports by diplomats and diplomatic missions and other privileged persons were rendered taxable. This later Act having sanction of the Parliament was applicable with immediate effect.. However, via an internal UO, FBR has unilaterally rendered the aforesaid omission inapplicable without reverting to Parliament or availing the window of Presidential Ordinance. While doing so, FBR has assumed the Review jurisdiction and has transgressed its legal domain.

Issuance of this UO tantamount to maladministration under in terms of section 2(3) and contains an oblique clue to FBR's volte face. The Ministry of Foreign Affairs raised certain reservations that the said omission could trigger an adverse reaction from foreign states and international organizations. Such a situation further exposes FBR's maladministration in hurriedly inserting an omission, without any homework, while drafting proposals for Finance (Supplementary) Act 222.

Central Issue:

FBR contended that the omission was admitted due to the fact that Pakistan is signatory to the Vienna Convention on Diplomatic relation 1961 (VCDR) , which has force of law in Pakistan under Diplomatic and Consular Privileges Act, 1972.

Apart from being labelled as non-compliant of VCDR, Pakistan may face intervention by International Court of justice on this unilateral withdrawal of concession granted through a multilateral treaty. Financial impact of this enactment would be disastrous if other nations invoke reciprocity. Imposition of taxes on UN agencies (WFP, UNICEF, WHO etc) will be detrimental to humanitarian organizations operations in Pakistan.

In view of above, Ministry of Foreign Affairs requested for an immediate remedial measure enforceable through an SRO hence FBR's UO No.4/I-STB/2022, dated 4th February 2022, was issued whereby exemption on imports by diplomatic missions and privileged persons was restored with immediate effect. Subsequently, on 24th February, 2022 Chairman FBR moved a summary for the Federal Cabinet for grant of exemption (withdrawn through Finance Supplementary Act 2022) from Sales Tax effective from 15th January 2022 in exercise of powers vested in the Federal government under s.13(2)(a) of the Sales Act 1990

Relief:

It was found that the omission in question hurriedly enacted through Finance (Supplementary) Act 2022 falls within the ambit of maladministration under FTO Ordinance, 2000 in terms of S. 2(3)(i)(b) that is a "perverse, arbitrary or unreasonable, unjust, discriminatory decision" and (c) i.e "based on irrelevant grounds.

FBR's unilateral UO reveals that FBR has on its own assumed the Review jurisdiction of an act of Parliament. In doing so, it has overstepped its legal domain and its decision is an act of maladministration being contrary to law in terms of s.2(3)(i)(a) of FTO Ordinance, 2000.

MOFA had raised its concerns on 31st January, 2022 and 1st February 2022, yet the summary for the Federal cabinet was moved on 24th February, 2022 and that too only after the intervention of this office dated 16th February, 2022. Delay, ineptitude in terms of S.2(3)(ii) of FTO Ordinance is visible.

Recommendations:

FBR was directed to ensure that;

- In order to avoid such recurrence, identify the officers responsible for this faux pas, resulting in embarrassing position for MOFA;
- Proper legal cover is arranged in place of UO dated 4th February 2022; and
- Compliance is reported within 60 days.

3 0010/OM/2021¹¹

Case facts:

By using the authority granted by Section 9(1) of the Federal Tax Ombudsman Ordinance, 2000, this own motion inquiry of systemic maladministration was started.

The inquiry relates to the unlawful decision made about the clearance of stolen automobiles imported under the Personal Baggage, Transfer of Residence, and Gift Schemes during the Collectors of Customs Conference, held FBR. A decision was made at the aforementioned conference that "Collectorates may clear such vehicles after imposition of a 30% redemption fine, under the relevant provisions of the Customs Act, 1969 while no action to be taken in respect of alleged stolen vehicles unless a recognised agency of a foreign country approaches the Government in this regard"

Clearing stolen automobiles at the import stage after the implementation of a 30% redemption fine without any legal provision and failing to take any legal inquiry or enforcement action amounts to encouraging the unlawful import of stolen vehicles and aiding international criminal activity.

The Secretary (Enforcement & Compliance), FBR provided comments in response to the notification sent to the Secretary, Revenue Division, in accordance with Section 10(4) of the FTO Ordinance, read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. It was argued that the Dept asked field formations for information on stolen automobiles that were cleared by different Collectorates at the import stage following duty/tax payment and the application of a 30% redemption charge. MCC, Sialkot cleared six such vehicles during the year, and MCC (A&F), Peshawar cleared three stolen vehicles during the year 2013–2014 in accordance with the decision of the Customs Appellate Tribunal, Peshawar Bench, in Customs Appeals No.CUS-168,167/PB/2013.

By letter FBR was asked for clarification regarding the legal status of the importability of stolen vehicles and the clearance of those vehicles upon payment of duties and taxes, as well as to provide legal provisions supporting the decision made during the aforementioned Collector's Conference. By letter the Secretary (Enforcement & Coord), FBR, acknowledged that the Customs Act and Rules adopted thereunder did not include any legal provisions to support the decision reached during the aforementioned Conference.

Central Issue:

The customs collectors' decision, which was documented in the minutes dated 02.08.2006, to release stolen vehicles imported under the Baggage Scheme upon payment of a redemption fine along with duty and taxes in violation of all legal

¹¹ [0010/OM/2021](#)

requirements is illegal under Section 2(3)(a) of the FTO Ordinance and amounts to maladministration.

Recommendations:

FBR is directed to:

- Immediately give the appropriate instructions to all Customs Collectorates/concerned authorities to cease this illegal practise immediately.
- Additionally, as proposed by the FBR, essential changes should be made to the rules/procedure for disposing of stolen imported automobiles as follows: -
 - The FBR mentioned two possibilities for handling stolen automobiles. If the cars were not tampered with, either the importer or the country of origin should have paid the costs of returning the stolen vehicles after consulting with the appropriate authorities there, or these vehicles should have been seized and sold at public auction:
 - Order the MCC Sialkot to confiscate the six cars you've found, conduct an investigation, take necessary legal action, and also charge the importers with violating the applicable laws;
- Report compliance within 45 days

DATA EVALUATION

| Complaint no. | Mode of Complaint | Complaint receipt | Relief granted or not | Disposal time |
|--------------------------|-------------------|-------------------|--|--------------------------------|
| CUSTOM | | | | |
| 1772/KHI/CUST/2022 | In Person | 25-04-2022 | Granted, compensation in pursuance of clause(ii)(xivb) para 2 of the Revenue division's Notification | 45 Days |
| 1608/QTA/CUST/2022 | | 25-05-2022 | Direct Member Legal (Customs) to conduct a detailed analysis of all those cases which are pending at the Appellate Tribunal level for more than five (05) years and frame an effective policy and issue necessary guidelines to all field formations for quick disposal of all such cases; | 26 Days |
| 1815/ABD/CUST/2022 | | 13-05-2022 | To re-examine the case of the complainant, bearing in mind that the case concerns small value goods and to decide the matter in 15 days. Further to devise a system that doesn't subject small value goods to such measures. | 61 Days |
| SALES TAX | | | | |
| 0336/FSD/ST/2022 | | 02-02-2022 | Granted, maladministration found under section 2(3)(i)(b)(c)&(ii) FTO Ordinance | 45 Days |
| 0212/LHR/ST/2022 | In Person | 21-01-2022 | Granted, compensation in pursuance of clause(ii)(xivb) para 2 of the Revenue division's Notification | 45 Days |
| 1144/KHI/ST/2020 | | 30-03-2022 | Directed the concerned Commissioner IR to dispose of the refund application of the complainant after giving him opportunity of hearing as per law | 30 Days |
| 0469/LHR/ST/2021 | | 11-02-2022 | FBR to ensure compliance with clause (xivb) of paragraph 2 of the Revenue Division's Notification SRO.837(1)/2021 dated 30.06.2021 to pay to Complainant KIBOR plus 3 percent per annum for delayed delivery beyond 60-days & Provide the EDB or IOC a complete statement that is presented twice a year that includes information on compensation given to recipients of deliveries that take longer than 60 days to arrive | 56 Days |
| INCOME TAX | | | | |
| 2577/GWL/IT/2020 | Review Petition | 03-02-2021 | Granted, Maladministration found under S.2(3)(i)(a)&(C) FTO Ordinance | 45 Days |
| 2538/ISB/IT/2021 | | 03-12-2021 | Granted, Maladministration found under FTO Ordinance | 60 Days |
| 1793/MLN/IT/2022 | | | | |
| 0040 to 0045/KHI/IT/2022 | | 07-01-2022 | Granted, Maladministration found under S.2(3)(i)(a)(b)&(ii) FTO Ordinance | 60 Days |
| OWN MOTION | | | | |
| 0124/OM/2021 | Suo Moto | 23-09-2021 | Granted, Maladministration found under S.2(3)(i)(a)&(ii) FTO Ordinance | 45 Days |
| 211/OM/2021 | Suo Moto | 28-10-2021 | Granted, Maladministration found under S.2(3)(i)(a)&(ii) FTO Ordinance | 90 Days |
| 002/OM/2022 | Suo Moto | 14-01-2022 | Granted, through informal resolution of dispute under section 33 of the FTO Ordinance | Informal resolution of dispute |
| 0013/OM/2022 | Suo Moto | 03-07-2022 | To improvise the WeBoc system, where e-auction is not integrated | 5 months |
| 0010/OM/2021 | Suo Moto | 24-02-2021 | Granted, Maladministration found under S.2(3)(i)(a)&(ii) FTO Ordinance | 6 months |
| 0008/OM/2022 | Suo Moto | 15-02-2022 | Granted, Maladministration found under S.2(3)(i)(a)&(ii) FTO Ordinance | 3 months |

Case Studies Evaluation

| Cases | Analysis | Complainant's View |
|------------------|---|---|
| Custom Cases | Officers were made to act in close time frames in order to ensure that matters are solved at a quick disposal, bearing in mind the ease of the complainants. | It is noted that FTO plays its role and duties more vigilantly than other departments. There are some flaws that come to light when other institutions are involved. Thereby it is imperative that coordination among institutions is increased. As it can be a vital aspect in bringing more just and viable results for the complainants. |
| Sales Tax Cases | In one of the landmark case involving Suzuki motors, recipients of deliveries that took longer than 60 days to arrive were compensated and will be in case of any delay. This narrates the central notion of justice that is held within the system of ombudsman, ensuring compensation to many complainants. | Most complainants were satisfied with the process and in most cases shocked that they were given dates at the earliest convenience and how their verdict was given in no time. |
| Income Tax Cases | FTO made clear that questions raised on its jurisdiction will be answered by them, further where excessive sum of income tax was imposed which was against the law. FTO provided relief and the complainant was compensated fully. | There was full compliance with the orders of the FTO and all tax reduction was removed. |
| Own Motion | FTO also has the power to initiate its own independent inquires where needed, for instance one of the proceeding was initiated after FTO came into knowledge via a news report. Relevant authorities were called upon and a through a transparent mechanism issues | |

Info Box

All the cases depict that minimal or no cost was incurred by the complainants. This reflects that in a country where people spend a fortune on resolving there issues, FTO is providing a service which incurs no cost and provides quick results.

| | | |
|--|---|--|
| | <p>regarding the sales tax faced by the tractor industry because of FBR's negligence were taken account of. Cases with regards to stolen automobiles and where FBR has taken decision without any legal authority were also resolved.</p> | |
|--|---|--|

Chapter 3: ADR: A New Avenue

ADVANTAGES OF FTO

The FTO serves as the complainant's representative. Since its founding, this agency has helped thousands of resentful taxpayers and made a substantial contribution to addressing the pervasive tax administration system maladministration. Its aim is to look into, uncover, address, and rectify instances of tax officials mishandling their duties. The primary responsibility of the Federal Tax Ombudsman is to ensure that complaints of tax maladministration are promptly, fairly, and neutrally handled, as well as to right any wrongs committed against a taxpayer by the Federal Board of Revenue (FBR)/Revenue Division, Government of Pakistan's tax employees.

Additionally, its primary objective is to eradicate tax maladministration and assist taxpayers in receiving the best possible support and respect. Additionally, the FTO addresses the complaints of taxpayers by establishing internal accountability for better tax administration. The FTO offers solutions that are transparent, efficient, and objective. Furthermore, the FTO conducts independent investigations into instances of maladministration by employees responsible for enforcing tax rules in order to address concerns from current and potential taxpayers and offer assistance to the general public. It works to make things right, impart lessons learned, and contribute to enhancing public tax systems and services. They offer a free and public unbiased complaints processing service.

It not only saves money, but it also saves time. They advocate for an effective tax system that is free of corruption. For the FTO, effectiveness, fairness, ethics, and transparency are paramount. Through media platforms like Skype or Zoom, a complainant from abroad may also participate in the inquiry.

HOW ADR IS USED AS AN EFFECTIVE TOOL

What is ADR?

The term "alternative dispute resolution" (ADR) refers to a collection of procedures and methods designed to enable the settlement of legal issues outside of the courtroom. It is typically understood to include arbitration, mediation, and a number of "hybrid" methods in which a neutral third party assists in mediating legal problems without formal adjudication.

It is a mechanism that allows parties to a disagreement to settle their differences amicably without resorting to court-involved processes. The ADR Bill in Pakistan was approved in 2017, and the same year, several ADR facilities were established all throughout the nation. This bill's goal was to make sure that people could obtain justice quickly, simply, and effectively.

A major issue with Pakistan's judicial system is the protracted nature of litigation. Many cases go unresolved for a decade, which increases the burden of the large number of new claims that are filed. Some situations persist for centuries without an ultimate decision being made. Therefore, there is no wiser alternative than adopting ADR, which is well-equipped to resolve the majority of civil disputes through arbitration, conciliation, and mediation, in order to minimise pendency of cases and deliver swift justice.

It has become increasingly obvious and widely acknowledged that traditional adversarial methods and court procedures are unable to adequately promptly, cost-effectively, and fairly resolve any forms of complex and uncertain conflicts. Tribunal proceedings and the exorbitant costs and protracted delays associated with them are a few drawbacks of such courts. ADR, in its widest meaning, refers to any method other than adjudication used to settle a disagreement. This covers a wide range of procedures, including discussion, facilitation, mediation, restorative justice, conciliation, neutral fact-finding, case assessment, evaluation, expert determination, and arbitration. These processes take place in a variety of settings. Although civil justice receives a lot of attention in the topic of ADR, it is far more than this.

Types of ADR:

1. Mediation

A third party serves as a communication and negotiation channel between two opposing parties throughout the mediation process in an effort to find a mutually agreeable solution to the issue at hand. The emphasis is on the parties themselves coming to an agreement on how the dispute in question is to be resolved in either scenario, and the mediator may move between the parties, communicating their opinions without the need for them to meet. Alternatively, the mediator may operate in the presence of the parties. You may have separate sessions with the mediator during mediation, and you will usually be requested to speak with the other parties directly. There will typically be breaks so that everyone may think on the conversation and, if necessary, seek out assistance or guidance. Mediation can be requested voluntarily, imposed by a judge, or included in a contract. Additionally, it could be a step in a legal or government procedure.

The mediator's job is to lay out the rules for how the mediation will go, explain the process to all parties involved, and make sure that everyone gets an opportunity to voice their opinions and be heard. Moreover, the mediator must keep everyone focused on communicating and resolving the dispute. The mediator uses questions to assist participants articulate their objectives and reasons for feeling that way, as well as to help clarify the issues and offer possible strategies to resolve the conflict. The mediator strives to assist the parties in reaching an agreement where appropriate and ensures that everyone is aware of any agreement made. The mediator assists the parties in developing possibilities and considering whether potential solutions are viable.

2. Conciliation:

Conciliation is an alternative dispute resolution (ADR) method where a neutral third party, the conciliator, aids parties to a dispute in identifying the disputed issues, developing choices, considering alternatives, and attempting to come to a resolution.

A conciliator will typically offer guidance on the challenges and choices for resolution and may have professional knowledge in the area of the dispute. A conciliator won't, however, render a verdict or take a position on the conflict. Conciliation may be requested voluntarily, imposed by a judge, or stipulated in a contract. It frequently takes place during a judicial or administrative procedure. Conciliators play a similar role to mediators, with the exception that they may also: possess specialised knowledge; provide you with some legal information; suggest or provide you and the other participants with expert advice on the potential solutions to the problems in your dispute; and actively encourage you and the other participants to come to a resolution.

3. Arbitration:

In an ADR procedure called arbitration, the disputing parties state their cases and provide supporting documentation to an arbitrator who then renders a decision. When the subject matter is extremely technical or the parties want more privacy than is possible in a public courtroom, arbitration is very helpful. Arbitration can be requested voluntarily, by a judge, or stipulated in a contract.

Unlike mediation or conciliation, arbitration may be a considerably more formal and structured process. Because the arbitrator renders a binding ruling at the conclusion of the session, it resembles court proceedings more in certain aspects. The parties to the dispute must agree beforehand to the procedure that the arbitrator's judgement will be final and enforceable. There is a far stronger requirement for producing proof or facts in arbitration than in other kinds of ADR, such as mediation and conciliation. One's disagreement may be heard by one arbitrator or a panel of arbitrators; the arbitrator may be an expert in the area of the dispute or have legal training; at the conclusion of the proceeding, the arbitrator will provide a judgement on behalf of the parties. When negotiations through mediation or conciliation have failed to produce a resolution or when one desires a confidential process that is often less expensive and quicker than going to court, arbitration can be very helpful.

4. Adjudication:

Adjudication is a legal ruling or judgement, often final, but it can also refer to the process of settling a legal matter or claim through the court or justice system. An adjudication often indicates the verdict or decision in a case that will decide how the issue will be handled moving forward. Adjudication can also more broadly apply to any formal

procedures of judgement or ruling that result in a final determination outside of a legal process, such as the procedure for validating an insurance claim.

A conclusion is reached when the adjudicator, an impartial third party, has considered the arguments made by both parties. Usually, this is done on paper. Each party submits a written summary of their case together with copies of any letters, studies, or other supporting documentation. The adjudicator then bases their conclusion on this data as well as what is widely accepted as good practise in the industry in question. The adjudicator is often a subject matter expert in the area of contention.

Advantages of ADR:

1. Cost and time effective:

ADR processes are frequently more expedient than judicial processes, which is advantageous to both businesses and customers. ADR is frequently free to consumers, or at the very least costs far less than going to court and it takes less time to reach a final decision.

2. Confidentiality:

In order to reduce the potential of negative publicity and reputational harm that might result from a court action, procedures are frequently carried out in secret and in confidence. The best option for confidentiality and resolution is binding arbitration. It allows for complete discovery to take place and the rules of evidence to be followed. A skilled individual renders a final, private judgement as opposed to a jury, whose rulings are sometimes appealed for years. With ADR, one takes charge of the situation rather than letting it dominate you.

3. Flexibility:

The rules that will be used can be chosen more freely by the parties. They are free to act in this way. ADR yields positive outcomes, with settlement rates reaching 85%. Moreover, there is an increased adherence to solutions adopted.

4. Neutrality:

In court-based litigation, where familiarity with the relevant legislation and local procedures can give major strategic benefits, ADR can be neutral to the law, language, and institutional culture of the parties, eliminating any home court advantage that one of the parties may have. Arbitral decisions often are not subject to appeal, in contrast to court judgments, which can typically be challenged through one or more rounds of litigation.

5. Legal representation:

In ADR, no legal counsel is required. This eliminates the problem caused by certain opportunistic attorneys who drag out proceedings in order to get more money from their

clients. This expedites the dispute's settlement and provides the parties with real relief by avoiding new cases from joining those that have already been relegated to statistical footnotes with little chance of true resolution. Additionally, without a judge or attorney present, the parties are more likely to communicate openly, appear less aggressive toward one another, and be receptive to the mediators' advice. Mediation agreements are not binding precedents for cases to come. They are often private and secret. You might need to appear in court if you need to demonstrate a legal point on which other parties can depend.

Disadvantages of ADR:

1. Delaying Strategy:

ADR could be employed as a delaying strategy. Parties are not required to carry on with talks or mediation. ADR does not create jurisprudential precedents.

Excluding relevant stakeholders undermines the final agreement and may give the parties less negotiating leverage. Furthermore, there is little to no control over the disparity of power between the parties.

2. Appeal:

There is no assurance of success. ADR procedures, with the exception of arbitration, do not always result in a resolution and their rulings are conclusive. An impartial arbitrator's ruling is often not subject to appeal. On the other hand, a court's decisions are often appealable to a higher court. A case might not be a suitable fit because alternative dispute resolution usually mainly deals with financial or legal concerns.

3. Power Imbalance:

Face-to-face mediation could be unjust if the parties have an unreasonable power disparity. This may involve mediation between a person and a major organisation like a municipal government or business when the size and resources of the organisation may disadvantage the individual.

4. Binding Decisions:

Arbitration and adjudication are procedures that provide decisions with legal force. This implies that if a person disagrees with the decision, they cannot reject it and cannot file a lawsuit in its place.

Other Institutions (tribunals)

Administrative tribunals and councils have been formed in many countries to provide a forum for a soft task to a person who feels wronged. Like any other nation, Pakistan has a number of special courts and tribunals, both permanent and temporary, with the mandate to handle a particular type of issue. Examples include the Customs courts, Drug courts, Services tribunal,

etc. The advantages of cost-effectiveness, specialised information, and specialised expertise are enjoyed by these administrative tribunals for resolving conflicts between citizens and the government, but in general, their position and function are quite similar to those of traditional courts of law. It is also a question of fact that these tribunals have acted more harshly in situations involving high ranking officials or ministers than they have in cases involving lesser or subordinate staff members.

These tribunals or courts, in contrast to a court of law, have a progressive and accommodating mentality. Administrators develop innovative strategies for resolving disputes in line with the changing social mores of daily life. Therefore, these courts or tribunals are free to refer to prior decisions in order to render a fair judgement about the dispute between a public servant and a citizen. Despite all of the aforementioned impressive attributes of Administrative Court Tribunals, there are still certain shortcomings in administrative adjudication. Firstly, This type of judgement violates the rule of natural justice, which states that no person should be allowed to decide their own fate. Company knows the rationale for the choice. The law is consistently violated and there is no set procedure to follow, which renders the function of the adjudicative counsellor weaker, more ambiguous, and imprecise. Justice is therefore nullified.

Due to various flaws in various safeguarding systems the institution of ombudsman emerged. Although an Ombudsman is an important component of ADR, there are several aspects of an Ombudsman system that set it apart from other ADR schemes. This is especially true of private sector initiatives that provide a real alternative to legal action. An Ombudsman will take the pertinent legal requirements into account while evaluating a matter. However, in order for it to continue to be effective, it may also take into consideration additional non-legal variables that might be justifiably taken into account when determining a case's conclusion. In order to resolve a dispute to the satisfaction of the parties, judgments made by the Ombudsman may consider what is fair and reasonable, practicable, and proportional.

Another distinction between courts and ombudsman is that every Ombudsman office, no matter where they are in the globe, enjoys a certain degree of independence from the government. The Federal Ombudsman in Pakistan has a lot of power and is able to carry out his duties without any hassles. The office is entirely independent, and he is not accountable to any branch of government. Even the person who appointed him, the president of the Islamic Republic, has no authority to interfere with his office's operations.

International Bodies

The number of nations creating national ombudsman or human rights commissioners has significantly increased during the past decade. In some nations, there has been a corresponding increase in the number of complaint adjudicators in the context of giving more authority to the individual citizen. This growth has been accompanied by the publication of charter statements in which the government has committed itself to proclamations of the service standards that citizens can expect from departments and agencies funded largely with public money.

Since the end of World War II, the ombudsman institution has progressively increased in favour as a different way of settling conflicts and processing complaints. Under the conventional (Swedish) ombudsman system, the ombudsman acts as a legislative or "parliamentary agent to safeguard the law against governmental abuses impacting the interests of persons." ¹²Their primary responsibilities include addressing grievances and complaints of individuals or groups against administrative actions or decisions, defending the rights and liberties of society's members against unwarranted bureaucratic intrusion, and resolving disputes between private citizens and the bureaucracy in order to ensure good governance and transparency. They are not required to serve in the legislature.¹³ FTO through its central focus on the grievance of the taxpayer insures all these objectives of transparency and act as an ally of the taxpayer.

The European Ombudsman concerns with "instances of Maladministration" or may conduct inquiries "for which he finds grounds" on the basis of such complaints unless the alleged facts are or have been the subject of legal proceedings before European Courts. If the Ombudsman confirms that there has been an instance of maladministration, he must inform the institution or the body concerned, which must provide the Ombudsman with an opinion within three months. Upon receipt of the opinion, the Ombudsman must prepare a report to the Parliament and must inform the person lodging the complaint of the outcome of the inquiry. This model has a marked similarity with FTO which also relates to maladministration of FBR and also takes cases on suo motto, however FTO requires the body in question to mostly report back with a report in 45 or 60 days, thereby insuring speedy recovery.

Norway has one of the smallest populations among the Scandinavian countries however it handled more complaints than any of the similar officials in Sweden, Finland, and Denmark. This depicts the reliance public has on ombudsman and using it as a mean of quick discourse to resolving issues.

Conclusion

In Pakistan reliance on the institution of ombudsman can making a striking difference, ombudsman can help in minimizing the huge number of cases in courts, with its transparency and speedy system of recovery in place. There is a huge disconnect between the public and their faith on the legal system, if the public is introduced to such avenues where their grievances are of utmost importance and are solved in minimal time a change can be anticipated where ombudsman can bridge the gap between the public and the justice system. Further other institutions that are stacked with huge number of pending cases can look at the model of the ombudsman and seek guidance to resolve issues in a short time frame.

¹² Jägerskiöld, Stig. "The Swedish Ombudsman." University of Pennsylvania Law Review 1

¹³ Abedin, Najmul. "THE OMBUDSMAN INSTITUTION AND CONFLICT RESOLUTION IN THE CONTEMPORARY THIRD WORLD SOCIETIES."



FEDERAL TAX OMBUDSMAN

