

Strengthening Role of:

FEDERAL TAX OMBUDSMAN

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TERMS USED

CBR	Central Board of Revenue
FTO	Federal Tax Ombudsman
HRM	Human Resource Management
HRD	Human Resource Development
IASs	International Accounting Standards
ISAs	International Standards on Auditing
MBO	Management by Objectives
MIS	Management Information System
Ordinance	Federal Tax Ombudsman Ordinance 2000
SWOT	Strengths, Weaknesses, Opportunities and Threats

PRELUDE

By the Grace of Allah, Pakistan has taken several innovative initiatives which several developing Countries are desiring to follow. In the year 2000, the then Government established a new Institution in Pakistan to redress the grievances of taxpayers in the shape of Federal Tax Ombudsman (hereafter referred to as FTO). The Government of Bangladesh has expressed a very keen interest to follow the example of Pakistan. The Indians are also keenly studying the Institutional Framework and the role of FTO in Pakistan. By Allah's grace many other developing countries will follow the lead provided by Pakistan.

Three years have passed since this institution was established in Pakistan. It is gratifying that FTO, as part of transparency, has so far published two annual reports for 2001 and 2002. The report for the year 2003 will be shortly available.

It is our great desire that FTO as an Institution is strengthened in its role and in its relationship with CBR. It is heartening to note the announcement of the Director Administration of CBR made on October 16, 2003 that all decisions made by FTO will be sincerely implemented and fully respected. This synergy is the crying need of today and FTO has earned great respect from the stake-holders. It is our desire that this respect should continue to be enjoying a rising upward curve.

This paper looks at the following dimensions:

- 1) Case Initiation
- 2) Roles of FTO

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- 3) Review of FTO's Annual Report for the year 2002 in respect of cases registered and decided and Cases decided statute wise
- 4) Identified Irritants by FTO togetherwith major causes and consequential implications

It is high time that issues identified by FTO are properly addressed. In this respect a humble effort has been made to analyze these irritants and offer practical solutions to ensure that the irritants are removed, road blocks are swept away, difficulties are resolved and resolution of the disputes of stake-holders is genuinely facilitated.

The above aspects are now reviewed below.

CASE INITIATION

Under the Law, the following can initiate cases and send the same to FTO:

1. Aggrieved Person
2. President of Pakistan
3. Senate and National Assembly
4. High Court and Supreme Court
5. Own Motion

It is well appreciated that suo-moto action can be initiated by FTO. It is presumed that FTO office is logistically well backed by daily study of newspapers, journals and magazines. There is a need to reflect the number of initiatives undertaken by FTO in the Annual Report 2003 or later in 2004. This will further strengthen the credibility frontier of FTO as an effective institution. The FTO Ordinance was promulgated in 2000. Now in 2002 democratic order returned in Pakistan. It is therefore suggested that the Ordinance be amended to include that cases can be initiated if these are referred by the Prime Minister of Pakistan. An amendment in this respect be initiated by some stakeholders. The earlier this is done the better.

ROLES OF FTO

Four roles have been stipulated in the Federal Tax Ombudsman Ordinance 2000. These are tabulated below:

Table No. 1
ROLES OF FTO

S. No.	Role
1.	Diagnose
2.	Investigate
3.	Redress
4.	Rectify

The real spirit of establishing FTO is to resolve the disputes of tax payers. However, diagnostic approach requires lot of research and probing. A happy announcement was made by FTO on October 16, 2003 in the third Seminar held in Islamabad that institutionalized efforts will be made to start research. This is commendable. The forward linkages to this noble effort will possibly be as under:

- 1) Real causes of acts of maladministration and possibly injustice to tax payers will be identified.
- 2) Efforts will be made to ensure that their recurrence is discouraged and reduced, if not eliminated.
- 3) The number of complaints registered will start declining. Consequently justice on fair basis will be available and stress curve of tax payers will start on decline trend.
- 4) "Cause Effect" relationship will be strengthened and the true spirit of FTO will be accomplished.

The research frontier can take several shapes but the framework given in Table 1 can be the starting point. The Annual Report of FTO 2003 or 2004 may include research findings on the case as part of effective communication. Accordingly the credibility and utility front of FTO will be reinforced and strengthened.

**FEDERAL TAX OMBUDSMAN'S
ANNUAL REPORT 2002**

The following table presents monthly reporting of cases registered and cases decided. On an average 129 cases were received on monthly basis during 2002. The disposal on monthly basis was 118 cases – thus representing 92% disposal rate. This is an excellent performance and needs full appreciation.

Table No. 2
CASES REGISTERED AND DECIDED

Month	Case Registered (Number)	Decided (Number)
January	113	83
February	45	108
March	108	103
April	122	84
May	168	168
June	194	92
July	204	107
August	147	94
September	113	86
October	112	149
November	130	166
December	93	180
Total	1,549	1,420
	100	92%
Average	129	118

Source: Federal Tax Ombudsman's Annual Report 2002,
Attachment to Page No. 119.

**FEDERAL TAX OMBUDSMAN'S
ANNUAL REPORT 2002**

The following table presents statute wise position relating to cases decided. It is interesting to note that 65% of the complaints registered with FTO related to income tax while the contribution of Income Tax to total taxes is 32% in the Federal Budget for 2003-2004.

Table No. 2
CASES DECIDED: STATUTE WISE

S. No.	Description	Cases Decided		2003-04 Budget Figures (%)
		Number	%	
1.	Income Tax	922	65	32
2.	Sales Tax & Central Excise	108	20	53
3.	Customs	174	12	15
4.	Wealth Tax	22	2	--
5.	No Jurisdiction	19	1	--
	Total	1,420	100	100

Source: Federal Tax Ombudsman's Annual Report 2002,
Attachment to Page No. 119.

IDENTIFIED IRRITANTS

FTO has identified the following irritants. These require careful study for proper handling. Positive feedback should be taken and tangible efforts be made to ensure that corrective action is initiated to redress the grievances of tax payers in general:

- 1) Books of records are not being properly maintained by several taxpayers. To ensure success on this front, some suggestions are offered below:
 - a) Companies Ordinance 1984 (Section 230(1)(e)) be amended to ensure maintenance of Cost Accounting Records by all agricultural, manufacturing and service sector organizations in Pakistan with audit to be conducted by Cost and Management Accountants having acquired qualification under the Cost and Management Accountants Act 1966.
 - b) Small and Medium Enterprises should be encouraged to employ Commerce and Business graduates (B.Coms, M.Coms, BBAs, MBAs and other related/kindred qualifications) to help maintain books of accounts. It may be noted that under the Income Tax Ordinance 2001, the concept of "No Accounts" as existed earlier has been eliminated. Now it is compulsory to maintain books of accounts. All professional including practicing doctors, engineers, architects, consultants, lawyers, etc are urged to maintain proper books of accounts and open up the employment window to academically and professionally qualified accountants (Chartered Accountants and Cost and Management Accountants).

CBR is urged to hold Seminars in all important business cities of Pakistan to pave the way to implement the above suggestions as a tangible logistic to developing fiscal discipline in Pakistan and take a forward step to

accelerate domestic resource mobilization. This humble suggestion will create awareness in the taxpayers, increase employment opportunities for utilizing professional talent of our Country. A positive action in this respect will be a correct step in right direction.

2) Slackness of Taxpayers Applications:

A fair definition of "Bureaucracy" in our view is that it is "an attitude". If the attitude is favorable, salute is offered. If, unfortunately, it is unfavorable, criticism start will be flowing. Dr. Mohattir has mentioned that "digital revolution" is a real step to extract the best of bureaucracy. It is a long term wish list in Pakistan. However executive orders may kindly be passed by CBR on the following lines on receipt of application of aggrieved persons:

- a) Replies be sent within 24 hours. In private sector this is common inflexible rule.
- b) If the reply requires an extensive effort, acknowledgement be sent within 24 hours with some indication of timeframe within which the detailed reply be the concerned official will be given.
- c) While dealing with the grievances the following three ethical codes may be followed:
 - i) Constructive
 - ii) Positive
 - iii) Result Oriented based on (i) and (ii) above

3) Disuse of Office Procedures:

It is generally believed that the existing office procedures are intricate, complex and time consuming. A fresh look is needed to streamline these to reduce the crippling effect on time, effort and cost. In this respect the following directions need immediate attention:

- a) Mr. Maginson is the father of "work simplification". He has suggested five point strategy to accomplish simplification in procedures to result in fair, just and prompt decision making. This requires operationalization in Pakistan. Logistical assistance can be given to CBR in this respect.
- b) The thought of "Public Servants at the service of Public" needs to be given prominent importance.
- c) The following slogan should be popularized:

Simplify – Simplify – Simplify

4) Expertise of Revenue Department Officials:

Bright and well qualified persons are serving in the Revenue Department of our Country. They deserve appreciation to providing tangible support to meeting budgetary targets. Several are dead honest and are delivering the goods in a befitting manner. Others require education to serve the country in a befitting manner. CBR has set up several institutions for training and management development. The appointment of a full time member in CBR

for handling HRM/HRD is a step in right direction. It is hoped that sustained efforts will be made to accomplish the Vision and Mission as properly visualized by CBR as part of Tax Reform agenda. However, the following suggestions are offered to be high achievers in HRM/HRD dimension:

- a) A qualitative study of existing training set up of CBR be undertaken through SWOT analysis to evaluate the existing performance, identify the weaknesses and strengthen institutionalized effort for breakthrough improvement.
- b) Events are changing much faster than the pen which records these for cold print. Consequently there is a need to stay updated. Therefore series of special talks in major business towns of Pakistan are needed to be delivered. Some of the suggested topics may include IASs, ISAs, WTO role, Tax Evasion, Pakistan's Economy, Creative and Innovative Solutions to revenue increase, etc. Subject experts may be invited to deliver presentations in respect of the above.
- c) The spirit of CPE (Continuous Professional Education) be maintained and reinforced by translating the Hadith of Holy Prophet (PBUH) "Seek Knowledge From the Cradle to the Grave".

5) Arbitrary Provisions:

To reduce the arbitrary provisions, if not totally eliminate, the taxpayers, trade, business and other bodies (Federation of Chamber of Commerce and Industry, various chambers of Commerce & Industry, stock exchanges, APTMA, etc.) may initiate research and open up a meaningful dialogue with CBR to mutually agree to a firm understanding on reducing the arbitrary provisions in various laws affecting the stakeholders.

Earlier the Government of Pakistan, while introducing the Income Tax Ordinance 2001, solicited suggestions for changes. Nevertheless the ongoing debate should continue till mutual understanding is achieved. The Government appears to be receptive. Serious homework be now undertaken by taxpayers and institutions guiding and counselling them.

6) Discontinuing Periodical Inspections:

The business community has strong desire to devote greater time in doing their business and expect less and less inspections by Government functionaries. Following suggestions are offered in this respect:

- a) A periodical reporting system be agreed between CBR and taxpayers. The taxpayers must respect their duty to supply the information. CBR may institutionalize MIS.
- b) One day may be decided in a year for inspection. On this day, the business community may cooperate on the above one day.

7) Performance Record:

Performance indicators may be identified by CBR and periodical monitoring be undertaken. Based on performance, differentiated awards system be operationalized. To begin with MBO be institutionalized.

8. Extra Legal Decision Making:
To ensure that proper decision making is ensured, official in CBR need to be bejeweled with the following decision making models:
- a) Administrative Man Model
 - b) Economic Man Model
- Seminars be conducted to give wider exposure for comprehending the decision making steps and stay within legal boundaries.
9. Career Planning of Officials:
All officials of CBR are in search of identifying career paths. There is an urgent need for them to upgrade their knowledge and professionally equip themselves to deliver the goods in a befitting manner. The tax assessing job is becoming more and more challenging and accordingly there is a need to build up HRD plans to enable the officials of CBR to continue their professional development by concurrently studying for those examinations which can be helpful in their careers and can also contribute to the efficiency and effectiveness of their work. The HRM Department of CBR may undertake homework in this respect and prepare a strategic paper in this respect.
10. Biases:
A human bias is a natural thing. One must target objectivity rather be led or misled by subjectivity. The fear of God should be indoctrinated in the mind of everybody so that the biases continue to be punctured and fair decisions are made based on meritocracy. This requires change in attitudes and behaviors which ought to be undertaken.
11. Amnesty Schemes:
The Government of Pakistan has announced discontinuation of Amnesty Schemes which is a step in right direction.

The research carried out in the office of the Federal Tax Ombudsman has identified three major causes due to the foregoing irritants. These are listed below:

- 1) Corruption:
Corruption is generally caused due to need and greed. While need can be met by an appropriate raise in the salaries, there is no solution for greed. Strong deterrent is needed to crack down those officials or stake-holders who indulge in corrupt practices. Consequently there is a dire need to indoctrinate the fear of God to change the mindset of corrupt people.
- 2) Delays in Decisions:
Belated decisions should be discouraged and time limits should be laid down for ensuring that decisions are made. Digital approach will be a fair solution to the problem.
- 3) Delay in Issuance of Refunds:
As suggested in 2 above, appropriate steps should be taken.

On account of foregoing irritants and causes, three consequences identified were as under:

- 1) The taxpayer has been losing confidence in the system. This perception was also highlighted by the Honorable Finance Minister of Pakistan in the Third Seminar of FTO on October 16, 2003 in Islamabad.
- 2) The Investors (domestic and foreign) continue to be discouraged. They shy away from Pakistan and thus the Country continues to be the loser.
- 3) There is a great loss to the exchequer. Since Pakistan Fiscal Deficit requires proper handling, improvement in the tax system can reverse the gear and introduce a trend whereby the first the loss to exchequer is stopped and later the coffers of the exchequer are beefed up.

CONCLUSION

It is high time that ideas presented in this paper are given proper attention and concrete steps are taken for ongoing process of improvements. The earlier this is done the better FTO has many challenges to face and it is hoped that with dedication and commitment, this Institution will add a new feather in the cap of Pakistan with credibility and glorious success.
