

## **FTO DIRECTS FBR TO PROBE MATTER INVOLVING A BANK**

**ISLAMABAD:** Federal Tax Ombudsman (FTO) on Thursday directed the Federal Board of Revenue (FBR) to probe the matter of declaration/taxation of the profits earned by a bank on booking of flats, offices/penthouses, as Banking Companies Ordinance 1962 prohibits trading by banks.

In this connection, the FTO has issued an order involving the matter of trading by banks. The FTO order revealed that a bank having registered office at F-6 Markaz, Supermarket Islamabad, is engaged in sale of flats, offices, penthouses in violation of Section 9 of The Banking Companies Ordinance 1962 which prohibits trading by banking companies. Therefore, the FBR may like to probe this matter in depth related to booking of flats, offices and penthouses, profit arising thereon, declaration in relevant returns and taxation thereof.

Benami Zone Karachi has already dealt a host of similar cases, involving the same bank and directors of complainant company therefore the instant case needs review with special reference to Benami Transactions (Prohibition) Act, 2017. Briefly, the complainant, a private limited company, took lease of the property plot in Clifton Karachi measuring 3832 square yards from KDA in 2002 and sold the said property to the bank at a price of Rs 950,000,000 as per sale agreement dated 28.06.2013.

The department selected the case of the complainant for Tax Year 2016 for total audit under Section 177 of the Income Tax Ordinance (Ordinance) and confronted the complainant for receipt of Rs 1,939,500,000 exceeding the amount declared in Tax year 2014 and added the whole amount of Rs 1,939,500,00 under Section 111 of the Ordinance as unexplained asset creating total tax liability of Rs 620,640,000. As per complaint, the same immovable property was taxed twice, once in Tax Year 2014 under Section 122(5A) and then again in Tax Year 2016 under Section 122(1) of the Ordinance.

FTO's order finding disclosed that the passing impugned order dated 2022 for Tax Year 2016 without providing opportunity of being heard in flagrant violation of FBR's instructions of 2018, making addition under section 111 without specifying any clause and taxing the same income twice; is contrary to law & procedure, principle of natural justice, hence, unlawful parse and also tantamount to maladministration, in terms of the FTO Ordinance.

The FTO has recommended the FBR to direct the Commissioner IR Audit-I, CTO Karachi to revisit the impugned order dated June 30, 2022 for Tax Year 2016 in terms of Section 122A of the Ordinance, after affording proper opportunity of hearing to the complainant, on its merit as per law. The chief commissioner LTO Islamabad and DG Anti Benami Initiative, FBR to probe on the issue for tax evasion (if any), FTO order added.

R 10-3-2023

## **FTO RECOMMENDS PROBE AGAINST SUMMIT BANK IN COO OMNI GROUP CASE**

Federal Tax Ombudsman (FTO) has recommended tax authorities to launch probe under Anti-Benami law against Summit Bank while disposing of a case lodged by a top official of Omni Group.

In a complaint filed by Khawaja Mohammad Salman Younis, Chief Operating Officer (COO) of Omni Group against Inland Revenue office of the Federal Board of Revenue (FBR) for creating huge tax liability without providing proper opportunity.

The FTO in his order dated March 03, 2023, although provided relief by directing tax authorities to provide opportunity of hearing to the complainant. But at the same time, the FBR recommended the FBR to direct Chief Commissioner LTO Islamabad and Direct General Anti-Benami Initiative to probe on the issue for tax evasion related to Summit Bank.

Brief fact of the case, the Complainant, a private limited company, took lease of the property plot no. G-2 Block-2, Clifton Karachi measuring 3832 square yards from KDA on October 19, 2002 and sold the said property to M/s Summit Bank Ltd at a price of Rs950,000,000/- as per sale agreement dated June 28, 2013.

The complainant recorded the disposal of property in his audited account as 'Advance against Sales' at Rs950,000,000 as on June 30, 2013 and further declared capital gain of Rs. 890,169,978/- as exempt in income tax return for tax year 2014 due to the fact that the holding period of the said property was more than five years as per computation given below:

Sale Price: Rs. 950,000,000/-

Less Cost: Rs. 59,830,022/-

Capital Gain Rs. 890,169,978/-

The Additional Commissioner-IR amended deemed order under Section 122(5A) of the Ordinance on April 06, 2016 and declared capital gain of Rs890,169,978/- as taxable.

The Commissioner Appeals vide order No. 13 dated June 16, 2016 upheld the order of the Assessing Officer to the extent of gain of Rs 890,169,978/- against which appeal before the Appellate Tribunal-IR, is pending. However, the sale deed of this property was executed on 31.12.2015 i.e. after more than two and half years at sale consideration of Rs1,939,500,000.

The Deptt selected the case of the complainant for Tax Year 2016 for total audit under Section 177 of the Ordinance and confronted the complainant for receipt of Rs.1,939,500,000 exceeding the amount declared in Tax year 2014 and added the whole amount of Rs.1,939,500,00 under Section 111 of the Ordinance as unexplained asset creating total Tax liability of Rs. 620,640,000. As per complaint, the same immoveable property was taxed twice, once in Tax Year 2014 under Section 122(5A) and then again in Tax Year 2016 under Section 122(1) of the ordinance; hence this complaint.

Advocate on behalf of Summit Bank submitted detailed reply on certain queries vide letter dated January 07, 2023 admitting that the mixed use residential /commercial 34 stories building was constructed by using its own funds of Summit Bank without any partnership. The bank purchased the ongoing project namely 'Bakht Tower' which was at that time was an open and vacant plot.

The FTO observed that evidently, the complainant acquired lease of the property plot no. G-2 Block-2, Clifton Karachi measuring 3832 square yards from KDA on October 19, 2002. Subsequently, as per sale agreement dated June 28, 2013, the complainant sold this property to M/s Summit Bank Ltd at a price of Rs.950.000 million. The audited accounts of the Complainant reflect this transaction as 'Advance against sales' in balance sheet as on 30. 06.2013 whereas the audited account of M/s Summit Bank (the purchaser) also reflects this transaction at Rs.956.000 million through note 12.11 under the Head 'Capital work-in progress' as on 31.12.2013. "Thus, the complainant very rightly declared capital gain of Rs.890, 169,978 as exempt in view of Section 37(IA) read with Division VIII, Part 1 of First Schedule of Income Tax Ordinance as holding period of immoveable property was more than five years." During investigation, the FTO further observed that Sindh Building Authority (SBCA) issued approval to the complainant on May 07, 2013 for construction of multi-storied building.

SBCA issued approval of completion plan / occupancy certificate in respect of this building on July 02, 2018 to Summit Bank allowing the bank to book FLATS @ Rs.18000 to Rs.30000 per sq ft, PENTHOUSES @ Rs.35000 per sq ft and OFFICES @ Rs.18000 to Rs.27000 per sq ft. However, SBCA also issued revised sale & advertisement NOC for constructions.

Summit Bank on August 18, 2017 with date of completion as August 31, 2022 increasing the rate of booking SHOPS /RETAIL

"It is very interesting to observe that the revised rate of booking was allowed on 18.08.2017 much before original rate on July 02, 2018," the FTO observed.

The above discussions reflect that Summit Bank having registered office at Plot No. 9-C, F-6 Markaz, Supermarket Islamabad, is engaged in sale of flats, offices, penthouses in violation of section 9 of The Banking Companies Ordinance 1962 which prohibits trading by banking companies. "Therefore, FBR may like to probe this matter in depth related to booking of flats, offices and Penthouses, profit arising thereon, declaration in relevant returns and taxation thereof. Benami Zone Karachi has already dealt a host of similar cases, involving the same bank and directors of complainant company therefore the instant case needs review with special reference to Benami Transactions (Prohibition) Act, 2017."

<https://pkrevenue.com/fto-recommends-probe-against-summit-bank-in-coo-omni-group-case/>

## **IMPORT VIA GWADAR PORT: PASSCO DIRECTED TO TRANSPORT WHEAT UNDER G2G ARRANGEMENTS**

**ISLAMABAD:** The Ministry of National Food Security and Research has directed Pakistan Agricultural Storage & Services Corporation (Passco) to transport wheat under G2G arrangements from Gwadar Port through shortest possible routes, well-informed sources told Business Recorder.

On March 1, 2023, Ministry of National Food security and Research informed the forum that the ECC in its meeting held on July 28, 2022 allowed remaining import of 0.80 MMTs of wheat through Trading Corporation of Pakistan (TCP) and directed MNFS&R to submit logistic plan of Passco for transportation of imported wheat for consideration of the ECC. It was reported that Passco's storages were located in 13 Zones and 16 Districts of the country. Its storage capacity comprised of 29 silos and 335 godowns having covered storage capacity of 572,482 MTs. The remaining stock was being stored in open Gunjees in scientific ways and procedure.

Passco floated a tender on November 12, 2022 with the relaxation of conditions to facilitate participation of maximum bidders including reduction of performance guarantee from 10 to 8% and submission of earnest money of Rs.650 million for daily lifting of 6,000-6,500 MTs per vessels. The lowest bid offered by the NLC for Karachi sea ports was Rs. 9,420/MT, whereas for Gwadar sea port it was Rs. 16,457/MT on delivered basis at Passco's storage destinations, inclusive of all taxes, tolls duties, etc. Therefore, transport contract was awarded to NLC for making appropriate arrangements for logistics arrangements at the ports. Meanwhile, Passco had made arrangements for jute/pp bags, Gunjees kits, AP tablets, Delta Metherin and polythene sheets for imported stock. State Bank of Pakistan, Finance Division and Federal Board and Revenue (FBR) had been requested to open LCs and early release of jute and polypropylene.

The Ministry of National Food Security and Research further stated that Passco's handling capacity at both sea ports in Karachi was approx 350,000 MTs/month. The TCP had almost wound-up its import operations at Karachi. Only two vessels carrying 120,000 MT imported wheat were waiting for berthing, whereas remaining import of 450,000 MT of wheat under G2G arrangements was expected to arrive at Gwadar soon. The upcountry transport market size was 200-250 vehicles per day, ie, 12,000 MTs/day. Accordingly, NLC had engaged almost 50 percent transport facility by engaging 100 trucks transporting 6,000 to 6,500 MTs/day per vessel for transporting the imported wheat to Passco's premises.

The Ministry of National Food Security and Research argued that in case of simultaneous arrival of 2 vessels at sea ports, the entire transport facility would be utilized by Passco. It was apprised that Passco had signed MoUs with provinces for direct lifting of wheat from Karachi sea-ports in order to fast track transportation and to minimize cost of imported wheat. In this connection Provincial Governments of Punjab, Sindh and Khyber Pakhtunkhwa were allocated 16 vessels, ie, 8 vessels to Punjab (507,366 MTs), 5 vessels to Sindh (308,250 MTs) and 3 vessels to KP (204,000 MTs). For the remaining import of 450,000 MTs under G2G arrangements from Gwadar, Passco would start its lifting operations which would continue till the end of March, 2023.

The Ministry of National Food Security and Research apprised that for lifting the assigned quantity of 450,000 MTs of wheat under G2G arrangements from Gwadar Port NLC had been instructed to transport wheat through the shortest/most feasible route to PASSCO storage centres. Tentatively 200/250 vehicles would be required to transport average discharge of 10,000/12,000 MTs on daily basis. \ scanners would be deployed to clear vehicles. All concerned agencies, ie, Pak Customs, DPP, TCP, Passco would set up offices to facilitate operations.