**FBR, taxpayers & rule of law**

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In the recent months, the Federal Board of Revenue (FBR) under the present team not only exceeded the budget for the first seven months of the current fiscal year, but has also taken many initiatives that need to be acknowledged and highlighted. FBR is trying its best to restore citizens’ faith in it that was destroyed by the finance minister of the previous regime of Pakistan Muslim League (Nawaz)—PMLN—by blocking refunds of billions and taking advances that were not yet due, as well as imposing exorbitant sales tax on petroleum products, especially on diesel, to show “extraordinary” (sic) performance in revenue collection.

Against all odds, Covid-19 endemic, complete and partial lockdowns, sluggish economy, lack of adequate facilities and shortage of staff in the very first month of 2021, FBR collected Rs. 364 billion, exceeding target by 24 billion. It was 12.3% higher than the same month of the [preceding fiscal year](https://download1.fbr.gov.pk/Docs/2020910109405121TaxWiseNetCollectionFY2019-20.pdf). In the first seven months of the current fiscal year July 2020 to January 2021, FBR achieved a growth of about 6.4% over the corresponding period of 2019-20 by collecting Rs. 2550 billion. The Minister for Finance, Dr. Abdul Hafeez Shaikh must appreciate the fact that unlike the past, Member Operations of Inland Revenue (IR), Muhammad Ashfaq, strictly ordered the field officers not to take advances not due, and issue refunds expeditiously. During the rule of PMLN [2013-2018], these were accepted (mal)practices and in return his crony officers used to get bonuses.

The Member Operations, (IR), for the first time in the history of FBR made the Chief Commissioners, (IR), Ombudspersons to remove the grievances of taxpayers on a war footing. In [F.No.8(37)-IR-TPC/2020/213381-R](https://download1.fbr.gov.pk/Docs/20212181225023700RoleofChiefCommissionersasInlandRevenueOmbudspersons.pdf) issued on November 16, 2020, he asked the Chief Commissioners: “**It is critically important that not only that Chief Commissioners assume their new role of Inland Revenue Ombudsperson wholeheartedly, but also that they widely publicize it in their respective jurisdictions so as to attract and internalize maximum complaints lodged by their taxpayers. This significant administrative shift needs to be optimally leveraged to salvage image of the Service, restore citizen’s trust in the system, and maximize revenue collection in a wholesome manner**”. In the last line of his letter, he aptly said: “***Let there usher in taxation which is the hallmark of all civilized societies***”!

**Of course, Pakistan needs such officers to head FBR having vision and dedication to make it an organisation facilitating people to pay their due taxes diligently for the welfare of the society as a whole.**

After relieving Chief Commissioners from the responsibility of achieving tax targets, the Member Operations (IR) succinctly observed: “**This is about time that the Service revisits its approach toward taxpayers’ grievance redressal system, and modified it, too. The course correction is warranted, at least, on three counts. Firstly, the single largest, perennial, and festering source of taxpayer grievances– refunds– is effectively being neutralized through prompt release of both past and present refunds, and the policy is set to continue**….”

Refunds are not a favour to taxpayers, it is their right under the law. According to a Press [report](https://tribune.com.pk/story/2284314/fbr-flouts-orders-to-pay-tax-refunds), the Finance Minister a closed-door meeting on February 11 at the FBR headquarters “did not go down well with the top tax brass, which struggled to satisfy the minister over a 10-month delay in clearing the legacy of income tax refund claims and increasing corruption in the FBR”. According to details given in the report, “out of the Rs.328 billion income tax refunds, an amount of Rs. 82 billion was outstanding against 114,436 claims of up to Rs50 million each”. It added that the Minister “issued the instructions on April 16 last year—10 months ago—to clear these refunds and the orders were repeated again in July, with which the FBR management did not comply”. The Minister, according to report, during his recent visit to Sindh “received complaints about growing corruption in the FBR, including the misuse of offshore tax-haven information”.

The Chairman and Member Operations (IR) must take the Chief Commissioner to task for their failure to get all the refunds crystalised and issued promptly. Section 124(4) of the Income Tax Ordinance, 2001 says: “**Where direct relief is provided in an order under section 129 or 132, the Commissioner shall issue appeal effect orders within two months of the date the Commissioner is served with the order**”.

The officers in field are openly defying this command of law by not giving appeal effect to avoid creating refunds and on the other hand taxpayers have to pay 10% of disputed demand at the very first appeal stage to avoid attachment of bank account. The officers say we cannot give appeal effect as Department has contested the order before Tribunal, whereas law categorically requires appeal effect where no issue is set aside and direct relief is provided by Commissioner of Appeals. Does law apply only on taxpayers? Are FBR officials above law?

The officers claim that as the Legal/Enforcement/Audit wings have been separated and working through their separate Commissioners therefore they are unable to process refunds straight away without having consent of commissioner legal on the pending appeals case. This gross violation of law is taking place under the command and control of Member Operations Inland Revenue and Chairman FBR. Are officers not aware of the law or are they doing it intentionally?

**Effective and prompt measures must be taken to restore the tarnished image of FBR where field officers use coercive measures for recovery even when appeals of taxpayers are pending but refuse to give appeal effect under section 124(4) of the Income Tax Ordinance, 2001. This is a systemic issue and needs immediate attention. The rule of law should be for all, including FBR, and not for taxpayers alone.**

FBR must take disciplinary action under the law against officers violating section 124(4) after due process. Chief Commissioners must ensure fulfilment of the right of taxpayers granted under the Constitution and tax laws, which they have failed to do so far.

As regards corruption, and/or tax frauds, both the official(s) and the taxpayer(s) are involved directly or through their unscrupulous advisers. Why a beneficiary of collusive arrangement will file a complaint against FBR officer(s) and/or official(s). FBR has not provided any mandate to its Integrity Management Cell ([IMC](https://www.fbr.gov.pk/fbr-sets-up-new-unit-for-filing-of-complaints-against-corrupt-practices-of-officersofficials-of-fbr/131997)) for reporting cases of corruption to National Accountability Bureau (NAB) for retrieval of loss of revenue and initiate proceedings against the guilty tax personnel, defined as “public officeholders in section 5(m) of National Accountability Bureau Ordinance, 1999 and the other beneficial party as partner in financial crime. The mafia-like operations in Customs and Inland Revenue Services should be dealt through an independent agency against financial crimes, as is the case in the rest of the world e.g. UK [National Crime Agency](https://www.nationalcrimeagency.gov.uk/). The [IMC](https://www.fbr.gov.pk/fbr-sets-up-new-unit-for-filing-of-complaints-against-corrupt-practices-of-officersofficials-of-fbr/131997) of FBR will never be successful for obvious reasons stated above. Even in matters of corruption involving loss of revenue till today NAB and Federal Investigation Agency have proven to be utterly ineffective.

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