Issue 37th

DOT Gazette

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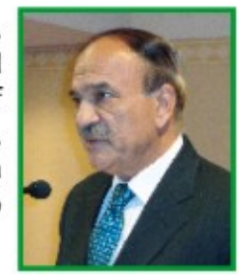
Welcome!



Mr. Ansar Javed assumed charge as DG DOT, Lahore on 17.10.2012, bringing with him richness and variety of experience, having worked on key posts of DG Intelligence and Investigation and Chief Commissioner of Large Taxpayers Unit, RTO Lahore and Gujranwala, during his eventful career. He replaced the outgoing DG Mr. Mustafa Ashraf. The probationers of 39th STP formally welcomed the DG DOT by arranging a lunch in his honour on 20th November 2012.

Felicitations!







The year 2013 opened on an auspicious note, as on January 01, 03 Senior Officers of FBR, Mr. Ansar Javed DG, DOT, Mr. Shahid Rahim Sheikh, Deputy Chairman (Customs) FBR and Mr. Malik Abdus Samad, Deputy Chairman (Inland Revenue) FBR, were promoted into grade 22.

Editorial

The 37th issue of DOT Gazette, published after a considerable delay, covers the period from May 2012 to February 2013. It gives a kaleidoscopic view of the rich and prolific round of activities and events that mark this period of ten months.

It was difficult to leave out any activity, for it would have been difficult to capture the feel of this place without reporting the myriad of activities, both academic, semi academic or extracurricular, that the Directorate spawned or hosted. This however left less space for research articles, despite the more than usual number of pages.

The period saw change of Director Generals and the resultant impact on the stream of activities; the inauguration and closing of 39th STP, with its own blend of lectures, tours, trips, exams and mess nights.

Then there was a dinner of the previous DGs marked by feelings of nostalgia and the first visit of the new Chairperson of FBR, Mr. Ali Arshad Hakim.

Then there was the usual spate of workshops that continued intermittently throughout the period; and finally closing on an auspicious note as the three officers of FBR, who stepped into Grade 22, included the present DG DOT, Mr Ansar Javed.

Last but certainly not the least, the Director DOT, Dr Zulqarnain Tirmizi got the long awaited promotion in Grade 20. Two feathers in the cap of the Directorate!

As this issue of the Gazette goes into print, DOT campus is undergoing face lift to welcome the new batch; the faculty is busy giving final touches to the programme and spring is in full bloom!

Promotion!



Dr. Zulqarnain Tirmizi, the universally liked Director of DOT, to the great jubilation of his friends, colleagues and well-wishers, got promoted into Grade 20!

The layout and style of the gazette, too long the same, has been changed (for the better hopefully, though time and feedback will tell!), pictures have been given captions and an overall makeover has been attempted to make it more eye catching and a better read.



Amina Hassan
Addl. Director

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Chairman presides over the Passing out ceremony!

"Revenue generation is as important for the survival of a country as the defense of the physical frontiers" Chairman FBR

Passing out ceremony of 39th STP was held on 08.02.2013, with Chairman FBR Mr. Arshad Ali Hakeem as the chief guest. Many senior officers of the department and the faculty members were present. The chairman gave away certificates to the officers who had successfully completed their STP.

The chairman in his address compared the tax collectors to soldiers defending the frontiers of the country. As revenue generation for the country, he said, was as important for its survival as the defense of the physical frontiers.

The tax to GDP ratio, he said, was alarmingly low and there was need to develop zero tolerance for tax evaders. Similarly broadening of the tax base was an equally crucial area as only 0.3% of the population was paying taxes.





The chairman regarded the IRS officers as the backbone of the revenue system in general, and FBR in particular. He asked the young officers to be inquisitive, bold and daring so as to tackle the problems and thorny issues that paved their way.



The DG DOT in his address welcomed the chairman, congratulated the officers and gave a brief overview of the training activity at DOT. He also highlighted the future plans and new initiatives being taken to further streamline the training process. The function ended with note of thanks from the Director DOT, which was followed by dinner for the guests.



Chairman FBR entering the auditorium



Riffat Aziz, the topper of 39th STP



A Bouquet for the Chairman FBR.



Exchange of sheilds



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Officers of 39th STP arrive at DOT(IR) Lahore

The Probationary Officers of 39th STP, arrived at DOT on 18.06.2012. They were warmly welcomed through a formal welcome ceremony, on the same day.

The ceremony began with a mutual round of introductions in which first the probationary Officers introduced themselves briefly and were then introduced to the faculty members. The then Director General Mr. Mustafa Ashraf and Director DOT Mr. Zulqarnain Tirmizi addressed the participants. Dr.Tirmizi dilated upon the course outline, the rules and regulations to be followed during the STP and other unwritten rules and traditions and standards of discipline expected from them during their stay at DOT.

The DG Mr. Mustafa Ashraf talked about the criteria for inter-se seniority and the importance of the evaluation of the training at DOT in determining the seniority, thus goading and motivating them to take their training, both related to studies and extracurricular activities, seriously.

The function ended with serving of refreshments and opportunity for a pleasant and candid tete-a-tete between some members of the new batch and the faculty members.







The newly arrived probationers - segregated from day one !



The then DG and Director

Extension lectures organized for the 39th STP

Seven extension lectures were organized for the participants of 39th STP. The first extension lecture was delivered by Mr. Shehzad Alam, CEO, Unitronics on the topic "Role Of Private Sector, With Government To Act Only As Regulator" on 26.07.2012.

Dr. Hamid Attique Sarwar, an IR Officer currently on deputation with the National School of Public Policy, delivered two lectures on "Research Methodology" on 29/30.08.2012. Mr. Ahmad Hasnain, MD & CEO of Allied Marketing Private Limited, another guest speaker, delivered a lecture on "Leadership In 21st Century" on 28.09.2012. The guest speakers for the remaining four extension lectures were Ms. Azra Tasneem Rafique, a former faculty member of erstwhile NIPA, Mr. Arif Bashir from DG Cement, Mr. Muhammad Asif CIT, Appeals and Ms. Huzaima Bukhari, former officer of the department.

Staff training sessions at DOT

Training of Staff, to enhance their proficiency and expertise, is one of the core activities of DOT. During the last ten months, many training sessions were arranged for the Auditors, Inspectors, Clerical staff and stenos. There were courses on "Amendments in Income Tax Ordinance 2001 under Finance Act 2012", for better understanding of Sales Tax there were sessions on "Sales Tax Audit-various aspects", and on "Amendments in Sales Tax Act, 1990 & Federal Excise Act, 2005". Other courses were about "Book Keeping, Monitoring of Withholding Taxes with special reference to section 161/205", "Procedural Formalities related to Section 161/205", "Registration, Deregistration, Blacklisting and suspension of Registration in Sales Tax" and "Sales Tax Audit".

The last course run in January was for the Inspectors on "Finance Act 2012 Important Amendments in Income Tax Ordinance 2001".

In Addition Twelve computer trainings workshops were organized for Officials/Clerks of RTO-I and RTO-II during the period from July to December.

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Down the memory lane..
An evening with Ex Director Generals DOT

At the initiative of the DG Mr. Ansar Javed, all the previous Director Generals of DOT were invited for a dinner. Right from the first DG DOT Mr. S. Mohsin Akhtar, all subsequent DGs Mr. Shariq Mehmood, Mr. Farooq Ahmed, Mr. Haji Ahmed, Mr. Amjad Ali Ranjha, Mr. Naseer Ahmed, Mr. Abdul Wadood Khan, Mr. Shahid Nasim, Mr. Khawar Khurshid Butt, and Mr. Mustafa Ashraf, except Ms Raana Mirza, Mr. Naseer Ahmad and Mr. Muneer Qureshi, attended the dinner hosted in their honour.

The evening, with live instrumental music in the background, was marked by strong feelings of nostalgia and the conversation was dominated by reminiscences of the 'good old times'.











Two Additional Directors join DOT(IR)

Two new Additional Directors joined DOT, Zain ul Abidin Sahi on 17th October, 2012 and Amina Hassan on 5th November, 2012. Mr. Amanullah Virk joined DOT as Deputy Director on 20th December, 2012. Mr. Yasir Ali, Additional Director left DOT for RTO, Multan on 2nd January, 2013.





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39th STP Mess Night – Welcoming the IR Probationers of 40th CTP

A mess night was arranged by 39th STP probationers to welcome the IR participants of 40th CTP, currently at CSA, on 06.12.2012, in the Waheed Auditorium. The IR probationers of 40th STP were warmly welcomed by the officers of 39th STP, the warmth of the welcome offsetting the biting cold of the December night!

The DG DOT, and entire faculty as well as visiting faculty members graced the occasion. Two members of the CSA faculty, Dr. Hamid Attique Sarwar and Khawaja Khurum were also present. Function was compered by Sara Khan. Mr. Furrukh Amir gave the welcome address. The DG and Director DOT also addressed the visiting officers.

This was followed by some hilarious items presented by the two teams of Faheem and Attiya & Asma and Asim, in which they had pulled the legs of their fellow probationers. Riffat Aziz and Amjad Ali recited poems. After dinner the quests assembled in the auditorium for live music for which a ghazal singer had been invited.











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39th STP - Country Study Tour


Briefing in progress at FBR


Exchange of shields -
Mr. Asrar Raouf Senior Member Policy(IR)


Briefing at FBR -
Ms. Raana Seerat, Member HRM flanked by
Syed Ijaz Shah, Member IR Operations


Immaculate interior of Pakistan Military
Academy, Abbotabad


The 'shadows' of PMA !


Mr. Sajjad Ali, Chief Commissioner, LTU, Islamabad


All dressed up for dinner at Mannal!


Visit to DG cement



Dance performance for probationers at Arts Council


Ms. Raana Seerat, Member HRM presenting shield to the
visiting batch of probationers

Each picture selected for this page may not speak a hundred words but a country study-cum-fun-filled tour can only be captured in pictures. So here is a pictorial view of the gamut of activities under taken by the probationers of 39th STP on their Country Study Tour, from 17th to 22nd December, 2012.


Briefing for probationers at Regional
Tax Office, Rawalpindi


Briefing for probationers at DG cement


Visit to the art gallery in Islamabad


...At Lok Versa Museum in Islamabad


...Posing with the exhibits at Lok Versa


The much sort after visit to Nathiagully


Million dollar smile!


Enthralled by the ice!

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Exploring PEL electronics -

The first study tour

The participants of 39th STP proceeded on their first local study tour, as they visited the premises of PEL electronics on 03.07.2012.The aim was to enhance their knowledge about working and production capacity of mega industries like PEL and their contribution in the domestic engineering industry.

The Director General and Director DOT, both accompanied the probationers on the visit. A detailed presentation was given to the visiting officers giving them an over view of the history and development of PEL electronics since its establishment in 1956, as well as the entire range of products of the company.

The company, they were told, comprised of two divisions; the Appliances Division and the Power Division and was the market leader in providing new products and services to meet the technology intensive needs of the customers. Their aim was to maintain their competitive edge; the ever increasing local market share; growing export orders; power projects; and an increasing base of satisfied customers.

During a round of the factory the probationers saw the assembly line of the factory, as well as the testing facilities for the products and came to know the entire process of manufacturing.



Visit to the giant financial empire of Lahore Stock Exchange

The third visit under taken by the probationers was to the Lahore Stock Exchange. Dr. Tirmizi, Mr. Naveed Nawab and Ms. Qaisara Fatima accompanied them. The probationers were able to delve into the financial intricacies and 'business secrets' of this giant financial empire, through an in-depth briefing by Mr. Aftab Ahmad Ch. Managing Director, Lahore Stock Exchange which was followed by a very detailed question answer session.



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Probationers visit Nestle facilities in Sheikhupura

The probationary officers of 39th STP visited the multi-product facilitiy/factory of Nestle in Sheikhupura on 27 September 2012. Nestle Pakistan Limited, a subsidiary of the Swiss company headquartered in Switzerland, is a food processing company registered on Karachi and Lahore Stock Exchanges since 1998. Out of a total of four production facilities the two factories in Sheikhupura and Kabirwala are multi product factories. The factory in Sheikhupura is spread over 63 acres of land, the building structures are huge and are manned by 2254 employees; 2.5% of them female staff members.

The officers had a tour of the collection center, UHT unit, Processing Unit, Packing Units of beverages and Sensory Screening Unit for a first-hand experience of these processes which was a fascinating experience for most of them. The officers were impressed by the immaculately clean and hygienic environment not only inside the facility but also in the open areas.


Briefing in progress...


Lest the probationers contaminate the Nestle environmnt!


A hygienic out door briefing...

The milk 'collection to packing' process generated a lot of interest but even after observing the entire process there was still ambiguity about some controversial issues, like whether any chemicals for preservation where being added for longer shelf life of milk and milk products.




Testing a Nestle product...


Doctors ready for the operation...







Condonation of Time Limit in Sales Tax Refund Cases



Zulqarnain Zirmizi
Director DOT(IR)

Many learned Commissioners condone the default of claiming belated refunds by registered persons on the strength of section 74 read with SRO 394(I)/2009 dated 21.05.2009. Since I do not quite agree with the interpretation I wish to submit my arguments against the practice and seek the Board's clarification on the issue.

2. Before commenting any further it shall be in the fitness of things to reproduce the relevant provision of law dealing with time limitation. The original time limitation for filing of refund claims is specified in the first proviso to Rule 28 of the Sales Tax Rules, 2006 (the Rules hereinafter) in the following words:

> "Rule 28. First proviso: Provided that no refund shall be entertained if the claimant fails to furnish the claim on the prescribed software (RCPS) along with the supportive documents **within 120 days of the filing of return"**

3. Extension of up to 60 days for filing the claim can, however, be granted by the Commissioner under sub-Rule (2) of Rule 28 which reads as follows:

> "Rule 28(2) In cases where such supportive documents are not submitted to the officer in charge within the time specified under sub-rule (1), the Commissioner Inland Revenue having jurisdiction may, on a written request from the claimant justifying the reasons for delay in submission of such documents or data on RCPS, **extend the time limit for a further 60 days."**

4. It is submitted with respect and all the humility at my command that the provision regarding time limitation contained in first proviso to Rule 28(1) is couched in negative language and such provisions are called "absolute enactments" and any neglect to attend to them will invalidate the whole proceedings. Reliance is placed on paragraph 18 Page 358 of Collector Sales Tax & Central Excise (West) Karachi v M/s Al-Hadi Industries Pvt Ltd **PTCL 2003 CL 345 (Sindh High Court)** quoted below:

> "Mostly enactments expressed in negative & prohibitory language are treated as absolute enactments. The following passage from Craies on Statute Law Vth Edition page 243 (the Edition page 263), has been cited with approval by a Full Bench of the honorable Supreme Court, in the case of **Allied Bank of Pakistan v Khalid Farooq 1991 SCMR 620.**
>
> "If the requirements of the statute which prescribes the manner in which something is to be done are expressed in negative language, that is to say, if the statute enacts that it shall be done in such a manner and in no other manner, it has been laid down that those requirements are absolute, and that neglect to attend to them will invalidate the whole proceedings."

5. Based on the above case law and considering the negative language of the first proviso to Rule 28(1) my humble opinion is that limitation of 120 days for filing the refund claim provided in first proviso of Rule 28(1) is absolute. Condoning the said time limitation is only possible to the extent of sixty days as provided in sub-rule (2) of Rule 28. Hence section 74 of the Sales Tax Act, 1990 cannot be pressed into service to condone the time limit by employing the delegated powers of SRO 394(I)/2009 dated 21.05.2009.

6. At this juncture I may kindly be permitted to cite the judgment of the honorable Lahore High Court rendered in the case of M/s Lyallpur Chemicals Ltd v Federation of Pakistan reported as **2009 PTD 1697 (LHC)** vide which the honorable Court was pleased to hold in paragraph 8 onwards as follows (page 1700)

8. In this view of the matter, as the refund claim was barred by the statutory period of two months (the period at the relevant time was 60 days), therefore, the same was rightly rejected by respondent No.4.

9. So far as the submission of the petitioner that Rule 28 of the Sales Tax Rules, 2006 is contrary to the Refund Rules and the time period mentioned in the said rule is illegal and void, suffice it to say that the Sales Tax Rules, 2006 have been framed by the Central Board of Revenue / competent authority and are not ultra vires. Additionally Rule 28 prescribed 60 days for filing of return of the claim, which by no stretch of interpretation of a statute can be said to be ultra vires.

10. The learned counsel for the petitioner has also relied on M/s Mayfair Spinning Mills Ltd Lahore v Customs, Excise & Sales Tax Appellate Tribunal Lahore PTCL 2002 CL 115 and M/s Pfizer Laboratories Ltd v Federation of Pakistan PLD 1998 SC 64.

11. With reverence and with great respect of the honorable Apex Court, it may be observed that in the said judgment Rule 28 of the Sales Tax Rules, 2006 has not been declared illegal and void, which still hold the field."

7. Before concluding I wish to cite a recent judgment by the honorable Supreme Court of Pakistan on the issue of limitation for obtaining refund prescribed under various statutes including the Contract Act, 1872, the Customs Act, 1969, the Sales Tax Act, 1990 & Rule 11 of the Central Excise Rules, 1944. The Full Bench of the honorable Apex Court in the judgment re: Shahtaj Sugar Mills Ltd v Government of Pakistan **2009 PTD 1544 (S.C. Pak)** was pleased to uphold such limitations. The case of Pfizer Laboratories was cited by the petitioner in his favor but to no avail.

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Off workshops and lectures

Directorate General of Training and Research IR, organized a workshop on "Amendments Introduced Through Finance Act, 2012, Including Procedure Of Black-Listing Under Sales Tax Law" on 03.09.2012, for the Officers of RTO-I, RTO-II and LTU. Mr. Asim Zulfiqar (FCA) and Mr.Aamir Younas (FCA) were the two Resource persons, for Income Tax and Sales Tax Law respectively. The workshop, held at DOT in the Waheed Auditorium, was attended by 180 Officers and generated animated discussion.

Another workshop for the same topic was organized for Officers of RTO Gujranwala on 04.09.2012. The training session was attended by 39 Officers from BS 16-17. Mr. Aamir Ameen Bhatti Additional Director I&I was the Resource Person and stress, of this highly interactive session, was on amendments introduced in Sales Tax Act 1990.

The third workshop on amendments in Inland Revenue Laws through Finance Act 2012 was held in RTO Multan on September 12, 2012. The Director DOT Mr. Zulqarnain Tirmizi was Resource Person for the two sessions on Income Tax Laws as well as Sales Tax Act. The workshop attended by 60 Officers from BS 16-19 was again a very interactive session which generated interest and led to much value addition for the participants.





A similar workshop was organized at RTO Faisalabad on October 09, 2012. Mr. Zulqarnain Tirmizi, Director DOT was the resource person.

On 16/17.10.2012 a workshop was organized for officers of RTO-I, RTO-II and LTU on "Concept of Audit". In December the same workshop was organized for more officers on 6/7, 11 & 19/20.

A workshop on "Registration under Sales Tax Law" was held on 27/28.12.2012.

On January 16 & 17, 2013, a two day workshop on "Monitoring of withholding taxes" was conducted for officers of BS 17-18 of RTO, RTO-II and LTU Lahore.







Continued from page-10

8. Hence I am convinced in my mind that section 74 and SRO 394(I)/2009 dated 21.05.2009 has no role to play in the cases in which registered persons seek condonation for late filing of their claims of refund. Maximum condonation in such cases cannot exceed 60 days as prescribed under Rule 28(2) of the Rules.

9. The only issue which is still unresolved is whether the limitation of 120 days as prescribed in Rule 28 is applicable to refunds processed under Rule 26A also i.e. to "Expeditious processing & payment of refunds" of manufacturer-cum-exporters. The entire Rule 26A is concerned with the procedure of processing and payment only whereas Rule 28 exclusively deals with filing of the refund claims. Even otherwise Rule 28 is placed after Rule 26A leading to the conclusion that it governs the refunds under Rule 26A as well. Hence in my opinion the time limitation prescribed vide Rule 28 is applicable to refunds processed under Rule 26A as well.

One ship drives east, and another drives west
With the self-same winds that blow.
It's the set of the sails
And not the gales
That tells us the way to go

Like the winds of the sea, are the ways of fate;
As we voyage along through life,
It's the set of a soul
That decides its goal,
And not the calm or the strife-

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The Plant Kingdom of DOT!

Imagine a building, especially if it is a learning institution, without lush grassy plots and flowerbeds;



without tall splendid trees or plants; bereft even of ordinary creepers; there can be no greater eyesore than such a concrete structure no matter how well-designed or how well-furnished it is. And now add lively, healthy grassy plots; Grow stately-structured or flower-bearing, beautiful trees; simply inundate the place with flower beds or potted plants; cover all suitable niches with a wide variety of pots and planters;

And as a final touch do not



leave a single pillar, boundary wall or railing, without the lovely creepers, hanging down their delicate green-leafy or flower-laden branches, swinging in the breeze..

With this invasion of beauty



and riot of colour, will arrive a variety of birds, bees and butterflies, giving the perfect finishing touch. **The dead concrete building and premises will be seething with life, colour, wafts of fragrance and beauty.**

Not only is it more pleasing and relaxing to live and learn in such a place but one actually looks forward to one's stay amid flowers and foliage and it makes one, happier, less sulky and morose and less bothered about petty things.

The more distant one becomes from nature the more one misses its soothing and healing qualities.



Then the change of season is reflected most enchantingly in plants and trees. In autumn the leaves acquire the autumnal



hues of yellow, rust and red and the dry leaves are driven by strong gusts of wind "like ghosts from an enchanter fleeing".

In spring the gaunt branches suddenly come to life with delicate, light green, tiny sprouting leaves. And when rains falls, the wet glistening leaves seem to be laughing and swaying on being tickled by the falling rain drops!



The Directorate of Training was never without its plants and planters but the real 'Green Revolution' which laid the foundation of its 'Plant Kingdom' dates back to the year 2000, when the huge ugly pit in the unused land at the back was filled, leveled, and the useless piece of land was replaced by two large Green



Houses. By next year, not only saplings of seasonal flowers, plants and trees but also organic vegetables were being grown here.



Then, there were 12 DOT and 7 PWD gardeners, but now, even with a shrinking number of 6 DOT and 3 PWD gardeners, the entire campus is draped in a riot of colour.

The credit goes to the Head Mali, Iqbal Pervaiz for overall planning and for motivating and guiding his shrinking team.



The flowers, you name it: Pansies, Marigold, Diamore, Flocks, Corn Flowers, Poppies, Carnations, Alyssum, Cineraria, Dahlia, Verbena, Roses, Sweet Peas, Portulaca, Kochia, and so many more -- are all being grown from seeds, which explains the variety and the abundance with which they adorn the campus.



Similarly the beautiful healthy cauliflowers, cabbage and spinach; broccoli, celery and parsley; carrots, radishes and cucumbers, are all finding their way in the homes of the officers, entire lower staff, as well as the mess kitchen. **It is indeed an egalitarian kingdom whose fruits are being enjoyed by the low and the highbrow alike!**



By: Amina Hassan