

THE FEDERAL TAX OMBUDSMAN SECRETARIAT
REGIONAL OFFICE, KARACHI

Complaint No.260/Khi/Customs(79)/783/2009

Dated 15-12-2009

Messres Lucky Textile Mills
Through: Asif Moten, Manager Imports
L-8, Block-21, Federal B Area
Karachi

Complainant

Versus

The Secretary
Revenue Division
Government of Pakistan
Islamabad

Respondent

FINDINGS/RECOMMENDATIONS

Dealing Officer : Mr. Saeed Akhtar, Advisor
Authorised Representative : Mr. M. Afzal Awan, Advocate
Departmental Representative : Mr. Wahid Bux Shaikh, AC

This complaint has been lodged against delay in the release of Indemnity Bonds furnished by the Importer inspite of production of necessary certificates regarding installation of imported machinery issued by the competent authority in accordance with the provisions of concessionary notification SRO 554 (1)/98 dated 12.6.1998, and also due to inattention to the letters sent to expedite the matter.

2. The Complainant has stated that fourteen Indemnity Bonds were submitted under the provisions of SRO 554(1)/1998 dated 12.6.1998 to the Respondent to be discharged on production of Installation

* Date of receipt in FTO Secretariat

Certificates from the Assistant Collector, Customs and Central Excise. The required Installation Certificates were produced but the Indemnity Bonds were not discharged by the Respondents, despite repeated reminders which is maladministration. The Complainant has prayed for direction to the Respondents to release the Indemnity Bonds.

3. The complaint was sent to the Secretary, Revenue Division, Islamabad for comments in terms of Section 10(4) of the Establishment of the Office of FTO Ordinance, 2000. The Collector Model Customs Collectorate of Appraisement Karachi in his comments received through the Revenue Division stated that the Importer was required to produce Installation Certificates within one year from the date of import and also produce proof of export targets achieved during five years from the date of installation of machinery and make payment of customs duty @ 5% of the dutiable value ascertained at the time of import which shall be considered as full and final discharge of entire liabilities.

4. The complaint was examined in the light of contentions of both the parties. The Importer furnished Indemnity Bond in the prescribed format to meet the requirement of condition (i) of the notification: produce within a year from the date of importation of machinery an Installation Certificate issued by the Assistant Collector of Customs and Central Excise that the machinery and spares as declared to the Customs had been duly installed. According to condition (ii) of the notification, the importer at the time of import of machinery was required to furnish an undertaking to the Collector of Customs to abide by the conditions laid down in the notification failing which he would have to pay the amount of customs duty and sales tax in addition to any penalties that may be imposed in this behalf. The importer by availing benefit of exemption of

duties and taxes under the notification was required to meet certain export targets during the period of five years from the date of installation of machinery failing which he was required to pay the whole of customs duty and sales tax leviable at the time of import of such machinery.

5. After installation of machinery, the Complainant obtained Installation Certificates from the competent authority and submitted these certificates to the Collector of Customs for the release of Indemnity Bonds vide letters dated 26.6.2007, 3.1.2008 and 12.6.2009. The Complainant was asked to produce Export Performance Certificates, according to condition (v)(a) of the notification vide letters dated 26.2.2007, 4.4.2007 and 14.11.2007. The Complainant submitted copies of sales tax returns pertaining to the period 2004, 2005, 2006, 2007, 2008 & 2009 to the Collector of Customs to establish that export targets were achieved. The Complainant also provided copies of Sales Tax Returns for the period 2004 to 2008 to the Collector Exports vide letters 05.8.2008 and 11.8.2008 for the issuance of Export Performance Certificates.

6. The Model Customs Collectorate of Appraisement, Customs House, Karachi vide letter No. SI/Misc/23/5-VI dated 6.3.2010 has confirmed that they did not release Indemnity Bonds, even though Installation Certificates and Sales Tax Returns by the Complainant as evidence to prove that the imported machinery had been installed had been submitted. The Model Customs Collectorate of Export, Karachi, in its report vide SI/Misc/01/2010/EXP/FTO dated 13.3.2010 has also confirmed that the Complainant did achieve export targets during the years 2005, 2006, 2007, 2008 & 2009.

Findings:

7. The Complainant installed the imported machinery and obtained Installation Certificates from the Assistant Collector, Customs and Central Excise within one year from the date of importation of machinery in accordance with the law. He approached the Respondents time and again for the release of Indemnity Bonds and issuance of Export Performance Certificates under the provisions of concessionary notification SRO 554(1)/98 dated 12-6-1998, but received no response. Inattention and delay in the discharge of duties and responsibilities is established beyond any doubt which tantamounts to maladministration in terms of section 2(3)(ii) of the Federal Tax Ombudsman Ordinance, 2000.

Recommendations:

8. Revenue Division to-

- (i) direct the concerned officials to decide the pending issue of release of Indemnity Bonds in accordance with law within a period of 15 days;
- (ii) initiate departmental action against those found responsible for the gross maladministration involved in this case; and
- (iii) report compliance within 7 days thereafter.

(DR. MUHAMMAD SHOAIB SUDDLE)
Federal Tax Ombudsman

Dated: 30-03-2010
Abid /my

Approved for reporting
