THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

OM No.01/OM/2024
Dated: 16.01.2024* HQs, Islamabad

The Secretary,
Revenue Division,
Islamabad. ...Respondent

Dealing Officer	:	Dr. Arslan Subuctageen, Advisor
Appraising Officer	:	Mr. Muhammad Nazim Saleem, Advisor
Departmental Representatives	:	Ms. Aisha Bashir Wani, Chief (F&C), FBR Mr. Ubaid Ullah, Secretary (Cus.Jud/ADRC) FBR Syed Jalal Zaidi, Dy. Director I&I-Customs

FINDINGS/RECOMMENDATIONS

This is an own motion investigation initiated through exercise of jurisdiction, conferred under Section 9(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) regarding large quantity of confiscated or otherwise goods and vehicles lying un-disposed at Customs formations all over the country, involving stuck up revenue amounting to billions of rupee. The Customs Laws, Rules, Customs General Orders (CGOs) and instructions provide for expeditious disposal and auction of such goods and vehicles however, the Customs authorities are not disposing these goods and vehicles having tampered and non-tampered chassis numbers as required under the law, due to neglect, inattention and inefficiency of the Customs authorities contrary to the law and falls within the ambit of maladministration as defined under Section 2(3) of the FTO Ordinance, 2000.

2. In response to the notice issued to the Secretary, Revenue Division, in terms of Section 10(4) of the FTO Ordinance read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013, the Director (HQs), Directorate General of I&I-Customs, Islamabad and Secretary (Cus.Jud/ADRC), FBR, Islamabad, submitted formation-wise data of

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* Date of registration in FTO Sectt:

stuck up goods and vehicles pending auction or disposal, vide letters dated 16.02.2024, 06.03.2024, respectively.

3. During hearing on 01.04.2024, data was submitted by FBR, vide letter dated 30.04.2024, it was observed that the data provided by the Customs FBR only pertains to Enforcement Collectorates, whereas, the auction-able lots of other Collectorates including Appraisement, Airports and Exports etc. was missing. The Deptt was directed to provide revised and complete data in consolidated form and the hearing was adjourned for 15 days for provision of complete data.

4. During 2nd hearing on 15.04.2024, DR on behalf of the FBR requested for extension in time for submission of complete data, which was awaited from different Collectorates and stated that the auction of the goods and vehicles take enough time because of the pending adjudication proceedings in different legal fora as well as due to lower bids offered by the bidders during the auction proceedings.

5. During proceedings, Secretary (Cus.Jud/ADRC), FBR, Islamabad, vide letter dated 30.04.2024, submitted complete data, which was examined and analyzed as under:

Collectorates of Customs				
Sr. No.	**Field Formation**	**Awaiting Policy Decision**	**Under Litigation**	**Lots Pending for Auction**
01.	Islamabad	-	16	24
02.	IIAP Islamabad	-	-	10
03.	West-Karachi	552	144	2050
04.	JIAP Karachi	-	-	44
05.	PICT Karachi	-	-	02
06.	South Enforcement Karachi	-	-	53
07.	Gwadar	-	-	36
08.	Appraisement Lahore	-	-	09
09.	Enforcement Lahore	-	-	38
10.	AIIAP Lahore	-	-	58
11.	Appraisement Peshawar	-	-	28
12.	Enforcement Peshawar	-	-	04
13.	Enforcement Multan	-	01	40

14.	Gilgit	-	-	09
15.	Enforcement Sargodha	-	02	19
16.	Hyderabad	-	-	38
17.	Sambrial, Sialkot	-	01	15
18.	Enforcement Quetta	-	-	216
19.	Enforcement Khuzdar	-	-	18
20.	Enforcement D. I. Khan	-	10	35
	Total	**552**	**174**	**2746**

Directorates of I&I-Customs			
Sr. No.	**Field Formation**	**Under Litigation**	**Total Lots Pending for Auction**
01.	Peshawar	1	47
02.	Multan	-	12
03.	Faisalabad	7	13
04.	Hyderabad	-	101
05.	Sukkur	-	116
06.	Quetta	-	354
07.	Karachi	-	65
08.	Lahore	-	162
09.	Gujranwala	-	35
10.	Rawalpindi	-	17
	Total	**8**	**922**

An abstract of the above data analysis indicates the following status:

	Collectorates	**Directorates**	**Total**
Awaiting Policy Decision	552	-	552
Under Litigation	174	08	182
Lots pending for auction/disposal	2746	922	3668
Total	**3472**	**930**	**4402**

The above data reveals that out of a total number of 4402 lots pending un-disposed of or pending in auction at this point in time and according to the reasons intimated by FBR, 552 lots are pending due to awaited policy decisions from FBR, while 182 lots are pending being under litigation at different legal/qusai judicial fora and in the remaining, satisfactory bids have not been received against the higher reserve prices which were not properly revised downwards against these lots, so much so that at certain Customs Collectorates/Directorates, the goods/vehicles have surprisingly been offered for auction 54 times but still not disposed of due to non-revision of their exorbitantly and unrealistically higher Reserve Prices. In addition to this alarming pendency in case of auctionable lots, other nonauctionable goods and cut & weld/tempered vehicles are also not being disposed of, leading to colossal loss to the State and the Federal exchequer as well as leading to clogging and congestion at the port areas and at the Customs State warehouses.

6. It is observed that for appropriate disposal of confiscated vehicles, Sr. No.07 of Chapter IV of CGO 12/2002 dated 15.06.2002 stipulates that:

> "It has also been decided that motor vehicles should be placed in public auction/sale etc. at least twice. In case the reserve price cannot be obtained in two successive auctions/sales etc., then the Deputy Collector/Assistant Collector concerned may propose to the Collector for reduction in reserve price. The Collector, if he deems fit, may reduce the reserve price keeping in view the previous bids received and the condition of the vehicle."

To revise downwards, the Reserve Price of good/vehicles undisposed of in auction. Rule 58(2A) of the Customs Rules, 2001, notified vide SRO 450(I)/2001 dated 18.06.2001 stipulates that:

> "(2A) Notwithstanding the mechanism contained in the proviso to sub-rule (2), where the Reserve Price is required to be further revised downwards, due to physical condition of the goods, the Reserve Price shall be determined by a committee constituted by the Collector and headed by an officer not below the rank of an Additional Collector, allowing extent of depreciation after taking into consideration, the physical condition of the goods."

Moreover, Para/Sr. Nos.34, 36 and 36A of CGO 12/2002 dated 15.06.2002 clearly provides a precise and comprehensive procedure for disposal of seized/confiscated goods, narcotic and other items seized by agencies and the Customs department.

7. It is also observed that the Economic Coordination Committee (ECC)'s decision in Case No.44/3/2006 dated 03.03.2006 materialized in the shape of CGO 05/2018 dated 24.05.2018 but in its eligibility criteria at para 2, the said CGO is silent about the disposal of confiscated ambulances/suitable vehicles with tampered chassis number to the registered philanthropic organizations registered as non-profit

organization in terms of section 2(36) of the Income Tax Ordinance, 2001. This matter needs to be revised by ECC and FBR by taking it up for necessary review modification by submitting it as per SOPs to the ECC for consideration.

Findings:

8. In view of supra, it is evident that non-application of the above mentioned provisions of Customs law and procedures is causing unnecessary delay in auction/disposal of confiscated goods/vehicles etc. This is because of sheer negligence and inefficiency on part of the Customs Deptt, FBR and is tantamount to maladministration under Section 2(3)(i)(a)&(ii) of the FTO Ordinance, 2000.

Recommendations:

9. FBR to direct:

(i) the Member Customs (Policy), FBR, to immediately decide the pending policy decisions leading to early disposal of 552 auctionable lots within 45 days;

(ii) the Member Customs (Ops) and Director General I&I-Customs, FBR to issue immediate directions to the Collectors/Directors concerned to completely eliminate the huge pendency of auctionable goods/vehicles and other goods ripe for disposal under the relevant provisions of law, within 60 days;

(iii) the Member Customs (Legal), FBR to take immediate steps within 30 days for fixation of early hearings leading to decisions in cases pending before different judicial and qusai judicial fora to expedite disposal of stuck-up confiscated goods at different Collectorates/Directorates; and

(iv) compliance be reported within 90 days.

(Dr. Asif Mahmood Jah)
(Hilal-i-Imtiaz) (Sitara-i-Imtiaz)
Federal Tax Ombudsman

Dated: 9:5:2024
MR

Approved for reporting