

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

0049/OM/2022

Dated: 16.05.2022* HQs Islamabad

The Secretary,
Revenue Division,
Islamabad

... Respondent

Dealing Officer	:	Dr. Arslan Subuctageen, Advisor
Appraising Officer	:	Dr. Sarfraz Ahmad Warraich, Advisor
Departmental Representative	:	Mr. Akmal Durrani, Dy. Director (Transit Trade), Quetta

FINDINGS

This is an Own Motion initiative, initiated through a copy of complaint/legal notice submitted before the FTO Office, stating therein that a new weigh bridge has been notified by the DG (Transit Trade), Karachi, with directions that weighment reports from the new weigh bridge viz Halting Station Chaman, only, would be acceptable to Customs authorities in exclusion of the existing two weigh stations viz Afghania handling and Chaman handling. Moreover, owner of new weigh bridge, Mr. Ali Muhammad, Halting Station, Chaman, has circulated said utilization information to all concerned clearing agents, further alleging that act of DG (Transit Trade), Karachi, is biased, arbitrary and discriminatory for giving undue benefit to Mr. Ali Muhammad of Halting Station, Chaman. A discriminatory treatment has been given to other two weigh bridges viz Afghania handling Chaman Quetta Road, Chaman and Chaman handling, Chaman Quetta Road, Chaman, owned by Haji Hayat Khan and Mr. Jalat Khan respectively, negatively impacting their legal business. The matter falls within the ambit of maladministration, under Section 2(3)(i)(b) of the FTO Ordinance, 2000.

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3. The OM was referred to Secretary, Revenue Division for comments, in terms of Section 10(4) of the FTO Ordinance, read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. In response thereto, Directorate of Transit Trade, Quetta, submitted parawise comments dated 13.06.2022, stating that NLC Terminal Operator at Chaman has been unable to provide space, infrastructure, weighbridge etc., required for processing of Afghanistan bound transit cargo, due to disruption caused by the ongoing Integrated Transit Trade Management System, (ITTMS) Project, therefore, Directorate is constrained to process such forward transit cargo under an adhoc arrangement, put in place vide office order dated 06.08.2020, at halting station Chaman. D.G Transit took up the issue of provision of adequate facilities at NLC Terminal Chaman vide letter dated 04.10.2021 with FBR. FBR requested DG, NLC, vide O.M dated 14.10.2021 but requisite facilities have yet not been provided. So far, halting station Chaman is the only option to process transit cargo. In order to improve customs controls at halting station, Operator, thereof, was required to improve facilities at the premises including provision of a proper weighbridge. 12 Corps HQs, Quetta authorized installation of weighbridge to the owner of the halting station on profit sharing basis and, accordingly, a proper weighbridge has been installed whereon customs supervision is easily possible being within the premises of the halting station. The Directorate has no connection, share or role, except weighment supervision, regarding newly installed weighbridge. Earlier weighment of transit cargo was being carried out at two privately owned weighbridges, located 7-8 km away from the halting station which made it impossible to supervise and, thus, compromised customs controls viz-a-viz accurate weighment of such cargo. Alleged grievance of Complainant has seemingly arisen out of fact

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that, now, single weighment of such cargo is being carried out at weighbridge, duly administrated by 12 Corps HQ of Pakistan Army, at the halting station Chaman. No instructions for double weighment have been issued as falsely claimed by Complainant. Thus, only raison d'être for new weighbridge is safety and integrity of transit cargo. Further stated that reasons, which necessitated a customs supervised weighbridge, inter-alia include (i) supervision and consequent implementation of customs controls on new weighbridge is far more easy and enhanced being in the premises of halting station (ii) weighbridge, being duly contracted by and, being property of 12 Corps HQ of Pakistan Army, is more credible and reliable as opposed to private weighbridges (iii) this arrangement is in line with the weighment of bilateral cargo (import/export) at Custom House, which too is carried out at another weighbridge, also owned by 12 Corps HQ, Quetta, installed in bilateral yard of Collectorate of Appraisalment, Quetta, to the exclusion of the two private weighbridges; (iv) all reverse transit cargo (originating from Afghanistan) is weighed at weighbridge of 12 Corps HQ installed in bilateral yard of the Collectorate of Appraisalment, Quetta (v) ownership of private weighbridges (the Complainants) is with traders/bonded carriers clearing agents which inherently creates a conflict of interest in weighment; (vi) weighment history of private weighbridges is manifestly dubious as evidenced by recent FIR dated 12.01.2022 (v) standard weighment practice, at Land border Customs Stations across the country, is customs regulated/supervised weighment. As per Ali Muhammad, owner of the halting station and operator/contractor of the weighbridge, sanctioned by the 12 Corps HQs, Quetta, weighment rates are charged strictly in consonance with the stipulations of the said Contract. Despite the fact that no discretion, discrimination or

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maladministration is evident in installation of a customs supervised weighbridge at halting station Chaman, still this Office examined the issue afresh and, without compromising on the risks entailed in private weighbridges and to provide level playing field for all, came up with the option of bringing private weighbridges under Customs regulations/supervision. Accordingly, private weighbridge owners have been invited to install/shift their weighbridges in transit trade halting station under Customs supervision. This should also address any perceived discrimination, alleged by the Complainants. No law/rule or regulations have been violated. So-called allegation of arbitrariness lacks any material basis. More so, after invitation to owners of the private weighbridges to install/shift their weighbridges in halting station Chaman, thereby, bringing them under customs controls, misconceived allegation of discrimination does not stand either. Complainant has no locus standi as endorsing unregulated private weighbridges will tantamount to compromising integrity of transit cargo thus no maladministration has been committed by transit station, Chaman by authorizing regulated weighment in line with recommendations of two Enquiry reports dated 29.12.2021 and 05.02.2022. The Deptt prayed that instant complaint may be dismissed in limine being devoid of any merit.

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4. During hearing, DR averred as per written submissions by Deptt. Available record was perused and examined in detail.

5. In view of the supra, it is evident that the Deptt has got weighment and examination yard established just next to the friendship gate at Chaman Border which is physically supervised by the Customs staff, in order to apprehend any possibility of fraud in weighment as well as replacement of goods etc. Foregoing in view, no maladministration, on part of the Deptt, stands

established. Therefore, the OM is disposed of with proposal to FBR to make immediate efforts for installing mobile scanner temporarily at halting station / Customs yard till the operationalization of ITTMS at Chaman, Quetta. File be consigned to record.

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

Dated: 26.7.2022
MR/ULF

Approved for reporting

Certified to be True Copy

Registrar
FTO Secretariat
Islamabad