

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

Complaint No.0212/LHR/ST/2022

Dated: 21.01.2022 * RO Lahore

Mr. Awwab Shujat Ali,

430-Karim Block, Allama Iqbal Town,
Lahore

... Complainant

Versus

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer	:	Dr. Sarfraz Ahmad Warraich, Advisor
Appraising Officer	:	Mrs. Sarwat Tahira Habib, Sr. Advisor
Complainant	:	Complainant in person
Departmental Representative	:	Nemo

FINDINGS/RECOMMENDATIONS

The Complaint was filed against Member Policy Inland Revenue, FBR Islamabad and M/s Toyota Ravi Motors, in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), for charging excess Federal Excise Duty from Complainant at the time of delivery of car, instead of actual rate of FED at the time of booking of car.

2. The Complaint 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, FBR, vide letter dated 17.03.2022, submitted parawise comments, stating therein that legislature in its wisdom had enhanced rate of FED on motor vehicles. New rate of Federal Excise Duty came into force on 15.01.2022. All provisional bookings/orders, by auto manufacturers, include certain clauses which provide for constructive notice to the prospective clients regarding possibility of

changed prices/taxes/other govt. levies. Auto market, unlike public transportation, generally caters to the middle and upper middle classes of the society. Any relief from enhanced rates of FED on vehicles, imposed by the Parliament in its wisdom, will result in loss to exchequer. It will be a benefit extended at the cost of lower-middle and poor sections of the society for whose welfare, the revenue so collected, can be utilized. As regards delay in delivery within 60-days of payment, same did not relate to FBR. Department prayed for rejection of Complaint.

3. Both AR and DR appeared and reiterated what had been submitted in Complaint and parawise comments respectively. DR stated that provisional booking order, issued to the Complainant by Toyota Ravi Motors, includes a declaration on behalf of the Complainant which reads as *"I hereby declare that I have also read and understood all terms and conditions contained on reverse side of this form (including without limitation, Clause iv relating to the payment as finally fixed at the time of delivery by the Company while taking into account any reason or circumstances it may regard relevant or applicable such as official levies, currency fluctuation etc.). I, hereby, declare that the partial payment terms have been read and fully understood by me and I will submit the remaining amount by 22.12.2021. I put my signature hereunder as an acknowledgement of acceptance of all conditions. *only applicable where the applicant has opted for the partial payment scheme"*. DR further stated that, as per Section 5(a) of the Sales Tax Act, 1990, if there was a change in rate of tax, a taxable supply, made by a registered person, shall be charged to tax at such rate as is in force at the time of supply. Regarding delay in delivery time beyond 60-days of payment, same does not pertain to FBR. On the contrary, Complainant stated that he suffered a lot of mental and financial

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hardship on account of extra financial burden due to delayed delivery, Toyota Ravi Motors, being responsible for the same. Complainant invited attention to Revenue Division's Notification SRO.837(I)/2021 dated 30.06.2021 whereby it has been notified, vide clause(ii)(xivb) of paragraph 2 of the Notification that importer-cum-assembler or OEM shall pay KIBOR plus 3% per annum to the customer against delayed delivery exceeding 60-days of initial booking on the whole of the deposited amount and that details of such reimbursement, at KIBOR plus 3% per annum against delayed delivery beyond 60-days, shall be submitted to EDB or IOCO bi-annually.

4. To proceed further in the matter, comments were called from M/s Toyota Ravi Motors, Toyota Dealers, Thokar Niaz Baig, Multan Road, Lahore, but it did not submit comments. However, representative from Toyota Ravi Motors attended hearing.

5. Arguments of AR heard and record of case also perused. It is evident that Car was provisionally booked on 08.11.2021 and to be delivered within 60-days of provisional booking with end date on 08.01.2022, much before new budgetary measure but was actually delivered on 02.02.2022, after a delay of 24-days. Complainant's invitation to attend to Revenue Division's Notification SRO.837(I)/2021 dated 30.06.2021 is relevant whereby it has been notified vide clause(ii)(xivb) of paragraph 2 of the Notification that the importer-cum-assembler or OEM shall pay KIBOR plus 3% per annum to the customer against delayed delivery exceeding 60-days of initial booking on the whole of the deposited amount. FBR needs to enforce aforementioned provision of SRO on M/s Toyota Ravi Motors to compensate the Complainant regarding delayed delivery.

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Findings:

6. Delay in delivery of car beyond 60-days of provisional booking, by M/s Toyota Ravi Motors, is to be compensated in pursuance of clause(ii)(xivb) of paragraph 2 of the Revenue Division's Notification SRO.837(I)/2021 dated 30.06.2021.

Recommendations:

7. FBR to direct:-

- (i) concerned Commissioner-IR to ensure compliance of clause(ii)(xivb) of paragraph 2 of the Revenue Division's Notification SRO.837(I)/2021 dated 30.06.2021 by M/s Toyota Ravi Motors to pay to Complainant KIBOR plus 3% per annum, for delayed delivery beyond 60-days;
- (ii) forward detailed statement being submitted to EDB or IOCO bi-annually reflecting details of compensation, being paid to affectees, who receive delivery beyond 60-days; and
- (ii) report compliance within 45 days.

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

Dated: 7:4 2022
K.A/gg

Approved for ~~release~~
Prem release and reporting

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Certified to be True Copy

8/22
Registrar
FTO Secretariat
Islamabad