

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

Complaint No.0469/LHR/ST/2022

Dated: 11.02.2022 * RO Lahore

Mr. Ihtisham Dastgeer,

House No.A3, Upper Canal Bank,
Harbasnpura More, Near Rahat Bakers,
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	: Mr. Naveed Ahmad, Addl-CIR, RTO Lahore

FINDINGS/RECOMMENDATIONS

The Complaint was filed against Chief Commissioner-IR, RTO Lahore and M/s Pak Suzuki Motor Company Limited, 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 25.02.2022, 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 Ali Jan Motors, includes a declaration on behalf of the Complainant which reads as "I hereby declare that I have read and understood all terms and conditions contained on reverse side of this provisional booking form and accept the same in total without any reservation and undertake to abide by the same and amendment thereby". 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 hardship on account of extra financial burden due to delayed delivery, Suzuki 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 Pak Suzuki Motor & Co. Ltd/Ali Jan Motors, the Authorized Dealer. M/s Pak Suzuki Motor & Co. Ltd did not submit comments. However, Ali Jan Motors submitted reply dated 16.03.2022, stating that Complainant's instigations, against it, are baseless and could not be indulged into any accusation of misappropriation of any amount or malfunction on its part.

5. Case was again fixed for 17.03.2022. No one appeared from M/s Pak Suzuki Motor & Co. Ltd and Ali Jan Motors, Authorized Dealer. However, Complainant attended hearing and submitted that as new rate of FED came into force on 15.01.2022, M/s Ali Jan Motors conveyed telephonically new rates to him in third week of January 2022 and in compliance thereof, he deposited differential amount on 03.02.2022. Car was provisionally booked on 16.09.2021 and to be delivered within 60-days of provisional booking, lastly on 17.11.2021, much before new budgetary measures but was actually delivered on 21.02.2022, after a delay of more than three months.

6. Arguments of AR/DR heard and written submissions of Ali Jan Motors also perused. It is evident that Car was provisionally booked on 16.09.2021 and to be delivered within 60-days of provisional booking with end date on 17.11.2021, much before new budgetary measure but was actually delivered on 21.02.2022, after a delay of more than three months. 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 Pak Suzuki Motor & Co. Ltd, Karachi/Ali Jan Motors, Lahore to compensate the Complainant regarding delayed delivery.

Findings:

7. Delay in delivery of car beyond 60-days of provisional booking, by M/s Pak Suzuki Motor & Co. Ltd and its dealer, Ali Jan Motors, Lahore 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:

8. 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 Pak Suzuki Motor & Co. Ltd, Karachi/Ali Jan Motors, Lahore 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 effectees, 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 press release
and reporting

Certified to be True Copy
8/2/22
Registrar
FTO Secretariat
Islamabad