THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

REVIEW PETITION
Dated:19.11.2025*R.O.Lahore

IN

COMPLAINT NO.17285/LHR/CUST/2025

The Secretary,
Revenue Division,
Islamabad ...Petitioner

Versus

M/s Fabric Stone,
21/1, Quaid-e-Azam Industrial Estate, ...Respondent
Kot Lakhpat, Lahore.

Dealing Officer	:	Ms. Samaira Nazir Siddiqui, Advisor
Appraising Officer	:	Dr. Arslan Subuctageen, Advisor
Authorized Representative	:	Barrister Waqas Tarar, Advocate
Departmental Representative	:	Mr. Omer Shafiq, Collector Customs (West)

Federal Tax Ombudsman Secretariat HQs FTO Islamabad

ORDER-IN-REVIEW

This Review Petition was filed by the Deptt, in terms of Section 14(8) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), read with Section 13(1) of the Federal Tax Ombudsmen Institutional Reforms Act, 2013, against the following Recommendations issued by this office on 21.10.2025:

> "6. FBR to:
>
> (i) direct the Collector, Collectorate of Customs Appraisement-West, Lahore to reassess the goods pursuant to the Collector of Customs (Appeals) order dated 04.07.2025, which is in the field, and refund the amount, if any, consequent to the implementation of the Collector of Customs (Appeals) order ibid, to the complainant within 30 days; and
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> (ii) report compliance within 45 days."

2. The Collectorate of Customs Appraisement (West) Dryport Lahore filed Review Application dated 19.11.2025 on the grounds that the impugned Findings/Recommendations were rendered without lawful jurisdiction, as the subject matter of the complaint exactly relates to

*Date of registration in FTO Sectt.

classification and valuation of goods and was already subjudice before the Customs Appellate Tribunal (CAT). In light of the express bars contained in Sections 9(2)(a) and 9(2)(b) of the Federal Tax Ombudsman Ordinance, 2000, the complaint was not maintainable before this office. It is, therefore, prayed that the Findings/Recommendations dated 21.10.2025 be reviewed, recalled and set aside, and the complainant be directed to pursue the available statutory remedy before the CAT, where the matter is presently pending adjudication.

3. Petitioner's objections with reference to Sections 9(2)(a) and 9(2)(b) of the Federal Tax Ombudsman Ordinance, 2000 are misconceived because;

I. FTO's original Recommendations issued vide communication dated 21.10.2025, were framed after assuming rightful jurisdiction under FTO Ordinance, 2000. In case the petitioner department felt aggrieved on this point it could have filed the representation instead of filing Review with the same office. Filing of review itself negates departmental objection.

ii. At the time of filing of original Complaint the case was not subjudice anywhere.

II. FTO's earlier intervention in the instant case doesn't transcends its mandate rather it mainly revolves around incidence of maladministration in terms of sections 2(3) of FTO Ordinance, 2000.

In view of above objections with reference to petitioner's preliminary objections are over ruled.

4. The Review Petition was referred to M/s Fabric Stone for their response. In reply, M/s Fabric Stone, vide letter dated 05.01.2026, contended that the allegations leveled by the petitioner are misconceived and devoid of legal merit. They further stated that an appeal was filed before the Collector (Appeals) on 01.07.2025, which was decided on 04.07.2025 with the direction that "the impugned goods be reassessed in

terms of VR No. 1788/2023 dated 19.06.2023 for determination of the actually payable duty and taxes on the basis of the correct value." *It is observed that the complaint was rightly entertained by this Hon'ble Office under the relevant provisions of the Federal Tax Ombudsman Ordinance, 2000, as no appeal was pending before any competent forum at the relevant time and the Order-in-Appeal passed by the Collector (Appeals) was operative and binding upon the Department. However, in disregard of the said appellate order as well as the existing laboratory reports at rate of USS 3.75/Kg dated 01.12.2023, the Collectorate proceeded to conduct another laboratory examination report at rate of USS 3/Kg dated 19.06.2023, a course of action not envisaged under any provision of the Customs laws and in clear violation of the prescribed rules and procedures, purportedly under the guise of "due diligence."* Such actions, coupled with the obtaining of affidavits and encashment of pay orders despite the subsisting appellate order, amount to maladministration and have resulted in undue loss, harassment, and hardship to the complainant.

5. The Review Petition was fixed for hearing on 13.01.2026 & 14.01.2026. The Petitioner and DR (Collector) attended the hearing and reiterated what had been mentioned in their earlier written submissions.

6. Arguments of both sides heard and record perused. It is observed that the contents of Review Petition were also part of the original complaint and have already been examined at the original investigation stage. During hearing on 13.01.2026 and 14.01.2026, a period of ten (10) days was granted to the concerned Collector for resolution of the issue. In the meanwhile, the Collector Collectorate of Customs Appraisement (West), Lahore submitted vide letter No.118 dated 22.01.2026 that stay order has been granted by the CAT, Lahore in Appeal No. C.A. No. 763/2025 against Order-in-Appeal No. 120/2025 dated 04.07.2025, whereby the operation of the impugned order referred above has been suspended by the Tribunal. Accordingly, the matter is presently sub-judice before a competent legal forum.

7. **Findings:**

I. The conduct of the Deptt during whole proceedings before this forum leaves glaring impression regarding the dismal and vindictive attitude adopted by the Deptt in the case of M/S Fabric Stone, as evident from the following;

a. Despite having a favorable decision of Collector (Appeals) the respondent claims that he was compelled to submit affidavit/undertaking linked with a referral to lab which was completely an extra-legal action in the face of Order-in-Appeal, dated 4th July, 2025. No provision of Custom Act, 1969 allows such a step after adjudication.

b. Collector (Appeals) order dated 4th July, 2025 was rendered meaningless. While appellate order was still in field, fresh proceedings in the nature of reassessment were initiated, by obtaining affidavit, referring the matter to lab, and above all by encashment of said pay orders. Thus, a lower tax authority acted in defiance of a higher appellate body. This act constitutes violation of the sanctity and hierarchy of adjudication.

c. Encashment of Pay orders is patently illegal act as it amounts to recovery of an annulled amount without backing of legal order of a higher appellate authority. Moreover, encashment of Pay orders by the Collectorate, merely on the basis of fresh lab report suggests that a private lab report obtained in a questionable manner supersedes the legally empowered FBR's adjudication hierarchy.

d. Notwithstanding the merits of belated stay granted by CAT, at the most it is prospective and not retrospective. It neither conclusively adjudicates the issues involved nor it condones the illegalities committed by the concerned Collectorate prior to 22nd January, 2026. Temporary injunction is meant for status quo i.e. departmental assessment and appellate adjudication both are held in abeyance till the given date. It doesn't validate post collector appeal illegal acts of Collectorate in question.

II. Departmental conduct in the instant case reflects blatant disrespect and defiance to the jurisdictional authority of this forum. FTO Office vide its Findings/Recommendations **dated 21.10.2025** had made the following recommendations for implementation within **45 days:**

"FBR to

(i) direct the Collector, collectorate of customs Appraisement-West, Lahore to reassess the goods pursuant to the Collector of Customs (Appeals) order dated 04.7.2025, which is in the field, and refund the amount, if any, consequent to the implementation of the Collector of Customs (Appeals) order ibid, to the Complainant within 30 days."

The department neither challenged the said findings/recommendations at Presidency nor implemented the same within given timelines. However, contrary to the above, the Deptt preferred a Review Petition dated 19.11.2025 before this forum on the same grounds which had been already adjudicated by this forum. Prima facie, circumstances of the case suggest that the instant review has been filed only to shield the illegalities and highhandedness, committed by the department after the decision of Collector (Appeals) dated 4th July, 2025 and this forum's findings dated 21st October, 2025.

III. The instant Review has not been filed with clean hands because;

Rule 1 of Order 47 of CPC (which deals with the application for review) states that -

(1) Any person **considering himself aggrieved**—

(a) by a decree or order from which an appeal is allowed, but from which **no appeal has been preferred--------may apply for a review of judgment to the Court which passed the decree or made the order.**

From the above inference can be drawn that the petitioner Collectorate on one hand filed 2nd appeal at CAT and simultaneously filed the instant review only to gain time so as to delay the implementation of FTO's findings/recommendations dated 21st October, 2025. Thus, in order to thwart the implementation of Collector (Appeals) order dated 4th July, 2025, department has invoked double remedies simultaneously. Secondly at the time of filing of instant review there was no stay in field but in order to frustrate FTO's directions for implementation, conveyed during hearings on 13th and 14th January, 2025, the department secured stay on 22nd January, 2026. Such tricks by government functionaries have been condemned and struck by IHC in W.P. 2622/2022 Tax & Banking (SB) *MS LNG Pakistan Limited VS FOP etc.*

IV. Without prejudice to the Deptt inherent right to file Appeal before the next higher authority (which is CAT, Lahore in this case), it is a settled principle in light of Section 29(b) of the FTO Ordinance, 2000 that no court or authority shall have jurisdiction to grant an injunction or stay or to make any interim order in relation to any proceedings before this forum. The Section 29(b) of the Ordinance ibid is reproduced as under:

> "**29. Bar of jurisdiction.-** No court or other authority shall have jurisdiction to-
>
> (b) grant an injunction or stay or to make any interim order in relation to any proceedings before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Federal Tax Ombudsman."

In light of the above mentioned provision of law, the stay granted by the CAT in the subject case is not in consonance with Section 29(b) of the Ordinance ibid. Prima facie it appears that the Deptt while contesting their case for stay before CAT intentionally and with malafide intent concealed this fact before CAT that the Deptt has filed a Review Petition before this forum and the same is under process on the date i.e. 21.01.2026 when the case was heard by CAT. Had the Deptt brought this fact into the notice of the CAT, the directions of the Tribunal would obviously have been different.

In view of foregoing facts, record and discussions the conduct of the Deptt squarely falls under maladministration in terms of Section 2(3)(i)(a) i.e. ***"is contrary to law, rules or regulations or is a departure from established practice or procedure," (b) "is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory;" & (vi) "coercive methods of tax recovery in cases where default in payment of tax or duty is not apparent from record",*** of the FTO Ordinance, 2000.

Recommendations:

8. Chairman FBR to thoroughly investigate the conduct of the concerned officers of the Customs Deptt in the subject case in light of the discussion made in para 7 above and accordingly proceed, as per law in light of the findings of this investigation and **report compliance within 60 days.**

9. Notwithstanding the above, this forum reserves the right to invoke section 11 (4) of FTO Ordinance, 2000, which reads;

"If, after conducting an investigation, it appears to the Federal Tax Ombudsman that an injustice has been caused to the person aggrieved in consequence of maladministration and that the injustice has not been or will not be remedied, he may, if he thinks fit, lay a special report on the case before the President."

10. Registrar, FTO Secretariat to share the findings in this case with the Chairman, Customs Appellate Tribunal.

(M. Zafar ul Haq Hijazi)
Federal Tax Ombudsman

Dated: 02 FEB 2026

Approved for reporting