

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

Complaint No.1815/ABD/CUST/2022

Dated: 13.05.2022*R.O.Abbottabad

Mr. Muhammad Hammad Baseer,
Mehrvi Street Near Shaheen Chemist,
Last House Mandian, District, Abbottabad. ... Complainant

V e r s u s

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

Dealing Officer	:	Mr. Ziauddin Wazir, Advisor
Appraising Officer	:	Mrs. Sarwat Tahira Habib, Sr. Advisor
Authorized Representative	:	None
Departmental Representative	:	Ms. Saima Rahim, Assistant Collector, Islamabad.

FINDINGS/RECOMMENDATIONS

The complaint is filed under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) against Collectorate of Customs, Islamabad for not allowing release of gift parcel without duty & taxes.

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2. Briefly, the facts of the case are that a gift parcel was sent from UK to complainant by his cousin containing Chocolates & Watch worth 500 GBP. Complainant requested to exempt the goods from payment of duty & taxes or return the goods back to UK.

3. The complaint was referred to the 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, Collectorate of Customs, Islamabad

* Date of registration in FTO Secretariat

forwarded parawise comments vide letter No. 3567 dated 26.05.2022 which are placed on record.

4. The complainant despite written notices and telephonic messages did not attend the hearing. Ms Saima Rehim, AC, Customs (DR) attended the hearing and reiterated the written reply dated 26.05.2022. She informed that complainant was requested to file Goods Declaration (GD) to process his case for clearance of goods on payment of duty & taxes. The complainant despite repeated request did not turn up. The breakdown of duty & taxes indicated in para 2 of Collectorates reply dated 26.05.2022. The complainant did not respond. As regard complainant request to exempt the goods i.e Chocolates & Watch, the Federal Government is empowered to grant exemption under Section 19 of Customs Act, 1969. Regarding complainant's request to return parcel back to UK, the complainant has to file GD to examine his request under Section 138 of Customs Act, 1969 which is reproduced below:


 "138. Frustrated cargo how dealt with. (1) where any goods are brought into a customs-station by reason of inadvertence, misdirection or untraceability of the consignee, [an officer of Customs not below the rank of Additional Collector of Customs] may on application by the person-in-charge of the conveyance which brought such goods or of the consignor of such goods and subject to rules, allow export of such goods without payment of any duties (whether of import or export) chargeable thereon, provided that such goods have remained and are exported under the custody of an officer of customs".

FINDINGS:-

5. Complainant did not attend hearing despite repeated contacts. Department's written as well as verbal submission examined, it is found that the complainant did not show his interest to get the gift parcel released on payment of such high duty & taxes and requested for

exemption of Customs duty & taxes, which is the power by Federal Government under Section 19 of Custom Act, 1969. As regard request to return back the gift parcel, the Collector has quoted Section 138 of Customs Act, 1969 (frustrated Cargo how dealt with), which speaks of goods brought into Customs station by reason of inadvertence, misdirection or untraceability of consignee. It has been further noticed that under current legislative dispensation, in terms of Section 19C of the Customs Act, 1969, no duties and taxes shall be demanded, in case of imported goods, upto five thousand rupees. The section is reproduced as under:-

“[19C. Minimal duties not to be demanded.—Where the value of imported goods does not exceed five thousand rupees, no duties and taxes shall be demanded, subject to conditions and restrictions as may be prescribed by the Board under the rules.]”

 In case of goods imported through postal service and air courier, the above exemption has been extended through Chapter xxxiv (De Minimis Rules for Imported Goods) of Customs Rules, 2001 issued vide S.R.O 450(I)/2001 dated 18.06.2001. Rule 787 of the rules ibid reads as:-

787. The postal or courier authorities shall not file goods declaration or demand payment of duty and taxes for goods with value upto five thousand rupees.

6. It is evident from the above-mentioned provisions of law that intention of the legislature as well as that of FBR is to safeguard collection of legitimate government revenue in shape of leviable duty/taxes. However, the current scenario in the case under discussion is related to a small gift sent to the complainant by a cousin residing abroad and, accordingly, deserves a different and more compassionate treatment by FBR as these small gifts, by no means, can be termed as

commercial import. Reportedly, a large number of similar consignments are stuck at various Customs stations across the country.

There is a French proverb: "***small gifts maintain friendship, big ones maintain love***". Therefore, FBR needs to facilitate, atleast, the agents and means of friendship, especially, in the case of overseas Pakistanis and their close relatives residing in the country.

RECOMMENDATIONS:

7. In view of the above, FBR is to:

(i) direct Collector, Collectorate of Customs, Islamabad to re-examine the case of complainant compassionately keeping in view the nature of goods being a small value gift on one hand and significant emotional value, associated with the goods under reference, on the other hand and decide the matter within 15 days.

(ii) develop a more facilitative approach towards such small value gift transactions and device proper rules in this regard with more rational and facilitative duties and taxes exemption threshold, duly taking into account the current inflation trends and prevalent currency exchange rates. Compliance in this regard is to be reported within 90 days.

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

Dated: 04-07-2022

Tariq Jan/gq/AQ

Approved for reporting