

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

Complaint No.1874/KHI/CUST/2022

Dated: 17.05 .2022 R.O. Karachi

M/s Sheikh Yaseen,
House No. B-479, Sector A-11,
North Karachi. ... Complainant

V e r s u s

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

Dealing Officer	:	Syed Tahir Raza Zaidi, Advisor
Appraising Officer	:	Mrs. Sarwat Tahira Habib, Sr. Advisor
Authorized Representative	:	Mr. S. Hammad Raza (Adv),
Departmental Representative	:	Mr. Mahmood Khattak (DR),

FINDINGS / RECOMMENDATIONS

The above complaint has been filed by M/s. Sheikh Yaseen of Hassan Trading Company against Chief Collector of Customs (Enforcement) South, Karachi in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance 2000 (FTO Ordinance) on account of non-compliance of orders by the Custom Appellate Tribunal and Hon'ble High Court of Sindh.

2. Briefly a contravention case was made out on account of mis-declaration of origin of goods namely "White Sprit" as of Iraqi origin instead of Iranian Origin against the shipping agent resulting in out right confiscation of goods and imposition of penalties. The owner of the goods was neither associated nor any show cause notice was issued to them and order-in-original NO. 01/2021-22 dated 13-09-2021 was passed. The complainant preferred an appeal against the said order before Customs Appellate Tribunal, Karachi vide Customs Appeals No. K-7548/2021 which was decided by the learned Tribunal vide order dated 21-12-2021 after thread bare examination of the case record. The Learned Tribunal ordered that "the impugned goods are released un-conditionally to the appellant, on payment

* Date of Registration in FTO Sectt.

of leviable duty taxes". And "the Customs Authorities are directed to get the demurrage waived off on account of goods being stalled at the Port."

3. The department filed C.P. No. 1367/2022 before the Hon'ble High Court of Sindh challenging the order dated 21/12/2021 passed by the learned CAT which was dismissed by the Hon'ble High Court vide order dated 28-04-2022 in following terms;

"Hence, in view of the above referred uncontroverted facts, we have find the action of the department to be not in accordance with law. We therefore, answer the question raised in the instant SCARs in negative i.e. against the department and in favour of the Respondents. The customs authorities are directed to comply with the judgment of the Tribunal in letter and spirit. Instant petitions also stands disposed of."

4 The Department vide para wise comments has stated that they are in the process of filing appeal before the Hon'ble Supreme Court of Pakistan for which necessary permission has been accorded by the Federal Board of Revenue; However presently the case is not subjudice before the Hon'ble Supreme Court of Pakistan.

FINDINGS:-

5. In view of the fore-going it is evident that the Department case could not find favour from two independent judicial forums i.e. Hon'ble High Court and CAT and in absence of any stay order the order by High Court is due for implementation by the Department forthwith. The complainant is willing to pay leviable duty and taxes and wants to clear the goods stuck up at port since long.

6. In view of the above back drop and merits of the case the following is recommended:


RECOMMENDATIONS:-

7. FBR to direct;

- (i) The Collector concerned to urgently approach Hon'able Supreme Court of Pakistan for grant of stay in the subject case. However, in case no stay is granted by Hon'ble Supreme Court of Pakistan within 30 days, implement the

order of CAT, Karachi dated 21.12.2021 duly upheld by Hon'ble High Court of Sindh.

- (ii) Report compliance in 45 days.


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

Dated: 15-07-2022
PK/gq/J.S

Approved for reporting