

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

Complaint No.1979/ISB/ST/2022

Dated: 24.05.2022* HQs Islamabad

Mr. Usman,
Credit Manager,
The Bank of Khyber, Bank Road,
Daska Branch, Sialkot

... Complainant

Versus


The Secretary,
Revenue Division,
Islamabad

... Respondent

Dealing Officer : Dr. Arslan Subuctageen, Advisor
Appraising Officer : Dr. Sarfraz Ahmad Warraich, Advisor
Authorized Representative : None
Departmental Representatives : i. Mr. Sabir Jamal, Secretary Customs (Tariff)
ii. Mr. Adnan Javed, DM Corporate Affairs,
Indus Motors Company, Karachi.
iii. Mian Mohsin Iqbal, Advocate for M/s Toyota
Sialkot Motors

FINDINGS/RECOMMENDATIONS

The Complaint was filed, in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), for delay in delivery of vehicle beyond 60 days.

 2. Briefly, Complainant stated that he booked one vehicle, Toyota Yaris 1.5L, on initial payment of Rs.01 million, from M/s Toyota Sialkot City Motors, on 09.02.2022. After few days, on 21.02.2022, another amount of Rs.2,664,000/- was deposited with the company. In response to full payment, provisional booking order dated 18.02.2022, was issued wherein tentative delivery month was mentioned as April, 2022. However, vehicle was delivered on 16.05.2022, after regular and rigid follow-up with M/s Toyota Sialkot Motors. Complainant prayed that, as per clause (ii)(xivb) of para 2 of SRO 837(I)/2021 dated 30.06.2021, importer-cum-

*Date of registration in FTO Sectt.

assembler or OEM had to pay KIBOR plus 3 percent per annum to the customer against late delivery exceeding 60 days of initial booking on the whole of the deposited amount. Statement/details of reimbursement @ KIBOR + 3% against deliveries beyond 60 days shall be submitted to EDB or IOCO bi-annually. Complainant prayed that his legitimate right regarding compensation on account of late delivery with respect to KIBOR +3% be protected as the vehicle has been delivered with a delay of 81 days from the date of full payment i.e. 23.02.2022.

3. The Complaint was referred to Secretary, Revenue Division, Islamabad, 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, Secretary (Tar-III), FBR, Islamabad submitted comments, vide letter dated 09.06.2022, stating therein that according to clause (xivb) of SRO 656(I)/2006 dated 22.06.2006, the Complainant was ought to approach the designated authority i.e. EDB or IOCO for redressal of his grievance. As per SRO 656(I)/2006 dated 22.06.2006, amended vide SRO 837(I)/2021 dated 30.06.2021, importer-cum-assembler or OEM shall pay KIBOR +3 percent per annum to the customer against late delivery exceeding 60 days of initial booking, on whole of deposited amount. Statement regarding details of reimbursement @ KIBOR + 3% against delivery beyond 60 days shall be submitted to EDB or IOCO.

4. During hearing, ARs from M/s Indus Motor Company and Toyota Sialkot Motors and DR appeared and reiterated their written submissions. DR stated that benefit of SRO 656(I)/2006 dated 22.06.2006 read with the amendment SRO 837(I)/2021 dated 30.06.2021, shall be subject to fulfillment of the conditions given in para-2 of SRO 656(I)/2006. The condition, in para 2, clause (xivb) was introduced in the light of amendments, made in Auto Industry

Development & Exports Policy (AIDEP) 2021-26. This policy is issued by the Ministry of Industries and Production which FBR regulates/implements through SRO 837(I)/2021 dated 30.06.2021. The condition 2(xivb) is as under:

“importer-cum-assembler or OEM shall pay KIBOR + 3 percent per annum to the customer against late delivery exceeding 60 days of initial booking to the whole of the deposited amount, statement/details of reimbursement @ KIBOR + 3% against delivery beyond 60 days shall be submitted to EDB or IOCO bi annually.”

5. AR of M/s Indus Motor Company stated that Complainant booked Toyota Yaris through M/s Toyota Sialkot City Motors upon payment of partial amount of Rs.1,000,000 after which the PBO dated 18.02.2022 was issued in favour of the Complainant with tentative delivery month of April, 2022. The company has already dispatched Cheque No.143597948 dated 15.06.2022, to the Complainant as mark-applicable. Therefore, the complaint be disposed of accordingly.

Findings:

6. Evidently, the provisional booking was made on 18.02.2022 and an amount of Rs.01 million was paid by the Complainant on 08.02.2022 while another amount of Rs.2,664,000/- was paid on 23.02.2022 (total amount paid is Rs.3,664,000/-). Vehicle was delivered to Complainant on 16.05.2022. The company has provided a copy of Cheque No.143597948 dated 15.06.2022 for Rs.9,275/- paid as compensation on KIBOR +3% against the partial payment of Rs.01 million while remaining compensation against paid amount of Rs.2.664 million has not been paid, thus, leading to the non-compliance of the mandatory condition of clause (xivb) of para 2 of SRO 837(I)/2021 dated 30.06.2021, amending Customs Notification SRO 656(I)2006 dated 22.06.2006 for which M/s Indus Motors Company stands responsible.

P

Recommendations:

7. FBR to direct:-

- (i) Chief Customs (Tariff & Trade), FBR, to direct M/s Indus Motor Company, Karachi, to pay to the Complainant, compensation of KIBOR +3 per annum on whole of the deposited amount of Rs.3.664 million in line with the para 2, Clause (xiv b) of SRO 656(I)/2006 dated 22.06.2006 within a period of 45 days and submit statement details to EDB or IOCO, as per law;
- (ii) Member Customs (Ops) to issue directions to all Customs field formations to withdraw the facility given in Table I & II of special exemptions/concessional rate of Customs duty at import stage provided vide para 1 of SRO 656(I)/2006 in case the due amount of KIBOR +3 percent is not paid to the Complaint by M/S Indus Motor Company, Karachi within the given time frame and as per law; and
- (iii) report compliance within 60 days.


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

Dated: 27.7.2022
MR/KA

Approved for reporting