THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

Complaint No.2296/SGD/CUST/2024
Dated: 28.03.2024* HQs Islamabad

Mr. Jamshed Zaree,
H. 24, St. 24, Block Z,
New Satellite Town,
Sargodha. ... Complainant

Versus

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

Dealing Officer	:	Dr. Arslan Subuctageen, Advisor
Appraising Officer	:	Mr. Muhammad Nazim Saleem, Advisor
Authorized Representatives	:	Complainant in person Mr. Akbar Ali, Complainant's Cousin
Departmental Representatives	:	Ms. Mehreen Tahir, DC Customs Mr. Osama Dastageer, AC Customs

FINDINGS/RECOMMENDATIONS

The Complaint was filed in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance), against Collectorate of Customs, Islamabad, for release of vehicle.

2. Briefly, the Complainant stated in his complaint that on 19.07.2023, the Complainant came to Pakistan from Germany on his Jeep WK JLJCF Grand Cherokee, bearing registration No.OL-786, Model 2011 along with FENDT Caravan SDAH Wohnvagen, bearing Registration No.WSTL-184, Model-2002. When he entered Pakistan through Taftan Border, The Officials of Frontier Constabulary, Balochistan, handed him over to Customs Authorities after checking of documents. Where the Customs authorities stopped the Complainant for three days, after which Mr. Muhammad Tahir and Attique Manzoor of Customs Deptt demanded Rs.40,000/- as bribe money. On refusal to given the said bribe, they harassed him and handed him over to the

*Date of registration in FTO Sectt.

Customs Deptt, Quetta. Where, Inspector Muhammad Arshad Zubair and Inspector Moosa of Customs Deptt, demanded Rs.5 lacs as bribe money and illegally detained the vehicle for six months on demand of Carnet De-Passage, the Complainant informed them that he has brought the subject vehicle for his personal use and he is not to go back. Inspector Arshad Zubair has taken Complainant's passport and Vehicle's documents. During this period, Mr. Muhammad Ahmad, offered me to take Rs.25 million for the said vehicle and then he will be responsible for its clearance, which was refused by the Complainant. Thereafter, the Complainant was handed over to Collectorate of Customs, Islamabad, with Sepoy Abdullah of the Customs Deptt, Quetta. During all this, many items and parts were stolen from the vehicle. Collectorate of Customs, Islamabad, confiscated the vehicle and Inspector Ali Raza stated that the vehicle will be handed over to the Complainant. The Complainant slept in his vehicle for ten days. After that, the Customs Deptt referred the Complainant to the AC Customs Mr. Jalal, who informed the Complainant that a challan has been issued and he may visit the Collector of Customs, he found that his vehicle was missing. The Complainant requested that the directions be issued to the Deptt for an inquiry be conducted and the vehicle be released to him.

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, Collector, Collectorate of Customs, Islamabad, submitted comments, vide letter dated 08.04.2024, stating therein that the possessor of the vehicle i.e. Mr. Jamshed Zaree has failed to provide any valid legal documents i.e. Carnet De-Passage or any other temporary importation documents or

import document to show its legal entry into Pakistan on payment of duty/taxes etc. Findings reasons to believe that the said vehicle has entered into Pakistan without any legal process. The same was detained under Section 17 of the Customs Act, 1969, for further verification. The Complainant was afforded due opportunity to produce any import/clearance documents of the vehicle to establish lawful entry of the vehicle into Pakistan but he has failed to produce the same. The Complainant did not fall within the definition of tourist as per Rule 76(c) of Temporary Importation of Motor Vehicles under Chapter-VI of Customs Rules, 2001. Therefore, the said vehicles were seized under Section 168 of the Customs Act, 1969. The Collector (Adjudication), Islamabad, vide Order-in-Original dated 18.03.2024, has outrightly confiscated the subject vehicle. Furthermore, instead of approaching the next legal forum i.e. Hon'ble Customs Appellate Tribunal (CAT), the Complainant has lodged a complaint before the FTO Office, which is against the facts. Therefore, the same may be dismissed.

4. During hearing, the Complainant along with AR and the DR appeared and reiterated their written submissions.

5. The complaint has been examined threadbare and it is observed that Mr. Jamshed Zaree, CNIC No.91104-0107832-3, along with Grand Cherokee Jeep, Chassis No.1J4RR5GM5BC689872, Black Colour and Fendt Caravan Sdah Wahnvagen, Chassis No.WFC1510GT21106052, entered into Pakistan on 19.07.2023 at the Collectorate of Customs (Appraisement), Taftan through Pak-Iran Border without any knowledge of Carnet De-Passage Rules or the import duty payment mechanism being illiterate, who after staying in Germany for about 26 years returned back to Pakistan. He was kept at Taftan for 03 days and then the Complainant along with his vehicles was sent to NLC Dryport, Quetta, for further Customs formalities

instead of explaining him the possible mechanism of either applying for carnet for 3 months stay in Pakistan as tourist or about re-export of vehicle back to Germany under Section 138 of Customs Act, 1969 on grounds of being imported inadvertently. Strangely enough, the NLC Dryport, Quetta, further kept the vehicle in its custody from July, 2023 till November, 2023 without any detention notice or seizure etc. and then in a mind-boggling manner, sent the vehicle under escort to Islamabad Dryport on 26.11.2023 for further exporting the same to Germany. It remains an unlawful mystery as to why the Customs NLC dryport Quetta or Taftan Customs did not re-export the vehicle while the poor Complainant kept on telling Customs staff that he has no money to pay the duty/taxes. There is simply no likelihood that he wanted to smuggle this vehicle and the caravan into Pakistan as he entered the Taftan Customs Station through the lawful boarder crossing and declared the vehicle and caravan on arrival and explained his status but instead of facilitating this Pakistani national and proceeding in the matter as per law, the vehicle was kept at NLC Dryport, Quetta, for more than 04 months during which the possibility of issuance of Carnet De-Passage under Rule 76-C of Chapter-VI of the Customs Rules, 2001, pertaining to temporary importation of vehicles issued vide SRO 450(I)/2001 dated 18.06.2021 got expired and then without any rational or logic, the vehicle was sent under escort, vide letter dated 26.11.2023, to Dryport Islamabad. During whole of this period and till now, the vehicles, its registration documents and passport of the Complainant were kept with the Customs Deptt and the poor Complainant being penny less kept on sleeping in his vehicle expecting some favourable response from the Customs Deptt. On arrival at Islamabad Dryport, the Deptt issued two detention memos dated 08.11.2023 for the vehicle and the caravan and on non-production of lawful import documents, seized the vehicle under Section 168 of the Customs, 1969 and sent the seizure report for adjudication. Adjudicating authority after issuing Show Cause Notice (SCN), heard the case, made an ex-parte decision and confiscated the vehicle outrightly, vide O-in-O No.Cus/Coll/Adj/65/2024/359 dated 18.03.2024, however, the Adjudicating Authority in para 11 of the order raised valid questions about inefficiency, malpractice and gross maladministration of Customs Deptt at Collectorate of Customs (Appraisement), Quetta and Collectorate of Customs (Appraisement), Taftan, with observation that this matter needs investigations as per law for taking necessary disciplinary proceedings against the culprits responsible for this mismanagement and maladministration. The Collector (Adjudication) wrote in para 11 of the subject O-in-O that:

> "11. It is proposed that the FSL of the seized-vehicle be conducted before auction. It is further directed that to investigate that how seized-vehicle was brought into Pakistan via Taftan without valid import documents i.e. Bill of entry/carnet de passage and why the vehicle was not seized at Taftan Border by the concerned Customs authorities posted at Taftan Border. The vehicle was also not seized by the Collectorate of Customs (Appraisement), Quetta and why it was sent to Islamabad Dryport, Collectorate of Customs, Islamabad. Matters need to be investigated as per law for taking disciplinary proceedings against the culprits, if warranted by Collectorate of Customs, Islamabad and Quetta."

Findings:

6. In view of supra, it is evident that the vehicle was brought into Pakistan inadvertently but the Customs staff at Taftan and Quetta Collectorates mishandled the instant matter, which establishes unreasonable, unjust and biased approach towards the Complainant as well as neglect, inattention, incompetence, inefficiency and ineptitude in discharge of their duties and responsibilities by the Customs authorities of the Collectorate of Customs (Appraisement), Taftan and the officials of the Collectorate of Customs (Appraisement), Quetta and is tantamount to maladministration in terms of Section 2(3)(i)(b) & (ii) of the FTO Ordinance, 2000.

RECOMMENDATIONS:

7. FBR to direct:

(i) Member (Legal & Accounting) Customs, FBR, Islamabad, to re-open the case under Section 195 of the Customs Act, 1969 and reinvestigate the whole matter, after providing an opportunity of being heard to the Complainant, issue a fresh speaking order keeping in view the citation of Sindh High Court, Karachi in a similar case in CP No.D-6544/2020 and SCRA 693 of 2019 by providing the opportunity of re-export of his vehicle and caravan to the Complainant within 30 days, as per law;

(ii) the Chief Collector, Collectorate of Customs, Quetta, to initiate Dept'l enquires in this matter against the officials of the Collectorates of Customs (Appraisement) Taftan and (Appraisement) Quetta, on the charges raised by the Complainant and the Collector (Adjudication), Islamabad, and as communicated to FBR by Collector of Customs, Islamabad, for initiating necessary disciplinary proceedings under E&D Rules, 2020, against those officers/officials found responsible for this maladministration, as per law;

(iii) Collector of Customs, Islamabad, to return the Complainant's Passport No.CP5998322 back to him immediately and not to dispose the said vehicles in auction until the fresh order under Section 195 of the Customs Act, 1969, is passed, he may then proceed accordingly, as per law; and

(iv) report compliance within 60 days.

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

Dated: 13.05.2024

Approved for reporting

14.5.24

Nisho Anwar
Deputy Director
Federal Tax Ombudsman Secretariat
Islamabad