

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

Complaint No.2987/ISB/CUST/2023

Dated: 25.05.2023 HQs, Islamabad

M/s DIPLOMATS DUTY FREE (PVT.) LTD,
Plot No. 95, Street No. 07,
Dry Port Road,
Islamabad.

... Complainant

V e r s u s

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer	:	Dr. Arslan Subuctageen, Advisor
Appraising Officer	:	Mr. Muhammad Nazim Saleem, Advisor
Authorized Representative	:	Mr. Saleem Raza
Departmental Representative	:	Ms. Huda Khalid, DC, Collectorate of Customs, Islamabad

FINDINGS/RECOMMENDATIONS

The above-mentioned complaint was filed against Collectorate of Customs, Islamabad, under Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance) regarding non availability of WeBoc module so as to enable the importers in filing of Goods Declarations for in-bonding and ex-bonding of diplomatic bond warehouses consignments.

2. Briefly, Complainant as stated in his complaint is an importer and running a duly licensed Diplomatic Bonded Warehouse under the relevant provisions of laws, as per past practice the importers were filing their GDs for Diplomatic Bonds which were processed under One Customs due to reason that since 2011 i.e., introduction of the WeBoc system no module had been developed in WeBoc to enable filing of goods declarations for in-

* Date of registration in FTO Secretariat

bonding and ex-bonding for diplomatic bond warehouses. For the past twelve years all diplomatic bonds including the complainant had been made to file their GDs under One Customs system. The main hurdle for the complainant and other diplomatic bonds in smooth flow of their business is due to the non-development of a module which allows in-bonding and ex-bonding of goods. On 3rd April 2023 one Customs system has been completely shut down and the same is no longer available to the complainant. Further, due to the closure of One Customs System, the complainant's GDs which were warehoused/into-bonded under Section 84 in One Customs cannot be processed, post closure, and ex-bonding cannot take place. The complainant due to no fault on its part cannot fulfill orders from diplomats and privileged persons as ex-bonding cannot take place. It was further stated that the complainant vide application dated 12-05-2023 brought the above issue to the notice of Chief (F & C), FBR Islamabad and requested that it may temporarily be allowed to manually ex-bond the goods till the WeBOC becomes operational for diplomatic bonded warehouses. FBR informed that One Customs System was closed down by PRAL and cannot be used in any manner whatsoever. Further, The Collector of Customs, Islamabad had written numerous letters to Chief (F & C) and The Director General, Directorate General of Reform & Automation (DG R&A), Islamabad to operationalize the module for diplomatic Bonds in WeBoc and further highlighted the specific issues on account of which the complainant and other identical parties were suffering. Further, "One Customs" clearance system was completely shut down since April 2023. The decision was arbitrary as it was in the knowledge of the respondents that no module, as yet, had been developed to deal with clearance of consignments inbonding under One Customs etc. The correct approach would carter to the pending consignments which were under process at different stages under One Customs. Two months

2

have passed since the closure of One Customs however no steps have been taken by the Deptt for making the WeBoc module for diplomatic bonds which is unjust, oppressive and discriminatory. Further the complainant has suffered significant losses due to closure of business since 3rd April 2023. The closure of only available mechanism for clearance i-e "One Custom" without development of an alternate method is confiscatory as the complainant can no longer fulfill pending orders while One Customs has been shut down due to acts which are solely attributable to the respondents. The complainant incurs significant expenses in terms of rent and salaries etc. each month. If issues raised above are not addressed, the complainant will be forced to close shop due to no fault on his part.

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, The Director, Directorate of Reforms & Automation, Karachi stated that the Change Request Form (CRF) was received from the Collectorate of Customs Enforcement, Karachi vides letter No. Reg/S5/Misc/02/2017 dated 22.03.2023 for development of Diplomatic Bond Module in Weboc system. This Directorate vide its letter No. WeBOC/Corr-CRF/344/2021/P-5/524 dated 09.05.2023 responded to the CRF, seeking therein the legal provisions supporting the change. Another CRF vide letter No. 01(01) IDP/2021/2555 dated 09.05.2023 was sent by the Collectorate of Customs, Islamabad, but the same was again not found to be in line with FBR's OM No. 7(I)L&PO/98 dated 17.08.1998, 5(I)L&P/2000 (Pt), dated 27.07.2002, 5(1)L&P/2002 dated 27.02.2020 and 5(I)L&P/2000 dated 05.07.2003. In response, this Directorate vide its letter No.

WeBOC/warehousing/105/217 dated 19.05.2023 requested the Collectorate to support the CRF with the relevant laws and procedures. Subsequently, a Zoom meeting was held with the Collectorate of Customs, Islamabad and Collectorate of Customs (Enforcement) Karachi, discussing all the issues in detail including the Business Process Mapping. Later on, another Change Request was received from the Collectorate of Customs-Enforcement, Karachi vide its letter No, 01(01) IDP/2021/2555 dated 16.05.2023. In response, the Directorate of Reforms & Automation vide its letter No. WeBOC/warehousing/10912023/559, dated 25.05.2023 advised the Collectorate of Customs, Islamabad and Collectorate of Customs (Enforcement) Karachi to revise the CRF in line with the legal provisions in vogue. It was further informed that the Collector, Collectorate of Customs, Islamabad stated that previously GDs for clearance were filed in One Customs for in-bonding and ex-bonding of the diplomatic duty-free goods. Development of module in WeBOC system for filing of in-bonding and ex-bonding GDs, for diplomatic bonded warehouse / duty free shops, falls exclusively in their domain. Due to closure of One Customs, the licensees have faced hardships for clearances of goods under diplomatic bonded warehouse/duty free shops schemes, the Collectorate has highlighted the said issue with the Director, Directorate General of R&A, Custom House, Islamabad, and the DG, Directorate General of R&A, Custom House, Islamabad vide letters dated 05.05.2023, and dated 09.05.2023, along with CRF so that the module in WeBOC can be made fully operational. It was further stated that in view of the grievances of the complainant and others licensees, effective steps are being taken to resolve the issue regarding filing of Goods Declarations of in-bonding and ex-bonding for diplomatic bonded



warehouse licensee and duty/free shops for development the module in WeBOC system.

4. On 21.06.2023, Director (R&A) Karachi attended the hearing on zoom link from Karachi along with the representative from M/s PRAL while the DRs from the DG, Directorate General of R&A, Islamabad, the Collectorate of Customs, Islamabad and AR of the complainant were presents. The AR reiterated the contents of complaint emphasizing that the Diplomatic goods cannot be inbounded due to closure of One Customs mechanism and non-availability of module in WeBoc since April 2023. Director (R&A) Karachi, raised various points which are causing delay in Rolling in of the required WeBoc Module. He stated that once these issues are resolved and when the relevant details are provided, the Directorate of R&A Karachi would develop the module and introduce it into the system. The DR form the Collectorate of Customs stated that the Collectorate has raised this matter with Director (R&A) Karachi since 2021 and have reminded the Director R&A and has provided him the required details and have also attended a zoom meeting with him so as to facilitate the matter but without any result so far. The AR stated that the matter is actively been pursued by the Collectorate of Customs, Islamabad however due to delay by the Director R&A Karachi, the issue has not moved even a single inch and their business is badly being impacted as there is no mechanism available for filling their GDs. The DR representing the DG (R&A) Islamabad, reassured that the module would be made and launched very soon. The AR pointed out that the Director (R&A) Karachi has raised irrelevant points like 100% examination of the consignments, Diplomatic and Counselor Act 1972, to be read with para 5 and Appendix "A" of the Import policy order 2022 which does not allow to release the

7

import of commercial quantity of these goods and whether import of banned items including liquor is importable in commercial quantity by the licensee of Diplomatic Bonds, without carrying to go through the content and conditions of their license number PWL 01 of 2001(valid upto 31.07.2024) issued by the Collectorate of Customs, Islamabad u/s 13 of the Customs Act 1969 and either due to ignorance or due to willful intentions has tried to raise issues ab initio which were settled since decades and instead of preparing and launching the required module, he is indulging in raising objections on already settled matters without jurisdiction which is causing delay and loss to licensees.

FINDINGS:

5. In view of Supra, it is evident that it is a matter of premature closure of "One Customs" since 3rd April 2023 without providing any alternate mechanism for filling of into and ex-bonding of Diplomatic bonds GDs. No concrete steps appears have been taken to resolve the issue of non-availability of clearance module and its development other than correspondence from Director (R&A) inspite of repeated change requests (CRF) for introduction of module made by the Collectors of Customs (Enforcement) Karachi and Islamabad. It is inferred that the responsibility of delay in development of the required module lies with the Director, Directorate of R&A Karachi, who instead of developing and rolling in the module, got indulged in unnecessary correspondence with both the Collectors and FBR, causing unnecessary hurdles and delay in the making of required module, which is unjust, oppressive and discriminatory towards the Diplomatic bonded warehouse importers causing them loss of millions of rupees. It is observed that instead of providing a business-friendly environment in accordance with the policy of the Government, the deptt is adversely impacting the running

businesses. This non-professional and incompetent attitude of the Director (R&A) falls within the ambit of Mal-administration as defined under section 2(3)(ii).

RECOMMENDATIONS:

6. FBR to: -

- i. direct, Director, (R&A) Karachi to develop and operationalize the required GD filling module for in-bonding and ex-bonding of consignments pertaining to the Diplomatic Bonded Warehouses and Duty-Free Shops within 30 days
- ii. direct the Director General (R&A) to ensure filling of GDs of pending consignment of the complainant and other Diplomatic Bonded Warehouses immediately as a stop gap arrangement until the required module is operationalized.
- iii. direct the concerned Collectors of Customs to issue Delay and Detention certificate u/s 14A (2) of the Customs Act 1969, and
- iv. FBR to report compliance within 45 days. File consigned to record.


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

Dated: 26/7/2023

Approved for reporting


Director
FTO Secretariat
Islamabad