



Report

on

**Smuggled Vehicles
Amnesty Scheme - 2013**

by

Office of the Federal Tax Ombudsman

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Abbreviations

(i)	CC	Cylinder Capacity
(ii)	CGO	Customs General Order
(iii)	CNIC	Computerized National Identity Card
(iv)	ECC	Economic Coordination Committee of the Cabinet
(v)	FBR	Federal Board of Revenue
(vi)	FIA	Federal Investigation Agency
(vii)	FTO	Federal Tax Ombudsman
(viii)	Ghost Vehicles	(i) Vehicles not available in Pakistan (ii) Smuggled vehicles regularized without physical presentation before the Customs
(ix)	MCC	Model Customs Collectorate
(x)	NTN	National Tax Number
(xi)	O-in-O	Order-in-Original
(xii)	PAMA	Pakistan Automotive Manufactures Association
(xiii)	PRAL	Pakistan Revenue Automation (Pvt.) Ltd
(xiv)	SRO	Statutory Regulatory Order
(xv)	SOP	Standard Operating Procedure

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EXECUTIVE SUMMARY

SMUGGLED VEHICLES AMNESTY SCHEME – 2013

EXECUTIVE SUMMARY

Considerably more generous tax and tariff concessions were granted to smuggled vehicles as compared to old and used vehicles imported by overseas Pakistanis

On 05 March 2013, the Revenue Division notified amnesty for smuggled vehicles vide SRO 172(I)/2013. Considerably more generous tax and tariff concessions were granted to smuggled vehicles as compared to old and used vehicles imported by overseas Pakistanis. Instead of packaging guidelines for orderly implementation simultaneously while notifying the amnesty, the FBR haphazardly issued piecemeal instructions on different occasions during the amnesty period. This caused a lot of mismanagement in implementation. Chapter-1 of the Report explains salients of the smuggled vehicles amnesty scheme-2013.

Amnesty to smuggled vehicles cannot be justified as it causes more harm than good to the national economy in ways more than one

2. Failure of the FBR to package the requisite guidelines for orderly implementation of amnesty across the country prompted mismanagement and abuse of the amnesty and triggered a lot of public criticism. The overseas Pakistanis decried discrimination. The media highlighted the ravages of smuggling. The Competition Commission of Pakistan (CCP) sent a scathing Policy Note to the Revenue Division/FBR on the adverse implications of amnesty for local auto-industry. The FIA raided Faisalabad Dryport on complaints of corruption. The FTO took own motion notice of allegations of corruption and maladministration. A Writ Petition No.1476 of 2013 was also filed in the High Court of Islamabad by Khawaja Saad Saleem, President of Defence of Human Rights of Public Services Trust, challenging the legality of the scheme. Chapter-2 explains that amnesty to smuggled vehicles cannot be justified as it causes more harm than good to the national economy in ways more than one.

Most of the Collectorates had observed FBR's guidelines in violation than in compliance

3. The Joint inspection teams of senior officers of the FTO Secretariat and Federal Investigation Agency constituted by the FTO visited the Customs Stations of their assignment and found that most of the Collectorates had observed FBR's guidelines more in violation than in compliance. Most of these teams confirmed allegations of mismanagement and corruption in regularizing the smuggled vehicles.

A common allegation during implementation of the amnesty was payment of illegal gratification by way of 'speed money' by many applicants

Many Collectorates did not refer any vehicle for forensic lab test for tampering

Evidence was received by the FTO Secretariat indicating grant of amnesty to vehicles which were still in the Auction Houses of Japan

Hardly any Collectorate, visited by the FTO's inspection teams, had duly recorded amnesty data in real time and properly maintained its record. A common allegation during implementation of the amnesty was payment of illegal gratification by way of 'speed money' by many applicants. Owners of smuggled vehicles came to the Customs Stations with a guilty conscience and willingly parted with the speed money to ensure that there were no untoward hitches in the regularization process. Although some Customs officers became more notorious for corruption in the process of amnesty, their names have not been mentioned in this Report as incriminating evidence is required to be obtained through further investigation.

4. As identification of tampering was left by the FBR to the discretion of the Collectors who did not provide any guidelines in the matter, the implementing staff misused the threat of forensic test to extort bribe from the applicants. The requirement of forensic test was compromised on payment of illegal gratification in many Collectorates which did not refer any vehicle for forensic lab test for tampering. Besides, no filter was applied by any Collectorate for identifying stolen vehicles. Thus tampered and stolen vehicles appear to have been granted amnesty in violation of the scheme. Chapter-3 contains synopsis of inspection reports filed by the Joint Inspection Teams.

5. Evidence was received by the FTO Secretariat indicating grant of amnesty to vehicles which were still in the Auction Houses of Japan. It was also observed that applicants belonging to far off places in Khyber Pakhtunkhwa and Balochistan provinces got vehicles regularized at Customs Stations Karachi, Faisalabad, and Sambrial (Sialkot) and applicants of the Punjab province got amnesty at Collectorates of Peshawar, Quetta and Karachi. A number of cases have been identified where the same identity card was used to regularize vehicles at more than one Customs Collectorates and even at different Customs Stations within the same Collectorate. The amnesty data is riddled with examples of applicants getting amnesty of more than 10 vehicles on one CNIC in far off Collectorates. In some cases, 10 to 53 smuggled vehicles were regularized against one CNIC.

Inside information from the Customs Department itself confirmed that, actually, only one third of the vehicles were physically presented at some Customs Stations

The Customs staff responsible for these irregularities needs to be taken to task

This Report mostly focuses without prejudice to the outcome of the Court proceedings, on the legality and propriety of the acts of omission and commission by the FBR and the Customs staff

6. These facts clearly lend credence to the public outcry that a significant number of vehicles granted amnesty by many Collectorates were not physically presented to the Customs staff as required under the amnesty scheme. Inside information from the Customs Department itself confirmed that, actually, only one third of the vehicles were physically presented at some Customs Stations like Karachi, Faisalabad and Sambrial (Sialkot). The position may not have been different at many other Customs Stations. Chapter-4 constitutes the tell-tale.

7. As compelling evidence of mismanagement and abuse is available particularly in respect of unlawful grant of amnesty to Ghost Vehicles, the Customs staff responsible for these irregularities needs to be taken to task. The allegations of corruption, however, need to be investigated on scientific lines. Evidence would come by if an extensive survey of the applicants is conducted with a reliable assurance that amounts of bribe extorted from them by the Customs staff shall be returned to the applicants if they come forward to identify the culprits. Chapter-5 contains the Conclusion and Recommendations.

8. In this Report, an earnest attempt has been made to highlight the extent and magnitude of mismanagement and abuse of the smuggled vehicles amnesty scheme-2013. As the legality of the scheme is *sub judice* before Islamabad High Court, this Report mostly focuses, without prejudice to the outcome of the Court proceedings, on the legality and propriety of the acts of omission and commission by the FBR and the Customs staff in conceiving and implementing the scheme.

9. It may also be pertinent to mention that this Report is based on the record of amnesty as was made available from time to time, by the FBR and the Customs Collectorates. Considerable time was consumed in sorting out and analyzing the data supplied in bits and pieces. Analysis of the data is thus indicative and not exhaustive as some of the Collectorates kept on changing it even upto the last cross check made in December, 2013. It is also possible that some Collectorates might have covered up glaring deficiencies in the maintenance of record after the event. This aggravates rather than extenuates the

The Revenue Division needs to get the identified areas of maladministration and corruption investigated for reconfirmation and fixation of responsibility

failure of the Customs staff to record data in due course on real time basis.

10. The Revenue Division needs to get the identified areas of alleged maladministration and corruption investigated for reconfirmation and fixation of responsibility. If this opportunity is missed to effectively handle the mismanagement, misuse and corruption involved in the smuggled vehicles amnesty scheme-2013, the possibility of remodeling the mindset of revenue collection machinery on the basis of efficiency and integrity would be lost irretrievably.

CHAPTER - 1

CHAPTER-1

INTRODUCTION

Rather than taking effective steps to curb the menace of smuggling by timely seizing and confiscating smuggled vehicles, and in exception to clause (a) of SRO 499(I)/2009, dated 13 June 2009 (Annex-I), the Revenue Division notified amnesty vide SRO 172(I)/2013 dated 5 March 2013 (Annex-II) for smuggled and non-duty paid motor vehicles having non-tampered engine or chassis numbers, if these were voluntarily presented to Customs for amnesty on or before 31 March 2013. Unprecedented concessions in tax, tariff and fine were granted for regularizing smuggled vehicles as under:

Unprecedented concessions in tax, tariff and fine were granted for regularizing smuggled vehicles

- (i) for vehicles of PCT heading 87.03 covered under SRO 577(I) 2005 dated 6 June, 2005 (Annex-III), duty and taxes shall be calculated in US Dollar by allowing depreciation @ 1% per month calculated from the 1st day of January subsequent to the year of manufacture as provided in CGO No.14/2005 dated 6 June, 2005 (Annex-IV), with a maximum depreciation upto 60%;
- (ii) for all other vehicles, duty and taxes shall be calculated on depreciated C & F value @ 1% per month calculated from the 1st day of January subsequent to the year of manufacture as provided in CGO No.14/2005 dated the 6 June, 2005 (Annex-IV) up to a maximum depreciation of 72%;
- (iii) for vehicles covered under SRO 577(I)/2005 dated 6 June, 2005 (Annex-III) above five years of age, further depreciation shall be allowed in payable duty and taxes @ 5% per year subject to minimum duty and taxes amounting to US\$ 500 (or equivalent amount in Pak rupees);
- (iv) for all other vehicles above 6 years of age, further depreciation shall be allowed @ 5% per annum subject to minimum duty and taxes amounting to one hundred thousand rupees; and
- (v) redemption fine shall be chargeable @ 1% of the payable duty and taxes provided the amount of duty, taxes and fine were paid on or before 31 March 2013.

2. The following categories of vehicles were specifically excluded from application of amnesty:

- (a) vehicles imported via normal channels through regular Customs Stations if these involved an infringement of relevant Import Policy Order; and
- (b) vehicles which had been auctioned.

3. Within three days of the Notification of amnesty, another Notification, SRO 185(I)/2013 dated 8 March 2013 (Annex-V) was issued substituting sub-paragraphs (iii) and (iv) of the earlier SRO 172(I)/2013 dated 5 March 2013 (Annex-II) by the following:

- “(iii) for vehicles covered under Notification No. SRO 577(I)/2005 dated 6th June, 2005 (Annex-III) above five years of age, further reduction in duty and taxes assessed at the end of five years shall be allowed @ 5% per year for subsequent years, subject to the minimum total amount of duty and taxes equal to five hundred US dollars (or equivalent amount in Pak rupees); and
- (iv) for all other vehicles above six years of age, further reduction in the duty and taxes assessed at the end of six years shall be allowed @ 5% per year for subsequent years subject to the minimum total amount of duty and taxes equal to rupees one hundred thousand.”

4. As the concessions under the amnesty scheme-2013 were specifically meant only for smuggled and non-duty paid vehicles available in the country, the scheme became exceptionally discriminatory to the old and used vehicles imported by overseas Pakistanis and awaiting clearance at the ports. Details of discriminatory aspects of the amnesty scheme-2013 are explained below:

- i) the amnesty scheme envisaged reduction in duty and taxes in respect of smuggled vehicles up to 60% for cars and 72% for other vehicles, plus 5% additional reduction in duty/taxes for each subsequent year subject to a threshold of minimum amount of duty/taxes. As against this the depreciation practically available on vehicles imported by overseas Pakistanis under Personal Baggage, Transfer of Residence and Gift Schemes actually ranged from 36% on cars to 60% on other vehicles. This treatment is highly discriminatory to vehicles imported by overseas Pakistanis and exceptionally favourable to smuggled vehicles;
- ii) the maximum age limit for import of vehicles under Personal Baggage, Gift and Transfer of Residence Schemes by overseas Pakistanis vide SRO 1441(I)/2012 dated 12.12.2012 (Annex-VI) was three years for cars and five

The scheme became exceptionally discriminatory to the old and used vehicles imported by overseas Pakistanis and awaiting clearance at the ports

years for other vehicles, but no such age limit was imposed for legalization of smuggled vehicles;

iii) infringement of age limit of three years for cars and five years for other vehicles prescribed under Baggage, Transfer of Residence and Gift Schemes for overseas Pakistanis had been made liable to surcharge ranging from 5% per month to 13% per month of the value of the vehicles. However, the pitch of redemption fine for smuggled vehicles was only 1% of payable amount of duty and taxes which was also exceptionally favourable to smuggled vehicles;

iv) for overseas Pakistanis, the number of vehicles for lawful import was limited to one at a time, but no such limit was prescribed for legalization of smuggled vehicles which, too, was unfair and discriminatory; and

5. Table-1 summarizes the discriminatory aspects of the amnesty scheme.

Table-1

Discriminatory Aspects of Smuggled Vehicles Amnesty Scheme

(i)	Extent of tax / tariff concessions	36% to 60% on old vehicles imported by overseas Pakistanis	60% to 72% with 5% additional concession per year for over 5-6 year old smuggled vehicles
(ii)	Fine / Surcharge	5% to 13% per month on value	1% fine on payable amount of duty/taxes
(iii)	Age limit	3-5 years	No age limit
(iv)	Number of vehicles allowed per person	1 vehicle per person at a time	No limit
(v)	Condonation of violation of age limit	Not condonable beyond a period of 8 months even on payment of fine	No such limit prescribed for smuggled vehicles

As the FBR had not packaged any guidelines while notifying the amnesty for orderly implementation of the scheme, the Collectors had to raise a number of queries for their guidance

6. As the FBR had not packaged any guidelines while notifying the amnesty for orderly implementation of the scheme, the Collectors had to raise a number of queries for their guidance. In response, the FBR issued following clarifications vide C.No.10(17)/L&P/2005 dated 8 March 2013 (Annex-VII) as under:

Collectors' Query

FBR's Clarification

(i) Whether adjudication is required for release of a vehicle on payment of redemption fine under SRO 172(I)/2013 dated 5.3.2013?

Adjudication is pre-requisite for release of a seized vehicle on payment of duty/taxes and redemption fine under the said SRO.

The Collectors should exercise their discretion for determination of tampering as it is an operational issue

- | | |
|---|--|
| (ii) Whether concession under the SRO can be availed on vehicles where FIRs have been registered against the owners and the vehicles are case property in criminal cases? | Seized vehicles where FIRs are registered cannot be regularized. However, if the Court of Special Judge or the relevant judicial forum issues NOC for disposal of the vehicle, the benefit of the Notification may be extended on fulfillment of requisite formalities. |
| (iii) Whether vehicles which have been confiscated prior to the issuance of SRO can be regularized under this scheme? | The owner of confiscated vehicles where the original order has attained finality cannot exercise option to avail the SRO and these are to be disposed of through auction. In case O-in-O is not time-barred, the owner may approach relevant appellate fora to avail the benefit of SRO. |
| (iv) Whether forensic test is required for every vehicle for ascertaining the veracity of the chassis number? | The Collectors should exercise their discretion as it is an operational issue. |
| (v) Whether passenger vehicles, trucks, buses, vans, prime movers, tractors etc qualify for concessions under the SRO? | Vehicles classifiable under PCT codes 87.01, 78.02, 87.03, 87.05 are entitled to avail the benefit of SRO. |

7. In addition to the above, the following guideline was also given by the FBR for assessment of duty and taxes:

“As regards assessment of duty/taxes applicable on vehicles of different models and engine capacity under the aforementioned SRO, a link has been made available at FBR website www.fbr.gov.pk. The amount of approximate duty/taxes leviable on vehicles are illustrated in the reference folder which may be consulted while making assessments so as to maintain uniformity. These duty and taxes are not final and just provide guidance to ascertain actual duty/taxes in adherence to the provisions of the said SRO.”

8. After eight days of launching the amnesty scheme, the FBR issued another set of instructions to the Collectors on 13 March 2013 as under:

- (i) ensure quick completion of adjudication process;
- (ii) ensure uploading of digitally scanned image of vehicles;

While issuing these instructions, the FBR did not inform the PRAL about the requirement of uploading of digital images of the smuggled vehicles on their computer module

Digital imaging became futile and meaningless without reflecting the date, time and place in the photograph of the vehicle

Tampered and stolen vehicles appear to have been granted amnesty in violation of the scheme

- (iii) obtain affidavit from the owner to the effect that the vehicle is not tampered/stolen;
- (iv) retain a copy of CNIC of the person getting the vehicle regularized; and
- (v) Office Order issued by Collector Peshawar was forwarded to Collectors for reference only.

9. While issuing these instructions, the FBR did not inform the PRAL about the requirement of uploading of digital images of the smuggled vehicles on their computer module. Resultantly, the PRAL did not modify the relevant module till 20 March 2013. So, the uploading started as late as 21 March 2013 i.e. 17 days after launching the 27 day scheme. Besides, no guideline was given on how digital imaging was to be conducted. So, digital imaging became futile and meaningless without reflecting the date, time and place in the photograph of the vehicle. Similarly, no guideline was given either by the FBR or sought by the Collectors in respect of the number of vehicles to be regularized for one applicant. This created possibilities of regularizing more than one vehicle in the name of one applicant. Moreover, no time limit was prescribed for registration of regularized vehicles with the Motor Registration Authorities. As this aspect was left open ended, it provided a lot of elbow room for registration of vehicles regularized on the basis of documents alone, at any time these were smuggled into the country even after the expiry of the amnesty.

10. As identification of tampering was left by the FBR to the discretion of the Collectors who did not provide any guidelines in the matter, the implementing staff misused the threat of forensic test to extort bribe from the applicants. The requirement of forensic test was compromised on payment of illegal gratification. Thus, many Collectorates did not refer any vehicle for lab test for tampering. No filter was applied by any Collectorate for identifying stolen vehicles. Thus tampered and stolen vehicles appear to have been granted amnesty in violation of the scheme. It is also questionable why no

Failure of the FBR to make amnesty contingent upon production of NTN also created chances for proxy applicants

interface was developed with the Police Department for identifying stolen vehicles and why only an affidavit by the applicant was treated as a sufficient check against regularization of stolen vehicles possibilities of which were too many to be ignored. Failure of the FBR to make amnesty contingent upon production of NTN also created chances for proxy applicants i.e. drivers, employees and relatives of the real owners of smuggled vehicles. No cross-check was instituted to forestall the possibility of an applicant getting vehicles regularized at more than one Collectorate or at more than one Customs Station within the same Collectorate. These lacunae and loose-ends were massively abused by the applicants reportedly with the collusion and connivance of the Customs staff.

Lack of professionalism on the part of the FBR contributed to mismanagement and abuse of amnesty scheme by the smugglers as well as the corruption-prone among the Customs staff

11. Absence of necessary homework before launching the scheme led to quick amendments and piecemeal clarifications. As a result, implementation of the scheme ran into difficulties upfront and the start up got delayed for almost a week. Therefore, the amnesty had to be extended up to 6 April 2013 vide another SRO 275(I)/2013 dated 2 April 2013 (Annex-VIII). Keeping some critical possibilities open ended increased the chances of abuse of the amnesty. It is thus, evident that lack of professionalism on the part of the FBR contributed to the ensuing mismanagement and misuse of amnesty scheme by the smugglers as well as the corruption-prone among the Customs staff.

12. While reporting data to the FTO Secretariat, some of the Collectorates kept on changing the figures in upto the last cross check made in January 2014. It appeared that many Collectorates had not appropriately recorded data in real time. Detailed record of 193 vehicles regularized by MCC (Appraisalment), Karachi and 25 vehicles regularized by MCC Peshawar is still not available. As per final reports, applications for 52113 vehicles were made for grant of amnesty. Out of these, 51201 smuggled vehicles were granted amnesty (Annex-IX – Soft Copy) and cases of 912 could not be regularized for various reasons. Collectorate-wise distribution of regularized vehicles and

amount of duty/taxes and fine collected is given in Table-2:

Table-2
Number of Regularized Smuggled Vehicles

MCC	Number of smuggled vehicles legalised	Amount of duty / taxes and fine realized (in Rs)
Gilgit	457	118,583,793
Lahore	638	305,169,303
Islamabad	1,135	404,002,301
Multan	1,142	437,248,957
Sambrial	1,156	403,518,006
Faisalabad	1,245	447,063,064
Hyderabad	1,576	557,131,000
Gwadar	2,871	702,162,421
Karachi	5,894	2,407,509,000
Quetta	17,706	5,696,361,267
Peshawar	17,381	4,713,800,000
Total:	51,201	16,192,549,112

Source: FBR

13. Apart from the above, applications for 912 vehicles/applications were reported pending for various reasons including non or late finalization of formalities by the Customs or the applicants and refusal of the bank to receive payment of applicable duty/taxes and fine on expiry of last date of amnesty (12:00 am in the night of 6-7 April 2013). Collectorate-wise position of pending vehicles/applications is reflected in Table-3:

Table-3
Vehicles/Applications Pending Regularization

MCC	Number of Pending Vehicles/Applications
Multan	03 [^]
Hyderabad	06 [~]
Lahore	08
Peshawar	10
Islamabad	17
Karachi	160*
Faisalabad	317*
Quetta	391*
Total:	912

Source: FBR

[^] Two vehicles auctioned. One vehicle pending.

[~] One duty paid vehicle pending production of NOC from Special Judge Customs. Another vehicle found tampered and thus seized.

* Applications only.

14. It is also noteworthy that amnesty-2013 is significantly different from some of the previous amnesties in terms of the extent of tax concessions, pitch of fine and its levy on the changed basis of amount

of payable duty and taxes instead of Customs value. The exceptional difference resulted in exponential growth in the number of vehicles regularized under amnesty 2013. During the previous schemes implemented from 1998 to 2007, total number of regularized vehicles was 28892 for all Collectorates as reported by the FBR vide letter C.No.10(17)/L&P/2010(FTO) dated 26 July 2013 which is reflected in Table-4 below:

Table-4
Collectorate-wise Number of Regularized Vehicles in Six Previous Amnesty Schemes

Sr. No.	MCC	Number of vehicles regularized under 6 amnesty schemes from 1998 to 2009	Amount of duty/taxes collected Rs million
1	Karachi	10859	2804.766
2	Peshawar	8699	2327.550
3	Quetta	4865	1054.990
4	Sialkot	1133	223.553
5	Hyderabad	231	56.953
6	Lahore	2705	752.112
7	Islamabad	400	155.164
	Total	28892	7375.088

Source: FBR

Exponential increase in the number of vehicles during amnesty-2013 is partly due to an unusually higher depreciation in value, exceptional reduction in duty and taxes, low pitch of fine on an exceptionally reduced base but mainly due to regularization of 'Ghost Vehicles'

15. It will be observed from Table-4 above that the number of vehicles legalised under amnesty scheme-2013 is around 11 times the average of 4815 vehicles per amnesty scheme launched in the past. This exponential increase in the number of vehicles during amnesty-2013 is partly due to an unusually higher depreciation in value, exceptional reduction in duty and taxes, low pitch of fine on an exceptionally reduced base but mainly due to regularization of 'Ghost Vehicles'. Such vehicles were either at shipment or auction stages in the Auction Houses of Japan or in the 'Holding Areas' of Dubai, Sharjah and Afghanistan or were not physically presented to the Customs but were regularized on the basis of documents only. As these vehicles did not qualify for amnesty under the amnesty scheme-2013, their regularization was obviously unlawful.

CHAPTER - 2

CHAPTER-2

SOWING SEEDS OF A MEGA SCAM

Granting amnesty to smuggling is counter-productive as it promotes smuggling, emboldens smugglers and contributes to black economy

Evidently, amnesty-2013 was unusually conceived noticeably uniquely and substantially differently from the previous schemes

Significantly, no age limit was prescribed for legalization of smuggled vehicles in amnesty scheme-2013

Granting amnesty to smuggling is counterproductive as it promotes smuggling, emboldens smugglers and contributes to black economy. As soon as one crop of smuggled vehicles gets regularized, a fresh and much larger crop of vehicles is smuggled to harvest another amnesty at an opportune time. Lobbying and temptation are exercised as effective tools for inducing amnesty for smuggled vehicles. As mostly luxury vehicles are smuggled to cater to the penchant of the elite, amnesty becomes much more undesirable and violative of the national interest. It disgruntles the law abiding citizens who pay full duty and taxes on lawfully imported vehicles and thus creates serious governance issues by sending wrong signals for already sagging national confidence in the paradigm of governance and accountability.

2. In spite of these obvious undesirabilities, amnesty-2013 was the seventh such scheme for smuggled vehicles. Evidently, amnesty-2013 was unusually conceived noticeably uniquely and substantially differently from the previous schemes. A marked difference lay in unusually higher tax and tariff concessions and low pitch of fine on excessively reduced base in terms of payable amount of duty and taxes instead of the normal Customs value. Besides, the tax and tariff concessions were exceptionally confined to smuggled and non-duty paid vehicles to the exclusion of old and used vehicles imported by overseas Pakistanis during the same period. In previous such schemes notified vide SRO 574(I)/2005 dated 6 June 2005 (Annex-X), SRO 179(I)/2006 dated 2 March 2006 (Annex-XI) and SRO 255(I)/2007 dated 17 March 2007 (Annex-XII), a uniform treatment was equally meted out to smuggled vehicles and the vehicles imported by overseas Pakistanis.

3. Significantly, no age limit was prescribed for legalization of smuggled vehicles in amnesty scheme-2013. Denial of amnesty to old and used vehicles imported by overseas Pakistanis involving infringement of age limit, and grant of amnesty of import restrictions and affording unusually higher concessions in tax, tariff and fine to the smuggled vehicles resulted in an unusual public resentment. There can be no cavil that it is an abiding responsibility of the Revenue

Division/FBR to ensure equal and fair treatment in such dispensations in terms of article 25(1) of the Constitution of Islamic Republic of Pakistan. Besides, unfair decisions involving injustice and discrimination constitute maladministration in terms of Section 2(3)(i)(b) of the FTO Ordinance, 2000. Corruption and improper motives also constitute maladministration in terms of Section 2(3)(i)(d) *ibid*.

The Revenue Division did not take any Summary on the subject to ECC of the Cabinet

4. According to an informed source, the Revenue Division did not take any Summary on the subject to ECC of the Cabinet. Nor was any Summary circulated to the stakeholder Ministries for their comments to enable the Government to make a well-considered decision on the basis of their input on the pros and cons of such an amnesty. Had the Revenue Division circulated the summary to stakeholder Ministries and got its amnesty proposal processed in accordance with the Charter of the ECC of the Cabinet, the chances of injustice and discrimination involved in the scheme may have been contained.

The amnesty scheme-2013 was allegedly misused for corrupt motives

5. Apart from the conceptual irrationality and counter-productivity of amnesty for smuggled vehicles, the amnesty scheme-2013 was allegedly misused for corrupt motives by the Customs staff for regularizing such vehicles as had either not yet arrived in the country or these were not physically presented or actually seized by the Customs. Besides, many tampered and stolen vehicles might have been granted amnesty due to weak or non checking of tampering and absence of any filter for stolen vehicles. It is noteworthy that stolen and tampered vehicles and vehicles not available in the country before notification of the scheme were not eligible to amnesty.

The FBR did not package necessary guidelines while notifying the amnesty on 05 March 2013 to ensure a uniform and orderly implementation

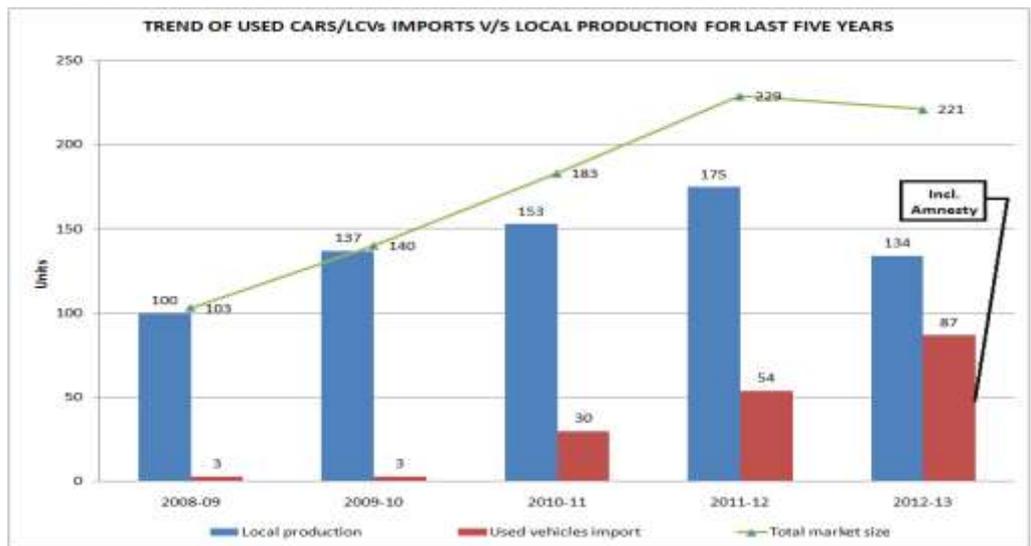
6. The main reason for massive abuse and corruption was a conspicuous absence of supervisory and monitoring mechanisms for orderly implementation of the scheme. Although it was a huge exercise involving billions of rupees, the FBR did not package necessary guidelines while notifying the amnesty on 05 March 2013 to ensure a uniform and orderly implementation by its field Collectorates across the country. A most serious failure was that the FBR did not endorse a copy of its 13 March instructions to the PRAL which delayed uploading of digital images of vehicles up to 21 March i.e. 17 days out of a 27 day original period of amnesty. As the condition of NTN was not prescribed,

many vehicles were alleged to have been got regularized especially by the Government officials and other influential and resourceful owners in the names of proxy applicants. It is therefore, necessary for the Revenue Division to investigate why critical gaps were left open in the legal and procedural framework of the scheme which provided unusual opportunities to the applicants and the Customs staff to abuse the scheme.

No sooner than the amnesty was notified on 5 March 2013, the public started questioning its legality and propriety

Amnesty to smuggled vehicles also caused a devastating effect on local auto industry in terms of production, employment and revenue

7. No sooner than the amnesty was notified on 5 March 2013, the public started questioning its legality and propriety as it amounted to the Government's license for smuggling: a heinous crime against national economy. It also indicated failure of anti-smuggling agencies to contain smuggling even of thousands of highly visible goods such as motor vehicles plying on the roads. The implications of illegal flight of capital for purchase of vehicles for smuggling could be mind boggling as it might be offsetting most of the remittances by overseas Pakistanis. Amnesty to smuggled vehicles also caused a devastating effect on local auto industry in terms of production, employment and revenue. The ill-effects of amnesty-2013 on local auto industry can be easily gauged from the following graph:



Source: PAMA

8. The undesirability of amnesty for smuggled vehicles attracted attention of the Competition Commission of Pakistan (CCP) which sent a scathing Policy Note dated 14 March 2013 (Annex-XIII) to the Revenue Division/FBR highlighting its disadvantages to local manufacturing of vehicles and the nascent auto-part industry. The Policy Note also dwelled on the multiple discriminations involved in the scheme against import of used vehicles by Overseas Pakistanis in

terms of age limit, pitch of fine for infringement of any provision of Import Policy, depreciation allowance in value and reduction in applicable amount of duty and taxes.

Complaints of corruption prompted the FIA to conduct a raid and seize Customs record at Faisalabad Dryport

9. Complaints of corruption prompted the FIA to conduct a raid and seize Customs record at Faisalabad. The allegation of maladministration invited suo moto intervention by the FTO in terms of Section 9(1) of the FTO Ordinance, 2000. Subsequently, Islamabad High Court also took notice of the illegality involved in the grant of amnesty to smuggled vehicles and declared it *ultra vires*. The Revenue Division/FBR is understood to have filed an intra-court appeal against this judgment. Without prejudice to the outcome of the judicial proceedings, this Report focuses the illegality and impropriety of the acts of omission and commission by the Revenue Division/FBR in conceiving and implementing the scheme and the Customs staffs' mismanagement and misuse in regularizing the vehicles in general and the Ghost vehicles in particular.

This Report focuses the illegality and impropriety of the acts of omission and commission by the Revenue Division/FBR in conceiving and implementing the scheme

10. As estimated by an information source, the extent of concessions on representative models of vehicles granted amnesty ranged from 16% to 73% as per Table-5 below:

Table-5
Showing Extent of Tax & Tariff Concession in Amnesty-2013

Sr. No.	Category of Vehicles	Number of Vehicles	%age of Concession per Vehicle
1	Upto 1800CC	3245	35
2	801CC – 1000CC	5776	35
3	1001CC – 1300CC	1945	35
4	1301CC – 1600CC	11902	35
5	1601CC – 1800CC	726	35
6	Cars above 1800CC (excluding Mercedes Cars)	1176	55
7	Prados	668	61
8	Land Cruisers	1937	42
9	Pick ups	6094	58
10	Hiaces	6508	73
11	Trucks	2615	16
12	Mini Trucks	158	18
13	Coasters	449	55
14	Mercedes Cars	84	28
15	Other Vehicles	7918	44

Source: Informer

11. If the 51201 vehicles granted amnesty had been assessed to customs duty and taxes in accordance with SRO 577(I)/2005 (Annex-III) and CGO 14/2005 (Annex-IV), both dated 06 June 2005, it may have yielded revenue over Rs35.00 billion as against Rs16.19 billion

Amnesty to smuggled vehicles cannot be justified as it causes more harm than good to the national economy in ways more than one

The smuggled vehicles amnesty scheme, as conceived and implemented, is stinking with maladministration

collected through the amnesty (Annex-XIV). Had the vehicles been seized, confiscated and auctioned, these would have yielded a substantially, higher amount of revenue (Rs40 billion to 48 billion) as per Annex-XV, as the property of entire sale proceeds (Value + Taxes) vests in the Government in terms of Section 182 of the Customs Act, 1969. The problem, however, is that whereas amnesty easily yielded Rs.16.19 billion and abundantly enriched the Customs staff; the detection, seizure, confiscation, and auction of smuggled vehicles required a lot of effort, risk, integrity and professionalism which the anti-smuggling outfit of the FBR does not appear ready to put in. Nevertheless, amnesty to smuggled vehicles cannot be justified as it causes more harm than good to the national economy in ways more than one.

12. The smuggled vehicles amnesty scheme, as conceived and implemented, is stinking with maladministration including violation of law and procedure, mismanagement and misuse for bribery and corruption. Conceptual deficiencies of the amnesty scheme-2013, delayed and piecemeal delivery of guidelines by the FBR, failure of the Collectors to institute effective monitoring mechanisms for forestalling possibilities of abuse and mismanagement of the amnesty by the implementing staff for alleged corruption sowed the seeds of a mega scam. The scheme thus falls in the category of the Customs mega scams such as:-

- i) Trans-shipment-related 165 Container Scam at Port Qasim Karachi (2006-2008).
- ii) Transit-related 26 Container Louis Berger Scam at Port Qasim Karachi (February-July 2007).
- iii) 25 Container related Manifest Scam at Port Qasim Karachi (March-September 2008).
- iv) Duty Free Shop related 102 Container Scam at Karachi Port (2009).
- v) Transit-Related 52 Liquor Container Case i.e. LUNAR KOPCKE Scam at Karachi Port (2007-2010).
- vi) Transit Related 7,922 ISAF Container Scam at Karachi Port (2007-2010).

13. These mega scams in general and the smuggled vehicles amnesty scam-2013 in particular, provide a lot of food for thought to the Government to take such cases of big fraud seriously and bring these to their logical conclusion.

CHAPTER - 3

CHAPTER-3

OWN MOTION NOTICE OF ALLEGATIONS

As implementation of the amnesty scheme-2013 progressed, public outcry against mismanagement, misuse and corruption by the Customs staff intensified. It naturally found its way to the Media. The main allegations were that the Customs staff was misusing the amnesty for extortion of illegal gratification from the applicants. The FTO Office also received complaints of corruption and misuse of the amnesty. Whistle blowers informed that the Customs staff was legalizing vehicles without physical presentation and surrender as required by the prescribed procedure. A most disturbing information received was that vehicles which had not yet arrived in Pakistan and were still lying in the 'Holding Areas' of UAE and Afghanistan or at the auction or shipment stages in Japan, were also being legalised on the basis of documents only. It was reported that the Auction Houses in Japan were reaping an unusual harvest in March 2013 due to sudden surge in auction of luxury vehicles such as Corollas, Prados, Land Cruisers, Surfs and Toyota Hiace Vans. Auto-workshops in Dubai and Sharjah were reported exceptionally busy in converting left-hand drive vehicles to right-hand drive in order to meet the surge in demand by Pakistani buyers.

A most disturbing information received was that vehicles which had not yet arrived in Pakistan and were still lying in the 'Holding Areas' of UAE and Afghanistan or at the auction or shipment stages in Japan, were also being legalised on the basis of documents only

2. In the wake of increasing complaints and reliable information, the Hon'ble FTO took own motion notice of the allegations and, on 1 April 2013, constituted Joint Inspection Teams comprising Advisors of the FTO Secretariat and the FIA staff in terms of Section 17 and 23 of the FTO Ordinance 2000. The Joint Inspection Teams were tasked, vide Hon'ble FTO's Orders No.1/FTO/2013 dated 1 April 2013 (Annex-XVI) and 3 April 2013 (Annex-XVII), to examine the situation obtaining in the Customs Collectorates of Karachi, Quetta, Peshawar, Lahore, Sambrial (Sialkot) and Islamabad. Inspection of Model Customs Collectorates (MCC) at Multan, Hyderabad, Sukkur, Gwadar and Gilgit could not be assigned to the Joint Inspection Teams for paucity of senior staff in the FTO Secretariat. As the FIA had already raided the Customs Collectorate at Faisalabad and seized its record, no Joint Inspection Team was detailed for MCC Faisalabad. The Joint Inspection Teams visited their assigned Collectorates, inspected the

The Joint Inspection Teams filed reports, confirming massive mismanagement and misuse of amnesty for regularizing 'Ghost Vehicles'

available record of amnesty vehicles and filed reports, confirming massive mismanagement and misuse of amnesty for regularizing 'Ghost Vehicles' i.e. the vehicles not yet arrived in the country and the vehicles which were not physically presented and surrendered to the Customs as required under the amnesty scheme. Blatant violations of procedural and documentary requirements were observed by the Joint Inspection Teams as reflected below:

MCC (APPRAISEMENT), KARACHI

3. The extent of mismanagement was most serious in Karachi as indicated below:

- i) After examination and assessment, the case file was handed over to the applicants;
- ii) Applicant returned the case file after depositing duty/taxes and fine;
- iii) Seizures of vehicles were not effected;
- iv) No special space was earmarked for examination of vehicles;
- v) Examination was arranged on the main road before Custom House, Karachi where hardly any parking space was available in day time; and
- vi) Instead of system generated delivery orders, these were issued manually. It is learnt that the Customs at Karachi subsequently converted these delivery orders into system generated delivery orders when PRAL system allowed it after the expiry

4. Number of vehicles availing amnesty was initially reported as 5894 and subsequently revised a couple of times and again revised to 5894. However, detailed data of 193 vehicles has not yet been provided. Period-wise breakup of the number of vehicles availing amnesty is given in Table 6 below:

Table-6

Break-up of Amnesty Vehicles Regularized at Karachi

S.No.	Amnesty Period (March-April 2013)	Applications Filed	Per Day Number of Regularized Vehicles
(1)	(2)	(3)	(4)
(i)	5-8 March (4 Days)	Nil	Nil
(ii)	9-17 March (8 Days)	193	24
(iii)	18 March to 01 April	5451	389
(iv)	2-6 April (5 Days) (Period under FTO's Inspection Teams)	250	50

5. Date-wise number of vehicles availing amnesty at Karachi is reflected by Table 7 below:

Table-7
Date-wise Regularization of Amnesty Vehicles at Karachi

S.No.	Day an Date	No. of Vehicles	Total Duty Tax Collected
1	Saturday, 09 March, 2013	2	3,806,975
2	Monday, 11 March 2013	4	1,508,175
3	Tuesday, 12 March, 2013	45	16,751,28
4	Wednesday, 13 March, 2013	43	11,657,22
5	Thursday, 14 March, 2013	26	18,156,161
6	Friday, 15 March, 2013	39	20,117,987
7	Saturday, 16 March, 2013	29	8,558,395
8	Sunday, 17 March, 2013	5	1,798,535
9	Monday, 18 March, 2013	159	66,336,731
10	Tuesday, 19 March, 2013	144	52,592,559
11	Wednesday, 20 March, 2013	150	77,389,344
12	Thursday 21 March, 2013	188	77,017,751
13	Friday 22 March, 2013	232	81,492,344
14	Sunday, 24 March, 2013	7	2,071,985
15	Monday, 25 March, 2013	436	163,753,987
16	Tuesday, 26 March, 2013	486	173,450,503
17	Wednesday, 27 March, 2013	573	227,299,733
18	Thursday 28 March, 2013	653	281,430,504
19	Friday 29 March, 2013	1429	612,343,965
20	Saturday 30 March, 2013	527	213,976,308
21	Sunday 31 March 2013	246	85,282,730
22	Monday 01 April, 2013	221	84,019,763
23	Tuesday 02, April, 2013	39	14,860,667
24	Wednesday 03, April, 2013	89	41,295,576
25	Thursday 04, April, 2013	57	17,787,903
26	Friday 05, April, 2013	38	33,650,188
27	Saturday 06, April, 2013	27	19,169,832
	Total:	5894	2,407,577,112

Source: MCC Appraisalment, Karachi

1429 vehicles processed in one day at Karachi on 29 March 2013 exceeded the total number of vehicles processed in the entire 33 day amnesty period by some Collectorates

6. Table-7 above shows 1429 vehicles cleared in one day on 29 March 2013, which was considered by the Joint Inspection Team as 'humanly impossible' under the prescribed procedure, given the overall circumstances and staff capacity. It is noticeable that the cases of 1429 vehicles processed in one day at Karachi on 29 March 2013 exceeded the total number of vehicles processed in the entire 33 day amnesty period by some Collectorates. The Collectorate at Gilgit reported the total number of amnesty vehicles as 457, Lahore 638, Islamabad 1135 and Multan 1142.

7. On spot sample checking of 974 files at Karachi by the Joint Inspection Team revealed the following position:-

Table-8

Compliance Position of Procedural Requirements at Karachi

Category	Available	
	Yes	No
Application	968	6
Copy of NIC	904	70
Affidavit about tampering	1	973
Image of vehicle	56	918
Comments by examining official(s)	969	5
O-in-O	853	121
Copy of gate pass	0	974
Assessment-sheet	966	8
Copy of duty challan paid	587	387
Delivery Order	0	974
Delivery letter	0	974

Source: MCC Appraisalment, Karachi

17 applicants had cleared 10 to 51 vehicles per person

8. Besides, 17 applicants had cleared 10 to 51 vehicles per person. Addresses of most of such applicants were from far flung areas of other provinces falling under the jurisdiction of other Collectorates. Barring a few cases, digitally scanned images were not available in record. Relating the scanned images with vehicles and the time and place of image was not found possible. No evidence of entry or exit of vehicle was on record. Delivery orders were not computer generated. Affidavits were not obtained. Inside information is that mismanagement and misuse committed by the Customs staff was motivated by corruption which was alleged as massive at Karachi.

MCC QUETTA

9. MCC Quetta conducted the process of amnesty at the following Customs stations:-

- i) Custom House, Quetta;
- ii) NLC Dryport, Quetta;
- iii) Farooq Bonded Warehouse, Quetta;
- iv) Custom House Chaman; and
- v) Customs Camp Office Qilla Saifullah.

10. Inspection of record by the Joint Inspection Team revealed a number of glaring discrepancies at Custom House Quetta, NLC Dryport and Farooq Bonded Warehouse as follows:

The Entry and Accounts registers were incomplete with several serial numbers having been left blank

90% to 95% files, photographs of vehicles were not available

Names and addresses of applicants were not recorded

- i) Under the amnesty procedure, the Customs authorities were required to obtain digitally scanned images of vehicles at the time of examination and pass adjudication orders where after treasury challan for payment of assessed duty and taxes could be issued. The vehicles were required to be seized and retained by the Customs till payment of duty/taxes and issuance of delivery order. These procedural requirements were observed mostly in violation rather than compliance.
- ii) The Entry and Accounts registers were incomplete with several serial numbers having been left blank. The registers were initially seized but subsequently returned after obtaining copies/photograph and crossing the blank serial numbers, to enable the Customs to complete the amnesty process;
- iii) The record of Camp Office at Qilla Saifullah was shifted to Quetta. Files numbering 2013 along with registers were randomly perused. In 90% to 95% files, photographs of vehicles were not available;
- iv) It was informed that 3388 vehicles were granted amnesty at Custom House Chaman. Out of these, files of only 1700 vehicles were available. The digital images of vehicles were not as per instructions of the FBR;
- v) The Customs authorities vide letter dated 10.04.2013 informed that 12521 vehicles were processed at three stations at Quetta. However, none of these vehicles was taken into possession. Only files of about 4100 vehicles processed at three stations at Quetta City were available. In about 25% of the files images of vehicles were missing;
- vi) The Collector informed that due to lack of space the vehicles could not be retained. After examination, the vehicles along with files were handed over to the owners, who after depositing duty/taxes and fine returned the files. Thereafter, O-in-O was passed and delivery order issued. This was a blatant violation of the prescribed procedure. The Collector, however, produced the Office Order dated 20.03.2013 according to which the vehicle could be recalled as and when required;
- vii) Names and addresses of applicants were not recorded. (These were subsequently adopted by the Customs at Quetta from record of NADRA in Urdu.);

Quetta
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had been
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without
physical
presentation of
vehicles

- viii) Primafacily, non availability of digitally scanned images, leaving several serial numbers blank in registers, non retaining the vehicles and handing over the files to the owners, gave rise to a number of possibilities including the following:-
 - a) The vehicles were not available in the country hence their digital images could not be obtained;
 - b) Assessment was not strictly made in accordance with SRO 172(I)/2013 (Annex-II), for ulterior motives.
- ix) Applications of 391 vehicles were found pending without the vehicles. It clearly indicated that Quetta Collectorate had been receiving applications without physical presentation of vehicles which was clear violation of the prescribed procedure;
- x) Real time maintenance of record at Quetta Collectorate was the most messy among the Collectorates implementing amnesty;

Real time
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Quetta
Collectorate
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the
Collectorates

MCC PESHAWAR

- 11. (i) Customs Collectorate at Peshawar received 17391 applications under amnesty scheme:
 - a. Number of regularized vehicles 17381
 - b. Number of vehicles under process when last date of amnesty expired on 6 April 2013 10
- (ii) The Collector prescribed a detailed procedure for completion of amnesty formalities which was belatedly circulated by the FBR for reference by other Collectorates;
- (iii) Processing of applications was done at ten Customs Stations within the Collectorate. However, documentation was handled at eight Stations;
- (iv) Documentation for procedural formalities remained incomplete. Reason given was rush of work;
- (v) Amnesty was granted to 'Ghost Vehicles': the vehicles which were not yet available in the country or not physically presented for examination by the Customs authorities;
- (vi) In a large number of cases, from 10 to 46 vehicles were granted amnesty in the name of one person. When some of these applicants were directed by the Joint Inspection Team personnel to produce the vehicles for verification, they could not do so;
- (vii) An importer of vehicles namely Natiq obtained amnesty for a number of vehicles in the name of other people. When contacted by FIA, the people denied having applied

Amnesty was
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'Ghost
Vehicles'

In a large
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name of one
person

for amnesty. They, however, confirmed having delivered their CNICs to Mr. Natiq. This is indicative of misuse of amnesty by Mr. Natiq allegedly in collusion with the Customs staff;

In most cases digital images were not relatable to vehicles because of irrelevant background

Mostly data of vehicles was not uploaded on PRAL- software prescribed for system generated delivery orders

- (viii) Joint Inspection Team selected files of 1823 vehicles some of which had been cleared on 31 March 2013 with engine capacity above 1800 CC. Files of 223 vehicles were found complete with digital images. Out of these 136 vehicles were selected for physical verification. Only 27 beneficiaries brought their vehicles;
- (ix) Some of the vehicle owners stated that they belonged to far off places like D.I.Khan, Abbottabad, Islamabad and Rawalpindi. They were reluctant to produce their vehicles at Peshawar due to law and order situation. (It is doubtful whether they actually presented the vehicles at the time of application and regularization.);
- (x) In most cases digital images were not relatable to vehicles because of irrelevant background;
- (xi) Mostly data of vehicles was not uploaded on PRAL- software prescribed for system generated delivery orders;
- (xii) Various allegations of corruption in regularizing the smuggled vehicles were widely circulating;
- (xiii) In 15 cases, discrepancies in the amount of duty/taxes and fine were observed in the same type of vehicles as under:

Table-9

Variation in Assessed Amount of Duty/Taxes at Peshawar

Sr.#	File No.	Model	Engine Capacity	Amnesty of duty/ taxes and fine paid
1	11	2003	1496	497,125
2	39	-do-	-do-	496,618
3	224	-do-	-do-	518,259
4	785	-do-	-do-	488,271
5	318	2002	1794	688,031
6	108	-do-	-do-	707,236
7	589	-do-	-do-	686,632
8	102	-do-	-do-	707,680
9	6	2003	1794	733,900
10	201	-do-	-do-	744,927
11	877	-do-	-do-	732,417
12	2306	-do-	-do-	514,304
13	224	-do-	-do-	518,259
14	39	-do-	-do-	496,618
15	785	-do-	-do-	488,271

Source: MCC Peshawar

'Ghost Vehicles' i.e. vehicles not yet arrived in Pakistan and Vehicle not physically presented/surrendered were granted amnesty without actual examination and verification of material particulars

In a number of cases, more than 10 and upto 22 vehicles were granted amnesty to only one applicant

No check for tampering was exercised on vehicles allegedly not presented/surrendered to the Customs

Mismanagement and corruption in amnesty became so notorious in Faisalabad that FIA raided Faisalabad Dryport and seized the record

MCC FAISALABAD

(Reports of corruption prompted FIA raid at Faisalabad Dryport. Some of the observations are based on information provided by Faisalabad Collectorate as no Joint Inspection Team was constituted for this Collectorate due to FIA raid)

12. 1245 vehicles were allowed amnesty at Faisalabad Dryport.
 - (i) No SOP was issued by the Collector to implement amnesty in an orderly manner.
 - (ii) During hearing of a case, the Assistant Collector incharge of implementation of amnesty at Faisalabad initially stated that the FBR's instructions dated 8 March and 13 March 2013 had not been received at Faisalabad. When told that all other Collectorates had received these instructions, he subsequently, confirmed receipt of the FBR instructions dated 8 March and reconfirmed non-receipt of the instructions dated 13 March 2013;
 - (iii) 'Ghost Vehicles' i.e. vehicles not yet arrived in Pakistan and Vehicle not physically presented/surrendered were granted amnesty without actual examination and verification of material particulars. Out of the list of 1425 vehicles 45 vehicles appear to have been granted amnesty in anticipation of their arrival in the country;
 - (iv) In a number of cases, more than 10 and upto 22 vehicles were granted amnesty to only one applicant; Most of the applicants were granted amnesty to more than ten vehicles which belonged to far off places like North Waziristan and D.I. Khan. It is believed that these vehicles were not physically presented/surrendered;
 - (v) No check for tampering was exercised on vehicles allegedly not presented/surrendered to the Customs;
 - (vi) Manual delivery orders were issued in violation of the FBR instructions for issuing system generated delivery orders;
 - (vii) Mismanagement and corruption in amnesty became so notorious in Faisalabad that FIA raided Faisalabad Dryport and seized the record. This matter needs serious probe for bringing the matter to its logical conclusion;
 - (viii) No gate-in, gate out system was prescribed to record entry and exit of vehicles from Faisalabad Dryport. Even the Dryport staff who otherwise keep gate-in, gate-out record of vehicles arriving or departing, did not maintain any record of amnesty vehicles;
 - (ix) 317 applications were reported under process when the amnesty expired. Later, it transpired that no vehicles were

The story of corruption in implementation of amnesty requires a case study to fully ascertain the extent of corruption, misuse and mismanagement of Customs staff at Faisalabad

Customs at Sambrial initially denied having received FBR's guidelines dated 13 March 2013

Bogus dispatch numbers of Adjudication Orders were listed as 559,559-A and 559-B etc

presented with applications. This clearly indicates that Faisalabad Customs were not ensuring presentation of vehicles alongwith applications. Inside information is that only one third of the vehicles granted amnesty were physically presented at Faisalabad;

- (x) The story of corruption in implementation of amnesty requires a case study to fully ascertain the extent of corruption, misuse and mismanagement of Customs staff at Faisalabad.

MCC SAMBRIAL

13. Implementation of the amnesty scheme at MCC Sambrial (Sialkot) is one of the most suspicious among the Collectorates as is evident from the following observations of the Joint Inspection Team:

- i) Customs at Sambrial initially denied having received FBR's guidelines dated 13 March 2013;
- ii) On further probed by the Joint Inspection Team, it was observed that the guidelines had been received on 15 March 2013 vide Collector's Diary No.770 and forwarded to the Additional Collector for necessary action. It is thus a question why did the staff lie to the Joint Inspection Team;
- iii) No SOP issued by the Collector at Sambrial for orderly implementation of amnesty;
- iv) Photographs of only some vehicles were taken. Photos were not taken in the premises of Custom House or Dryport at Sambrial;
- v) Bogus dispatch numbers of Adjudication Orders were listed as 559,559-A and 559-B etc;
- vi) Record was fabricated after the event and not made in due course in real time;
- vii) Affidavits/undertakings were not obtained from the applicants. Instead of proper affidavit/undertaking some narration to the similar effect was made in the application;
- viii) Applications available in the files were without mentioning the material particulars of vehicles such as engine number, engine capacity, colour of the vehicle or other aspects of vehicle description;

Not a single vehicle was subjected to forensic testing for detection of tempering

No inward / outward gate passes were issued for receipt and delivery of the vehicles

Many owners of vehicles had addresses of Quetta, Peshawar, Bannu, Multan, Layyah, Lahore and Sibi etc

- ix) No proper examination of vehicle was conducted;
- x) Not a single vehicle was subjected to forensic testing for detection of tempering. No filter was applied for detecting stolen vehicles;
- xi) On random sample checking by the Joint Inspection Team, adjudication/examination record of 26 vehicles (Annex-XVIII) was not produced although duty/taxes had been deposited in the bank. It appeared that none of these 26 vehicles was physically presented or surrendered for examination, assessment and adjudication. It thus appeared that most of the vehicles may not have been presented/surrendered for seizure, examination, assessment and adjudication;
- xii) No inward/outward gate passes were issued for receipt and delivery of the vehicles;
- xiii) No entry and exit record was available to prove the date of clearance of a vehicle;
- xiv) Manually prepared delivery orders were issued instead of computer generated delivery orders; and
- xv) Many owners of vehicles had addresses of Quetta, Peshawar, Bannu, Multan, Layyah, Lahore and Sibi etc.

14. The conclusion of the Joint Inspection Team was that the haphazard manner in which the amnesty scheme had been implemented could only lead to the inference that the Customs officers had indulged in corrupt practices with ulterior motives.

MCC ISLAMABAD

15. Observations of the Joint Inspection Team are as under:

No gate pass system was instituted by the Customs

- i) 956 vehicles were granted amnesty by 06 April 2013. 208 vehicles were pending delivery orders on account of stoppage of uploading operation by PRAL due to expiry of last date of amnesty;
- ii) No gate pass system was instituted by the Customs. It was left to the Railway authorities which have recorded clearance of only 697 vehicles from 13.03.2013 onwards. No conscious effort was made by the Customs to advise the Railway authorities to institute a fool-proof gate-in gate-out system for amnesty vehicles;

No written SOP was prescribed for grant of amnesty

FBR instructions dated 13 March reached Islamabad Dryport on 19 March

Vehicles were photographed without any landmark in the background to relate the photographs with the presence of vehicle at the Dryport

- iii) No written SOP was prescribed for grant of amnesty. However, step-wise oral instructions were statedly given by the Deputy Collector to the team of officials for implementation of amnesty;
- iv) FBR instructions dated 13 March reached Islamabad Dryport on 19 March;
- v) Out of 15 vehicles referred for lab test for tampering, 4 vehicles were found tampered;
- vi) No filter was applied for identifying stolen vehicles;
- vii) No system was prescribed for safe custody of surrendered vehicles. Dealing Examiners were asked to keep the keys of surrendered vehicles;
- viii) Randomly checked record of files was found to be complete in terms of application, affidavit, CNIC and download of engine/chassis number from vendor's website. This was an additional precautionary measure instituted by the Deputy Collector to cross check material particulars of vehicles for correct assessment of duty/taxes and fine. The formula of assessment provided by the FBR was displayed on the Notice Board;
- ix) Random checking also revealed the following:-
 - a) 6 cases of 3 vehicles in one name
 - b) 1 case of 4 vehicles in one name
 - c) 1 case of 6 vehicles in one name
- x) Vehicles were photographed without any landmark in the background to relate the photographs with the presence of vehicle at the Dryport. Photographs were uploaded on the computer system from 21 March 2013 when PRAL modified the software to receive it. Softcopies of photographs were available with the Customs Officer detailed for making digitally scanned images;
- xi) Vehicles were released against computer generated delivery orders. (Islamabad Customs share this distinction with Lahore Customs of uploading digital images on PRAL-software and release of amnesty vehicles against computer generated delivery orders only);
- xii) Assessment of the amount of duty/taxes and fine in file No.1117 was informally cross checked with Karachi and Multan. Both Collectorates informally reported the amount as a little over Rs 25 lakh as compared to over 32 lakh assessed by the Customs at Islamabad Dryport. The matter was brought to the notice of Deputy Collector for consideration as per law;

- xiii) A stray case of bribe extorted by someone at the gate of the Dryport was also reported by Inspection Team Member to the Deputy Collector. Another case of bribe of extorted by someone was reported by Mr. Jahangir Bapra cell phone 0333-5888875;
- xiv) The Customs faced some problems in accounting for four vehicles at the end of amnesty. Two vehicles were not reported 'under process' as the applicant had taken away the files and kept these with him till expiry of the amnesty;
- xv) Despite some procedural shortcomings implementation was relatively orderly as compared to other Collectorates except Lahore Collectorate which was also relatively better managed;
- xvi) Total number of files opened was reported as 1179. Date-wise number of files is as under:

Table-10
Number of Files Opened for Amnesty Vehicles at Islamabad

Date	From (Sr. No.)	To (Sr. No.)	Total (Files)	Remarks
12.03.2013	1	10	10	
13.03.2013 to 15.03.2013	11	68	57	Sr. No. 13 cancelled due to duplication
16.03.2013	69	95	27	
17.03.2013	96	110	27	
18.03.2013	111	139	29	
19.03.2013	140	185	46	
20.03.2013	186	220	35	
21.03.2013	221	268	48	
22.03.2013	269	317	49	
23.03.2013	318	340	23	
24.03.2013	341	359	19	
25.03.2013	360	435	76	
26.03.2013	436	509	74	
27.03.2013	410	623	114	
28.03.2013	624	738	115	
29.03.2013	739	863	124	Sr. No. 818 cancelled by DC due to non production of vehicle.
30.03.2013	864	1056	93	Error in Sr. No.(193-100=73)
31.03.2013	1057	1126	70	
01.04.2013	1127	0	1	
02.04.2013	0	0	0	
03.04.2013	1128	1138	6	
04.04.2013	1134	1197	64	
05.04.2013	1198	1251	54	
06.04.2013	1252	1281	30	
Total			1179	

Source: MCC Islamabad

MCC (APPRAISEMENT), LAHORE

16. In all, 638 vehicles were granted amnesty at MCC Lahore.

Observations of the Joint Inspection Team are as under:

Most of the photographs are not relatable to vehicles

Data was not uploaded on the website by 06 April, 2013

- i) A large number of vehicles were not imaged at the Customs Station where processing for amnesty was conducted. So most of the photographs are not relatable to vehicles;
- ii) Admittedly, some of the owners were asked by the Customs to photograph their vehicles themselves;
- iii) Entire data was not uploaded on the website by 06 April, 2013 when the amnesty expired. However, delivery orders were system generated;
- iv) No filter was applied for identifying stolen vehicles. However, vehicles suspected of tampering were referred for laboratory test. Out of twenty vehicles so referred, two were found tampered;
- v) The Deputy Collector instituted a relatively stricter supervision at Lahore. (That is the reason for regularization of a comparatively lower number of vehicles i.e. second lowest after Collectorate at Gilgit.);
- vi) Applicants alleged payment of 'speed money' for facilitation of regularization. However, nobody was willing to come forward as a witness.

17. Date-wise number of amnesty vehicles at Lahore is given below:

Table-11

Date-wise Number of Regularized Vehicles at Lahore

SR. #	DATE	NO. OF VEHICLES RELEASED
1	05.03.2013	Nil
2	06.03.2013	Nil
3	07.03.2013	Nil
4	08.03.2013	Nil
5	09.03.2013	Nil
6	09.03.2013	Nil
7	10.03.2013	Nil
8	11.03.2013	Nil
9	12.03.2013	Nil
10	13.03.2013	Nil
11	14.03.2013	Nil
12	15.03.2013	Nil
13	16.03.2013	20
14	17.03.2013	13
15	18.03.2013	13
16	19.03.2013	10

17	20.03.2013	18
18	21.03.2013	29
19	22.03.2013	19
20	23.03.2013	19
21	24.03.2013	14
22	25.03.2013	18
23	26.03.2013	26
24	27.03.2013	39
25	28.03.2013	55
26	29.03.2013	72
27	30.03.2013	67
28	31.03.2013	115
29	01.04.2013	Nil
30	02.04.2013	Nil
31	03.04.2013	Nil
32	04.04.2013	04
33	05.04.2013	14
34	06.04.2013	73
Total		638

Source: MCC Lahore

18. It is evident from the foregoing facts that the amnesty scheme-2013 was mostly implemented in haphazard and disorderly manner and documentation was not properly maintained in real time by many Collectorates. The FBR's instructions were violated by the Collectorates. Rush of work was stated by the Customs to be the main reason. The public outcry was that the motive for haphazard implementation was corruption. Inside information also confirmed that unprecedented corruption had taken place at most of the Collectorates especially Karachi, Faisalabad, Quetta, Peshawar and Sambrial and the names of involved Customs officers were rampantly circulating.

CHAPTER - 4

CHAPTER-4

EXTENT OF ABUSE AND MISMANAGEMENT

Some of the Collectorates could not furnish complete and correct information within the prescribed time limit

On expiry of the extended period of amnesty scheme on 6 April 2013, the Federal Tax Ombudsman Secretariat requisitioned data of amnesty vehicles from Revenue Division/FBR on two prescribed formats vide orders dated 5-6 April 2013. A period of more than ten days was allowed to furnish the requisite information. A relatively longer period was allowed in view of the extremely poor maintenance of data as reported by Joint Inspection Teams and briefly reflected in Chapter-3. During this period, most of the Collectorates might have removed some of the wide-ranging deficiencies pointed out in Chapter-3. Nevertheless, some of the Collectorates could not furnish complete and correct information within the prescribed time limit.

Most miserable was the plight of Quetta Collectorate which changed the data a number of times

2. The Collectorates were again asked to make up deficiencies and remove defects like missing engine/chassis numbers, incorrect CNIC numbers and incomplete addresses of applicants. Revised statements were submitted by the deficient Collectorates. Despite all that, some of the Collectorates could not provide firmed up data. Most miserable was the plight of Quetta Collectorate which changed the data a number of times. As Quetta Collectorate had not recorded the names and addresses of the applicants, it had to copy the data (in Urdu) from NADRA data base. Frequent changes and deficiencies of data made analysis difficult. Therefore, some of the analytical data given in the report may be indicative and not exhaustive.

As many as 366 vehicles auctioned in Japan during the amnesty period, had been granted amnesty by the Customs staff

3. In pursuance of information that the Customs staff had unlawfully regularized even those vehicles which were not available in the country when the amnesty was notified, an attempt was made to compare the amnesty data provided by the FBR/Collectorates with the data available on various auction websites of Japan. Information received about 407 vehicles auctioned by some Auction Houses of Japan mainly during March 2013 was scrutinized with reference to data of amnesty vehicles furnished by the Collectorates. It revealed that as many as 366 vehicles (Annex-XIX – soft copy) auctioned in Japan during the amnesty period, had been granted amnesty by the Customs

staff treating them available in Pakistan and having been physically presented before the Customs as required by the procedure prescribed for grant of amnesty. Table-12 shows Collectorate-wise position of such vehicles as were reportedly at the auction and shipment stages in Japan during the amnesty period but were granted amnesty in Pakistan fraudulently treating these as present in Pakistan.

Table-12
Collectorate-wise Number of Regularized Vehicles which were Present in Japan

Sr. #	MCC	Number of Vehicles
1	Appraisement Karachi	228
2	Faisalabad	42
3	Sambrial	40
4	Peshawar	27
5	Quetta	23
6	Hyderabad	04
7	Gwadar	01
8	Multan	01
	Total:	366

Source: Auction House Website

4. It appeared that regularization of vehicles which were still lying in Japan was made under the amnesty scheme in an organized manner allegedly for corrupt motives. In two cases 5 vehicles lying in Japan were got cleared in Pakistan against one CNIC. In one case 6 vehicles were got cleared against one CNIC. So, out of 366 vehicles 151 vehicles were got cleared against 60 CNICs. Table-13 elaborates the position.

Table-13
List of Vehicles in Japan Regularized in Anticipation of Arrival against one CNIC

No of Vehicles per CNIC	No of CNICs	Total No of Vehicles Cleared
2	40	80
3	13	39
4	4	16
5	2	10
6	1	6

60

151

5. In addition to the information received about auction stage vehicles in Japan, bills of lading of 18 vehicles had been received according to which 16 vehicles shipped from Japan to Dubai between 16-21 April 2013 i.e. much after the expiry of the amnesty, have been

found regularized in the lists of amnesty vehicles supplied by the Collectorates.

Bills of lading of 18 vehicles had been received according to which 16 vehicles shipped from Japan to Dubai between 16-21 April 2013 was also found regularized

6. This makes the total number of this category of 'Ghost Vehicle' to 382 which had not arrived in Pakistan but the Customs staff granted amnesty treating these vehicles as physically presented to them as required under the procedure. (Bills of Lading for 18 vehicles are Annex-XX). 16 out of 18 such vehicles appear to have been regularized (14 vehicles by MCC Peshawar and 2 vehicles by MCC Appraisalment Karachi.) as indicated by Table 14 below:

Table-14

List of 16 Vehicles in Dubai Granted Amnesty in Anticipation

Vehicle	Chassis No.	Collectorate	CNIC	Model
Mazda RX-7	FD3S-111313	Karachi	42000-0564498-7	1992
Toyota Corolla	AE100-0072041	Karachi	42000-0564498-7	1993
Toyota Supra	JZA80-0034338	Peshawar	17301-6908838-5	1996
Mazda RX-7	FD3S-203715	Peshawar	17301-6908838-5	1993
Nissan Skyline	BCNR33-003257	Peshawar	17301-6908838-5	1999
Mazda RX-7	FD3S-405301	Peshawar	17301-3320280-3	1993
Mazda RX-7	FD3S-303452	Peshawar	17301-3320280-3	1993
Mazda RX-7	FD3S-401438	Peshawar	17301-3320280-3	1993
Mazda RX-7	FD3S-501085	Peshawar	17301-3320280-3	1999
Mazda RX-7	FD3S-103634	Peshawar	17301-3320280-3	1993
Mazda RX-7	FD3S-404259	Peshawar	17301-3320280-3	1993
Toyota Supra	JZA80-0019349	Peshawar	17301-1425565-9	1994
Mazda RX-7	FD3S-203597	Peshawar	17301-4832281-3	1993
Mazda RX-7	FD3S-300168	Peshawar	17301-4832281-3	1993
Mazda RX-7	FD3S-404976	Peshawar	17301-4832281-3	1993
Toyota Corolla	AE100-0092220	Peshawar	21104-2795079-3	1993

7. Table 15 reflects Collectorate-wise total number of both categories of Ghost Vehicles as under:

Table-15

Collectorate-wise Number of Vehicles Granted Amnesty in Anticipation of Arrival

Collectorate	No of Vehicles
Karachi	230
Faisalabad	42
Sialkot	40
Peshawar	41
Quetta	23
Hyderabad	4
Gawadar	1
Multan	1
Total:	382

8. Table-16 shows the number of aforesaid vehicles in various categories:

Table-16
Description of Regularized Vehicles in Anticipation

Vehicle Type	No of Vehicles	%age
Toyota Land Crusier Jeep	143	37.43455500
Toyota Hiace Van	126	32.98429320
Toyota Corolla	59	15.44502620
Mazda Truck	11	2.87958115
Toyota Vitz Car	9	2.35602094
Toyota Hilux Surf Jeep	8	2.09424084
Mazda Car-RX-7	19	4.97382199
Toyota Supra	2	0.52356021
Toyota Mark-X Car	2	0.52356021
Toyota Pick up	2	0.52356021
Fielder 2000	1	0.26178010
Total:	382	100

9. Apart from the above, the following discrepancies in data have also been noted:

Incorrect CNICs:

10. The standard Computerized National Identity Card number bears 13 figures (12345-1234567-1). The data furnished by the Collectorates indicates that 1963 CNICs are not in standard format. Either the data entry staff has been casual or the entries are false - not backed by real CNICs. Sample entries are given in Table-17 below whereas further examples may be seen at Annex-XXI.

Table-17
Sampling of Incorrect CNICs

Name	CNIC No.	Chassis No.
Shahana Khanum W/o Abdul Shahmim	42201-03381808-6	H58A-0003756
Noor UI Haq S/o Sheri	13504-0571470	BJ76-0002109
Gul Sharif S/o Abdul Rashid	21104-2174160	NZE121-0078717
Hashaan Riaz Sheikh S/o Abdul Riaz Sheikh	3502-2923710-1	JTMHT09J394026782
Muhammad Essa S/o Toor Jan	54201-2462385	RZN147-0001842

Missing CNICs:

In 549 cases
CNICs are
missing

11. Despite rectification of the data after closure of the amnesty, there are still 549 cases where CNICs are missing in the data finally furnished by the Collectorates. Collectorate-wise number of missing

CNICs is indicated in Table-18 below and Annex-XXI:

Table-18
Collectorate-wise Missing CNICs

Collectorate	No of Missing CNICs
Islamabad	2
Multan	6
Peshawar	210
Quetta	203
Sambrial	128
Total:	549

In 1459 cases the engine capacity of vehicles is not recorded

Missing Engine Capacity (HP/CC)

12. In 1459 cases the engine capacity of vehicles is not recorded. Collectorate-wise position is reflected in Annex-XXI.

Missing Chassis Number:

13. In 97 cases no chassis numbers are given in the data furnished by the Collectorates. This discrepancy is mainly found in the data furnished by MCC Peshawar and MCC Multan (Annex-XXI).

Cases Where Amount of Duty Not Mentioned:

14. In over a score of cases the amount of duty/taxes has not been mentioned. Most of such cases pertained to MCC Multan and MCC Peshawar.

33223 vehicles with models older than 2000 or without models were regularized

15. It is also observed that 33223 vehicles with models older than 2000 or without models were regularized. It is suspected that some of the models may have been misdeclared to maximize tax tariff concessions. Table-19 reflects the models of vehicles granted amnesty in 2013:

Table-19
Showing Number of Very Old Model Vehicles

Model	Number of Vehicles
1999	4439
1998	2786
1997	1894
1996	1787
1995	2270
1994	4154
1993	3006
Earlier 1993	11494
Void Model	1167
Data Not Available	218
After 2013	8
Total:	33223

Source: Collectorates

16. There is another possibility that similar vehicles were given different tax treatment by different Collectorates. As an example, some cases of differential tax treatment by Peshawar Collectorate have been identified in Table-20 below in addition to the data given in Table-9:

Table-20
Showing Different Amounts of Duty/Tax Collected
On Identical Vehicles in Peshawar Collectorate

Chassis Number	Model	Amount of Duty Deposited
KZJ95-0017822	1996	768,000
KZJ95-0007769	1996	1,185,217
RZJ95-0006160	1997	578,927
RZJ95-0008835	1997	677,783
RZJ95-0010079	1997	1,030,224
RZJ95-0012565	1998	805,220
RZJ95-0010770	1998	833,273
RZJ95-0015724	1998	1,135,920
RZJ95-0026127	1999	762,497
RZJ95-0023016	1999	907,380

Source: Amnesty Data

Syndicated Smuggling:

In one case 53 vehicles of various descriptions were got cleared against one CNIC at Quetta Collectorate

17. The amnesty scheme appears to have extended full legal support to organized syndicates of smugglers of vehicles. In one case 53 vehicles of various descriptions were regularized against one CNIC at Quetta Collectorate. In two other cases 51 vehicles including Land Cruisers, Toyota Hiaces, Trucks and Coasters pertaining to Balochistan were got cleared against one CNIC at Karachi Collectorate. In yet another case, 50 vehicles belonging to an applicant of Qilla Abdullah, Balochistan, were regularized at Karachi. It is highly improbable that anybody from Qilla Abdullah or Quetta drove a convoy of 50-51 vehicles for regularizing smuggled vehicles at Karachi instead of Quetta. This lends a lot of credence to the allegation that regularization was made in many a case on the basis of documents only without physical presentation of vehicles.

Table-21**Showing Regularization of 50 plus vehicles by one Applicant**

Collectorate	No. of Vehicles	NIC No.	Name	Address
Karachi	50	54201-7713423-3	Wali M S/o Haji Qila Khan	Kali Haji Qila Khan Dak khana Cahman Dist., Qila Abdullah
Karachi	51	42201-3286197-5	Abdul Wali S/o Khan M.	Haji Kala Khan Teh. Chamman Dist. Qillah Abdullah.
Karachi	51	54400-0480365-1	Habib Ullah S/o Jumma Khan	Kharot Abad, Smangli Road, Quetta
Quetta	53	54201-7704410-5	Abdul Hadi	Killi Sufi Afghan Mohammad Umer Khan Dak Khana Chaman

Source: Collectorates

19037 vehicles were granted amnesty in the name of 5914 applicants

18 It has also been observed that 19037 vehicles were granted amnesty in the name of 5914 applicants. It meant that more than one vehicle had been granted amnesty in the name of one applicant. Tables-22 elaborates the position.

Table-22**Number of CNICs against which More Than One Vehicle Regularized**

Number of Vehicles	Number of CNICs Involved	Total Number of Vehicles
2 ----- 10	5760	16133
11 ----- 20	110	1465
21 -----30	22	551
31 ----- 40	11	377
41 -----49	07	306
50	01	50
51	02	102
53	01	53

Total**5914****19037**

Source: Collectorates

1878 vehicles have been cleared against 416 CNIC in different Collectorates

19. Besides, 1878 vehicles have been cleared against 416 CNIC in different Collectorates. There are cases where one CNIC has been used at different Customs Stations within the same Collectorate to regularize more than one vehicle. Table-23 indicates some examples. Details are given in (Annex-XXII – Soft Copy).

Table-23**Sample cases where one CNIC used in multiple
Collectorates\Customs Stations**

CNIC	Name	Address	Collectorate/ Custom Station	No. of Vehicles
14101-0777906-7	Ameer Ullah Jan	Mohallah Malik Gul Moeen, Nomy Dand, P.O. Tal, Hangu.	Faisalabad	7
			Kohat	4
			Sambrial	1
CNIC	Name	Address	Collectorate/ Custom Station	No. of Vehicles
15602-0384794-1	Faramosh S/O Karim	Bakhsh R/O PO Shahi Bagha Sir Saini Tehsil And Distt: Sawat 03149711165	Peshawar	1
			Peshawar Dryport	1
			Swat	1
CNIC	Name	Address	Collectorate/ Custom Station	No. of Vehicles
56302-0844967-7	Amir Hamza	Mohallah Nasirabad, Lora Lai	Faisalabad	1
			Multan	2
			Quetta	2

Source: Collectorates

20. It appears that vehicles in such cases were not physically presented and surrendered to the Customs as required by the amnesty procedure. The probability that such vehicles were not physically presented to the Customs gets further strengthened by the number of vehicles granted amnesty at Karachi:

Table-24**Period-wise Regularization of Vehicles at Karachi**

Days/Dates	Number of Vehicles
From 5 to 8 March	Nil (4 days)
From 9 to 17 March	193 (8 days)
From 18 March to 01 April	5451 (14 days)
From 02 to 06 April	250 (5 days)

Source: MCC Appraisalment, Karachi

21. It may be observed from Table-24 above that during the first 4 days of notification of amnesty, no vehicle was granted amnesty probably due to lack of guidelines and clarifications from the FBR. After FBR's clarifications issued on 8 March, 2013 in response to the queries made by the Collectors, grant of amnesty started at Karachi with effect from 9 March. During the first 8 days of start up of amnesty from 9 to 17 March, 193 vehicles availed amnesty @ 24 vehicles per day. Then

came the exceptional surge for 14 days from 18 March to 01 April, 2013 when an average number of 389 vehicles per day were granted amnesty with the lowest number being 7 vehicles on 24 March and highest number being 1429 on 29 March. On 2 April when the FTO's Orders of constituting Joint Inspection Team dated 1 April 2013 (faxed in the afternoon of 1 April) came to the notice of Customs staff implementing the amnesty, the number of vehicles availing amnesty suddenly dropped to an average of 50 vehicles per day with lowest number being 27 on 6 April and highest number being 89 vehicles on 3 April 2013.

22. If the average of 8 initial days and 5 last days is taken to indicate the real trend, it works out to be 34 vehicles per day. If this average is doubled or even tripled to give allowance for increase during the 14 days in the middle, the average does not exceed 102 vehicles per day. But processing of 573 vehicles on 27 March, 653 vehicles on 28 March, and 1429 vehicles on 29 March, appears to be an impossibility given the absolute paucity of space in day time on the road before Custom House, Karachi, where the vehicles were reported to have been presented for examination, and limitation of Customs staff processing the vehicles for amnesty involving examination, photography, assessment of duty/taxes and adjudication etc. It is also astonishing that Appraisement Collectorate at Karachi completed amnesty procedures for 1429 vehicles in one day when most of Collectorates had processed that number during the entire period of amnesty.

Appraisement
Collectorate at
Karachi
completed
amnesty
procedures for
1429 vehicles
in one day
when most of
Collectorates
had processed
that number
during the
entire period of
amnesty

23. The pattern of daily clearance of amnesty vehicles at Karachi also stands in clear contrast with the pattern observed in Lahore, for an example, where, despite procedural lapses, the amnesty scheme appears to have been implemented with a relatively more careful manner. The clearance of amnesty vehicles at Lahore for 19 days of actual working from 13 to 31 March 2013 works out to 547 vehicles, i.e. 29 vehicles per day with lowest number being 10 on 19 March and highest number being 115 on 31 March, 2013 (Table-11 supra). It is evident that the situation at Karachi was drastically different. Besides, exceptionally poor documentation with blank serial numbers, admitted return of vehicles to applicants before payment of duty/taxes and fine,

Release of vehicles against manual delivery orders as against the system generated delivery orders, are clear indications of the possibility of granting amnesty by the Customs at Karachi without physical presence and surrender of the vehicles

inappropriate compliance of digital imaging of all vehicles, and release of vehicles against manual delivery orders as against the system generated delivery orders, are clear indications of the possibility of granting amnesty by the Customs at Karachi without physical presence and surrender of the vehicles.

24. Why did the Customs staff unlawfully grant amnesty to the vehicles which had not yet arrived in the country, and why did the staff unduly grant amnesty to vehicles without physical presence and actual seizure in violation of the law and procedure, lends a lot of credence to the allegation of corrupt motives. It is alleged that speed money of upto Rs35,000/- to Rs50,000/- was extorted from most of the applicants at some of the Customs stations implementing the amnesty. The normal amount of bribe money for grant of amnesty without physical presentation and actual surrender of smuggled vehicles available in the county ranged from Rs100,000/- to 150,000/- per vehicle. The amount of bribe for Ghost vehicles not yet arrived in the country was alleged to be Rs300,000/- to Rs500,000/- depending on the type of vehicle. The sources within the Customs Department confirmed prevalence of these rates of bribe. The inside information from Karachi, Sambrial (Sialkot), Quetta, Peshawar and Faisalabad is that the number of vehicles actually presented at these stations was not more than one third of the total vehicles granted amnesty at these stations.

CHAPTER - 5

CHAPTER-5

CONCLUSION AND RECOMMENCATIONS

Amnesty to smugglers and purchasers of smuggled vehicles, including luxury cars, is not in the national interest on many counts

Amnesty to smugglers and purchasers of smuggled vehicles, including luxury cars, is not in the national interest on many counts. It dilutes governance; protects and promotes smuggling, prompts flight of capital, caters to the penchant of the elite for luxury vehicles, condones failure of anti-smuggling agencies and results in loss of revenue. Smuggling of vehicles stints local production, stymies investment and detracts much from the job market. The Revenue Division should not sacrifice so much for a short run eking out of revenue as it also aggravates complacency of tax collection machinery which is already addicted to undesirable means of jacking up revenue to manipulate false perception of higher performance. Undue withholding of tax refunds and duty drawbacks worth billions of rupees, manipulation of advances from taxpayers during June every year, and collecting quick buck by resorting to amnesties are cases in point.

The amnesty was poorly conceived, improperly approved, haphazardly implemented and massively abused in utter violation of the law and procedure

2. The smuggled vehicles amnesty scheme-2013 has not been viewed favourably by anybody except the smugglers, the elite owning smuggled luxury vehicles and the corrupt in the tax collection machinery. The amnesty was poorly conceived, improperly approved, haphazardly implemented and massively abused in utter violation of the law and procedure. 'Ghost Vehicles', which had not been physically presented to the Customs or not available in the country as these were either in the 'Holding Areas' of Dubai, Sharjah and Afghanistan or at auction or shipment stages in Japan were unduly allowed amnesty in violation of the law and procedure. Absence of the requirement of NTN of the applicants in the amnesty procedure provided a lot of elbow room for getting smuggled vehicles regularized in the names of proxy owners. Many Government officials and influential owners of smuggled vehicles resorted to this kind of manipulation. Segregation of registered owners from non-registered applicants in terms of Section 181 of the Income Tax Ordinance 2001 and of return filers and non-filers in terms of Section 114(1)(vi) ibid could help identify the extent of proxy owners

of smuggled vehicles but the FBR did not permit the PRAL to share the data with the FTO Secretariat.

Unprecedented corruption is reported to have been indulged in by the Customs staff of most of the Model Customs Collectorates

3. Unprecedented corruption is reported to have been indulged in by the Customs staff of most of the Model Customs Collectorates. A most disturbing finding is that the Customs staff of the Model Customs Collectorate of Appraisalment, Custom House, Karachi, which otherwise contributes a major share of Customs revenue and is celebrated as a premier institution of Customs and a repository of higher order professionalization being the oldest Appraisalment Collectorate in Pakistan, should commit most of the alleged mismanagement, misuse and corruption. The Customs staff appears to have made the most of the amnesty scheme-2013 for themselves and thus created another mega scam of the proportion of the ISAF Container Scam. It appears that even double salary has failed to jerk the Customs staff out of their corrupt bearings. Their abiding sense of impunity has not eroded due to failure of the Revenue Division/FBR to institute effective accountability against corruption and mismanagement even in the major frauds committed in the Customs regime during the last few years. The supervisory managements of the Customs Collectorates has not learnt any lessons from misdeeds, frauds and scandals of the past. The policy management in the FBR, too, has exhibited serious vulnerabilities in conceiving and implementing the amnesty scheme-2103.

The supervisory managements of the Customs Collectorates has not learnt any lessons from misdeeds, frauds and scandals of the past

4. In order to forestall the chances of repetition of such irregularities in future, the FBR needs to explain:

- (i) Why amnesty is being granted to smuggled vehicles time and again when it is an established fact that such amnesties are counterproductive and not in the national interest on any count?
- (ii) Why this scheme was not presented for approval to ECC of the Cabinet in terms of its Charter and why the input of the stakeholder Ministries was not obtained?
- (iii) Why extra-ordinary concessions on tax and pitch of fine were given to smuggled vehicles in a significant departure from many of the past such amnesties?

- (iv) Why import of vehicles by overseas Pakistani was denied similar condonations and concessions?
- (v) Why already confiscated vehicles were allowed amnesty when their auction would have yielded substantial extra revenue as their sales proceeds, including value and the amount of taxes, would have accrued entirely to the Government in terms of Section 182 of the Customs Act, 1969?
- (vi) Why guidelines were not packaged while launching the amnesty on 5 March 2013 and piecemeal instructions were belatedly issued as late as 8 and 13 March 2013?
- (vii) Why were FBR's instructions received late at some Customs stations and why the FBR instructions dated 13 March 2013 did not reach Faisalabad Collectorate at all?
- (viii) Why it failed to endorse its instructions dated 13 March to the PRAL which had to simultaneously revise the computer module to receive digitally scanned images of vehicles?
- (ix) Why NTN was not made a precondition for availing amnesty on vehicles above 1000 CC capacity in terms of Section 181 and 114(1)(vi) of the Income Tax Ordinance, 2001?
- (x) What is the use of maintaining a huge anti-smuggling infrastructure within the Customs Collectorates and the Directorate General of Customs Intelligence and Investigation across the country, if high visibility smuggled goods like cars, land cruisers, trucks and trailers cannot be seized and confiscated to discourage and deter smuggling?

5. The Collectors need to explain:

- (i) Why supervisory mechanisms were not put in place to detect and deter misuse and corruption in implementation of the scheme?
- (ii) Why legal and procedural violations were committed by their staff and why did they fail to put in place effective monitoring mechanisms to ensure compliance of prescribed procedures?
- (iii) Why no filter was instituted for stolen vehicles and why many of the Collectorate did not subject even a single vehicle to lab-test for tempering?
- (iv) Why did their staff accept applications of persons belonging to far off places pertaining to jurisdictions of other Collectorates without suspecting mischief?

- (v) Why did their staff fail to do the documentation in real time and why digital imaging was not appropriately scanned and timely uploaded for generating system generated delivery orders?
- (vi) Why did they fail to identify their staff responsible for processing cases of 'Ghost Vehicles' and vehicles not physically presented/surrendered to the Customs?
- (vii) Why dozens of vehicles were allowed amnesty in the name of one person without seeking clarification from the FBR?
- (viii) Why the possibility of regularization of smuggled vehicles at different Collectorates against the same CNIC was not forestalled?
- (ix) Why no gate pass system was put in place?
- (x) Why delivery orders were issued manually when the procedural required system generated delivery orders?
- (xi) Why were corruption-prone officials assigned implementation of the amnesty scheme?

6. In the meanwhile, the following recommendations are made:

- (i) Revenue Division needs to fix responsibility for haphazard implementation of the amnesty scheme by the officials of FBR.
- (ii) The Collectors need to identify the main culprits among their staff who extorted 'speed money' in the name of facilitation, or collected huge amounts of bribe for processing applications for amnesty without physical presentation of the vehicles?
- (iii) The Customs staff who granted amnesty to 'Ghost Vehicles' which were still at auction or shipment stages in Japan be suspended and their cases handed over to NAB for further investigation to determine and recover the extent of bribe money these officers had extorted.
- (iv) The concerned Customs staff be directed to provide reliable proof of presentation/surrender of all cases in which more than one vehicles were granted amnesty in the name of one applicant or whose model numbers were not mentioned or wrongly mentioned.
- (v) The case of MCC Faisalabad, being unique in non-compliance of almost all the prescribed procedures and phenomenal corruption, needs special investigation.
- (vi) All cases in which the applicant is owner of a vehicle of more than 1000 CC engine capacity, is required to file

income tax return under Section 114(1)(vi) of the Income Tax Ordinance 2001. It needs to be scrutinized whether owners of amnesty vehicles above 1000CC filed returns of income as per the requirement of law. This exercise would help identify proxy applicants.

- (vii) A case study be commissioned to determine the magnitude of corruption and mismanagement involved in the amnesty scheme-2013 and to decide whether or not the Government can continue to entrust the country's international trade and revenue to the existing tax collection machinery of the Customs Department which is highly accident-prone and frequently causes mega scams for corrupt motives;
- (viii) It would be desirable to undertake focused studies in each case to identify the nature and extent of collusion of Customs officials in perpetration of fraud and their failure to fully recover the evaded amounts of duty and taxes on the smuggled vehicles. Quick action is required as under:
- a) Director General Customs Intelligence and Investigation to collect complete auction and shipment data of 'Ghost' Vehicles from Auction Houses and Shipping Companies in Japan; the 'Holding Areas' in Dubai, Sharjah and Afghanistan;
 - b) Director General Customs Intelligence and Investigation to coordinate with the Motor Registration Authorities across Pakistan and the Police Department to collect information:
 - On the number of amnesty vehicles registered by the Motor Registration authorities across the country?
 - how many vehicles have been identified by the Motor Registration Authorities as tampered or stolen;
 - c) Director General Post Audit (Customs) to audit the assessments of the amnesty vehicles to quantify loss of revenue through under-assessment and which of the prescribed or required formalities were or were not complied with by each Collectorate in real time;
 - d) the vehicles granted amnesty unlawfully be seized, confiscated and auctioned. The amount of duty/taxes and redemption fine paid by the applicants be refunded to the owners out of the proceeds of auction;

- e) the amount of bribe Collected by the Customs officials from the applicants be recovered and returned to the applicants who cooperate in investigating corruption in implementation of amnesty-2013;
- f) the customs officials and their accomplices collecting the bribe must be given an exemplary punishment.

CONCLUSION

7. It is a now or never chance for the Government and the Revenue Division to end the paradigm of impunity for mismanagement and corruption committed by the Customs staff. The Government would do well to take the smuggled vehicles amnesty scheme-2013 seriously in order to determine the magnitude of mismanagement, misuse and corruption in conceiving and implementing of the scheme by the FBR and the Customs staff to institute relentless accountability. Those Collectors who failed to put in place supervisory mechanisms to detect and deter mismanagement and corruption by the staff need to be taken to task. The cases of those among the Customs staff who legalised vehicles which had not yet arrived in the country must be handed over to NAB for further investigation and punishment. If this opportunity for instituting accountability in the FBR and its field formations is lost, the chances of remodeling the mindset of revenue collection machinery would go abegging. The amnesty scam must be made an exemplary case study of crime and punishment as a lesson for the future generations of the FBR and the Customs officers who hold the purse of the nation.

The cases of those among the Customs staff who legalised vehicles which had not yet arrived in the country must be handed over to NAB for further investigation and punishment

Annexes