



FEDERAL TAX OMBUDSMAN SECRETARIAT

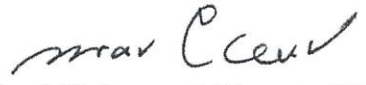
C.No. 0010/OM/2021

Dated: 24-08-2021

To,

The Advisor Media & Awareness,
FTO, Secretariat,
Islamabad.

Copy of Findings/Recommendations in C.No. 0010/OM/2021 is enclosed herewith for Publication.


(Arshad Mahmood Cheema)
Registrar
Federal Tax Ombudsman Secretariat
Islamabad
051-9214348

Encl: As above

Copy to:

- ✓ 1. MIS Manager, FTO, Secretariat, Islamabad.
2. Secretary to FTO
3. Office copy

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

0010/OM/2021

Dated: 24.02.2021 HQs, Islamabad*

The Secretary,
Revenue Division,
Islamabad.

...Respondent

Dealing Officer	:	Dr. Arslan Subuctageen, Advisor
Appraisal Officer	:	Mr. Shahid Ahmad, Advisor
Departmental Representative	:	Ms. Saadiya Noori, Secretary CJ, FBR

FINDINGS / RECOMMENDATIONS

This is an own motion investigation of systemic maladministration, initiated through exercise of jurisdiction conferred under Section 9(1) of the Federal Tax Ombudsman Ordinance, 2000 (FTO Ordinance). The investigation is against the illegal decision taken during the Collectors of Customs Conference, held at CBR (now FBR) on 02.08.2006, regarding clearance of stolen vehicles imported under the Personal Baggage, Transfer of Residence and Gift Schemes. In the said conference, it was decided "that Collectorates may clear such vehicles after imposition of 30% redemption fine, under the relevant provisions of Customs Act, 1969 while no action to be taken in respect of alleged stolen vehicles unless a recognized agency of a foreign country approaches the Government in this regard".

2. Without any legal provision, to clear stolen vehicles at import stage after imposition of 30% redemption fine and not initiating any investigation/action, as per law amounts to promote the illegal import of stolen vehicles and facilitate international criminal activities.

3. In response to the notice issued to the Secretary, Revenue Division, in terms of Section 10(4) of the FTO Ordinance, read with

Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013 the Secretary (Enforcement & Compliance), FBR submitted comments vide letter dated 31.05.2021. It was contended that the Deptt sought details of stolen vehicles cleared by various Collectorates at import stage after payment of duty/taxes and imposition of 30% redemption fine, from field formations. It was apprised that MCC, Sialkot had cleared six such vehicles during the year 2007, vide Order-in-Original 01/2007 dated 07.02.2007, while MCC (A&F), Peshawar had cleared 03 stolen vehicles in year 2013-14 pursuant to the judgement of the Customs Appellate Tribunal, Peshawar Bench, dated 11.11.2014 in Customs Appeals No.CUS-168,167/PB/2013.

4. Clarification was sought from FBR vide letter dated 24.06.2021, regarding legal status about importability of stolen vehicles and their clearance upon payment of duties/taxes and to furnish legal provisions justifying the decision taken during the said Collector's Conference held on 02.08.2006. The Secretary (Enforcement & Coord), FBR vide letter dated 03.08.2021, admitted that there was no legal provision in Customs Act and Rules made thereunder, to justify the decision taken during the above said Conference.

Two options were mentioned by the FBR to deal with stolen vehicles. Either, after coordination with the relevant authorities in the country of origin, the stolen vehicles should have been returned and the expenses for return be met by the importer or the country of origin, or these vehicles should have been confiscated and disposed of through public auction, if not tampered.

FINDINGS:

5. Decision of the Collectors of Customs recorded in the minutes dated 02.08.2006, to release stolen vehicles, imported

under the Baggage Scheme upon payment of redemption fine along with duty/taxes without any legal provision is contrary to law and procedure, is tantamount to maladministration in terms of Section 2(3)(i)(a) of the FTO Ordinance.

RECOMMENDATIONS:

6. FBR to –

- (i) immediately issue necessary directions to all Collectorates of Customs/concerned authorities to stop this illegal practice forthwith and as suggested by the FBR, necessary amendments in rules/procedure be under taken for the disposal of stolen imported vehicles as under:-

“Two options were mentioned by the FBR to deal with stolen vehicles. Either, after coordination with the relevant authorities in the country of origin, the stolen vehicles should have been returned and the expenses for return be met by the importer or the country of origin, or these vehicles should have been confiscated and disposed of through public auction, if not tampered”;

- (ii) direct the MCC Sialkot to seize identified six vehicles, conduct investigation and take appropriate legal action and also prosecute the importers under the relevant laws, as per law;
- (iii) report compliance within 45 days.

(Mushtaq Ahmad Sukhera)
Federal Tax Ombudsman

Dated: 23/8/2021
MR/HUK

Certified to be True Copy


Deputy Registrar
FTO Secretariat
Islamabad

