

**BEFORE
THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

0017/OM/2022

Dated: 12.04.2022* RO Lahore

The Secretary,
Revenue Division,
Islamabad.

... Respondent


Dealing Officer : Dr. Sarfraz Ahmad Warraich, Advisor
Appraising Officer : Dr. Arslan Subuctageen, Advisor

FINDINGS/RECOMMENDATIONS

This is an Own Motion investigation initiated, while exercising powers, conferred under Section 9(1) of the Federal Tax Ombudsman Ordinance, 2000, to investigate import of worn and used clothing in Pakistan, which has been significantly higher than import in India.

2. All Pakistan Textile Mills Association (APTMA), vide letter dated 25.03.2022, agitated that import of worn and used clothing in Pakistan, is significantly higher than import in India, as reflected in table below:

IMPORT OF WORN CLOTHING: PAKISTAN VS INDIA



Year	US\$ million		Tons (000)		\$/K.G		KG per capita	
	Pakistan	India	Pakistan	India	Pakistan	India	Pakistan	India
2016-17	145	87	386	318	0.38	0.27	1.86	0.24
2017-18	162	99	443	356	0.37	0.28	2.09	0.27
2018-19	182	94	464	249	0.39	0.38	2.15	0.18
2019-20	168	99	386	242	0.44	0.41	1.75	0.18
2020-21	307	72	733	185	0.42	0.39	3.26	0.13

APTMA alleged that, as apparent from above table, large volume of import of second-hand clothing, in Pakistan, was due to import of new unstitched fabrics and stock lot/job lot fabrics in the garb of second-hand clothing. This malpractice is severely causing injury to the domestic textile industry besides bleeding legitimate government revenue. APTMA requested that matter may be investigated and appropriate directions be issued to stop influx of new and stock/job lot clothing, being mis-declared as second-hand clothing.

3. The Own Motion Complaint was referred to Secretary, Revenue Division, Islamabad, in terms of Section 10(4) of the FTO Ordinance, read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. In response thereto, Collectorates of Customs (A), East/West, Karachi, Lahore, Faisalabad, Sialkot, Multan, Gwadar, Quetta and AllAP Lahore, submitted their views/reports on the issue.

4. Collectorate of Customs (A) East, Karachi, vide letter dated 11.06.2022, stated that increase in import volume was mainly due to increased demand. Moreover, even after imposition of Regulatory Duty on used/worn clothing, there is increasing trend in import of said item owing to its inelastic demand. All commodities, including used worn articles are cleared through WeBOC System which operates on principle of Risk Management System (Green, Yellow and Red Channels). 227 contraventions were framed since FY 2016-till date, in respect of consignments of used/second hand clothing on the grounds of mis-declarations. This showed that Collectorate was keeping a regular watch on its clearance to minimize any chances of mis-declaration. Subject goods are assessed on the basis of Valuation Ruling No.986/2016 dated 06.12.2016. Collectorate is of the view that Valuation Ruling needs to be revised keeping in view global inflation and increase in freight charges. Existing tariff structure of HS Code 6309.000 was as follows:

DUTY DETAIL	PERCENTAGE (%)	UNDER CONCESSIONARY REGIME
Customs Duty	3%	0% under FTA/PTA from China, Malaysia and member countries of SAARC
Additional Customs Duty	2%	2%
Regulatory Duty	10%	10%
Sales Tax	17%	10%
Additional Sales Tax	3%	0% under 12 th Schedule-2 (VI) of the Sales Tax Act, 1990
Income Tax	11%	5.5% for persons on ATL

Under the Customs Tariff of India 2021, Customs Duty @ 25% was being charged for consignments of used clothing.

5. Collectorate of Customs (A), West, Karachi, vide letter dated 10.06.2022, stated that, during last two Financial Years (F.Y 2020-21 and 2021-22), total 3105 number of consignments of second-hand clothing were cleared from Collectorate, wherein, 3055 consignments were physically examined (red channel) at import stage while only 50 consignments were accorded yellow/green channel facility by the RMS System of WeBOC. This showed that Collectorate remains vigilant against any mis-declaration or concealment attempt by unscrupulous elements. Collectorate was well aware of facts/ observations raised by APTMA. Import of second-hand clothing has been under close watch to thwart any such attempt of mis-declaration.

6. Collectorate of Customs (A), Lahore, vide letter dated 28.05.2022, stated that, during the period 2016-17 to 2020-21, total quantity of 90.7 MT of "Worn/Used Clothing" was cleared, with import value of Rs.5.78 million. Major chunk of such imports pertained to donated goods imported by M/s Akhuwat Foundation, whereas, negligible quantity, to the extent of 9.1 MT, was imported by miscellaneous importers under import value of Rs.0.919 million. Collectorate suggested that (i) 100% Red Channel option should be exercised (ii) examinations should be conducted in presence of AC/DC examination (iii) Directorate of Valuation may issue/revise concerned Valuation Ruling to deter under valuation of second-hand clothing (iv) FBR may advise Collectorates to issue Office Order for strict implementation of CGO 15/2019 for uploading of Invoice, Packing list, issued by supplier, and other mandatory documents at the time of filing of Goods Declaration to avoid mis-declaration (in this regard, Collectorate of Customs (A), Lahore, issued Office Order dated 07.06.2022) (v) PCT heading 6309.000, specified for worn-out/second-

hand clothing, entails Customs Tariff structure on lower side (CD 3%, RD, 10%) along with reduced rate of Sales Tax 5% in the light of Sr. No. 23 of the Eighth Schedule to the Sales Tax Act, 1990 and exemption of Additional Sales Tax (AST) as per Sr. No. 2 (vi) of the Twelfth Schedule of the Act *ibid*. FBR may like to revise upward Customs Tariff structure to discourage import of second-hand clothing.

7. Collectorate of Customs, Sambrial, Sialkot, vide letter dated 28.05.2022, stated that, during the period 01.07.2018 to 28.05.2022, six GDs had been cleared in WeBOC through the Collectorate. Job-lot/stock-lot/sub-standard garments were found in only one consignment cleared in the year 2020 which were confiscated. Collectorate viewed that WeBOC's Risk Management System needs to be configured to Red Channel to ensure 100% examination of secondhand clothing consignments to curb mis-declaration, along with consequent robust physical examination thereof. Random spot checks may be carried out by officers to ensure transparent examination. Current Valuation Ruling (VR), was on lower side, thus, needed to be revised in accordance with prevalent market trends and existing price structure in the region; in consultation with all stakeholders, including APTMA, to bring VR at par with prices in the region. Another option was to issue specific import licenses, after due validation, to cater for clothing requirements of downtrodden.

8. Collectorate of Customs (A), Faisalabad, vide letter dated 28.05.2022, stated that no import of subject goods had been cleared through dry port of the Collectorate in significant quantities. Second hand clothing, cleared in small quantities (total 484-kg in 6 GDs), was neither new unstitched fabrics nor stock/job lots in nature, as 100% examination was conducted and images uploaded in WeBOC for record.

9. Collectorate of Customs (Enforcement), Multan, vide letter dated 09.06.2022, stated that, w.e.f. 2016-17 to 2020-21, no import of stock-lot/job-lot/used clothing (PCT 6309-0000) had been made through the Collectorate. Collectorate of Customs (A), Quetta, vide letter dated 15.06.2022, stated that no import of worn and used clothing, during the period from 2016-17 to 2020-21, had taken place through any of formations within the jurisdiction of the Collectorate. Collectorates of Customs (A), Gwadar and AllAP, Lahore reported insignificant import of second-hand clothing through these formations.

FINDINGS:

10. In the wake of apprehended import of new unstitched fabrics and stock lot/job lot fabrics, in the garb of second-hand clothing, as alleged by APTMA, input received from Customs field formations reveals that (i) largest quantities of worn/second-hand used clothing are imported at Collectorate of Customs (A), East/West, Customs House, Karachi; (ii) increase in import volume was mainly due to increased demand; (iii) to curb mis-declaration effectively, WeBOC's Risk Management System needs to be configured to Red Channel to ensure 100% physical examination of second hand clothing and supervision of examination needs to be elevated at the level of AC/DC; (iv) Collectorates are required to issue Office Order for strict implementation of CGO 15/2019 for uploading of Invoice, Packing list, issued by supplier, and other mandatory documents at the time of filing of Goods Declaration to avoid mis-declaration; (v) assessment is made on the basis of Valuation Ruling No.986/2016 dated 06.12.2016 which needs to be revised keeping in view global inflation and increase in freight charges; (vi) PCT heading 6309.000, specified for worn-out/second-hand clothing, entails Customs Tariff structure on lower side (CD 3%, RD, 10%) along with reduced rate of Sales Tax of 5% in the light of Sr. No. 23 of the Eighth Schedule to the Sales Tax

Act, 1990 and exemption of Additional Sales Tax (AST) as per Sr. No. 2(vi) of the Twelfth Schedule of the Act *ibid*. FBR needs to revise upward of above Customs Tariff structure, specified for worn-out/second-hand clothing; and (vii) another option was to issue specific import licenses, after due validation, to cater for clothing requirements of downtrodden.

RECOMMENDATIONS:

11. FBR to:-

- (i) direct Collectorates to issue Office Order for strict implementation of CGO 15/2019 for uploading of Invoice, Packing list, issued by supplier, and other mandatory documents at the time of filing of Goods Declaration to avoid mis-declaration;
- (ii) direct Directorate General of Customs Valuation Karachi to revise Valuation Ruling No.986/2016 dated 06.12.2016, keeping in view global inflation and increase in freight charges;
- (iii) direct Member Customs (Ops) to issue necessary instructions for configuration of WeBOC's Risk Management System to Red Channel to ensure 100% physical examination of worn/second hand clothing along with supervision of examination of such consignments by AC/DC;
- (iv) consider/evaluate upward revision of Customs Tariff structure, falling under PCT heading 6309.000, specified for worn-out/second-hand clothing, as reflected vide para 10(vi) above; and
- (v) consider/evaluate option of issuance of quantitatively restricted specific import licenses, after due validation, to cater for clothing requirements of downtrodden; and
- (vi) report compliance within 60 days.

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

Dated: 11:8: 2022

K.A

Approved for reporting