

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT NO.4849/ISB/CUST/2023

Dated: 21.08.2023* HQs Islamabad

Syed Rizwan Ali Shah,
Mohallah Shah Imam Ghazi,
P.O. Khas, Tarlai Kalan,
Islamabad.

... Complainant

V e r s u s

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer	:	Dr. Arslan Subuctageen, Advisor (Customs)
Appraisal Officer	:	Mr. Muhammad Nazim Saleem, Advisor
Authorized Representative	:	Mr. Atif Ghafoor Bhatti
Departmental Representatives	:	Ms. Saima Rahim, DC Customs
		Mr. Farhad Khan, AC Customs
		Mr. M. Shafqat Qazi, Inspector Customs

FINDINGS/RECOMMENDATIONS

The above-mentioned complaint was filed against the officers of Collectorate of Customs, Islamabad International Airport (IIAP), Islamabad, in terms of Section 10(1) of the Federal Tax Ombudsman Ordinance, 2000, for illegally seizing amount of 10,000/- pounds and also for their non-professional conduct.

2. Briefly, the Complainant stated according to his complaint that on 14.08.2023, he was traveling for UK by flight No.BA260. On the first arrival when he reached at ASF counter with his hand bag, he asked the official of ASF that he has 10,000 pounds in his pocket and where should he declare the amount, who referred him to the Customs counter. Where he informed Ms. Sehrish Nazir, Inspector Customs, regarding 10,000 pounds in his pocket and want to declare the same. She took the amount and started blaming me by shouting that "you Overseas Pakistanis are familiar with international rules/law very well but today I will teach you lesson about Pakistani rules/law and all of your amount that i.e. 10,000 pounds will be

* Date of registration in FTO Secretariat

seized/confiscated". Another inspector Qazi started arguments that "you have selected the day 14.08.2023 (holiday) for travel". In response the Complainant replied that "I belong to the noble Syed family and I don't tell a lie and even don't believe of this type of tricky affair". In response Inspector Sehrish Nazir said that "I don't like Syed because they think they are superior to all human beings". The Complainant according to complaint told her "not to be biased as he believe that all human beings are equal". She started commenting and giving remarks on the cast of Syed. The Complainant requested Inspector Sehrish Nazir time and again that as per UK rules he was supposed to declare the carrying amount 10,000 pounds that he did in front of ASF representative and in front of them as well. He wanted to declare the amount in question at Customs counter but Inspector Sehrish started shouting and passing derogatory remarks about Syeds and humiliating words for Overseas Pakistanis. Inspector Sehrish not only misled but misconducted and misbehaved. The Complainant requested both the Inspectors that if they don't allow him to take the amount with him, he can give the excessive amount to his family standing outside the departure lounge. He also told her that his family and his 10 year old son (a patient of autism) will be anxiously waiting and his condition will be more critical if they didn't find him there in UK. Inspector Sehrish in a very ruthless way started laughing at me and said "Shah saab now you will have to face the music". He further asked her to call any Senior Officer or give him his cell number neither she gave number nor called any officer for being biased with the him. In the meantime, some staff members informed Mr. Farhadullah Khan, Assistant Collector, who came to the counter. The Complainant told him that he has given the amount 10,000 pounds by himself from his pocket and it is not recovered from any hidden part of his hand carry bag and this statement was verified by both the Inspectors present there. The Assistant Collector then realized that his staff misbehaved/misconducted/misled to the Complainant. Furthermore, Assistant Collector just to cover up his staff blunder directed the Complainant to take a written statement from ASF representative

regarding the declaration of amount in front of him. ASF representative consented to give verbal statement but when the Complainant got back to Customs counter, Assistant Collector had left and was disappeared from the venue and Inspector Sehrish issued recovery memo with immediate effect and the Complainant was forced to sign the illegal recovery memo. The Complainant had a valid proof of his house sale agreement and received the said amount as token money. The Complainant by himself wanted to declare 10,000 pounds, but instead of guiding him about the rules or allowing him to return the amount to his family members standing outside the airport, Inspector Sehrish passed humiliating remarks about Overseas Pakistanis and about Syeds. Inspector Sehrish with malafide just to show her progress, power and efficiency, gave him financial loss, irreparable loss of reputation and damaged his credibility. Due to this, he incurred loss of air ticket cancellation amounting PKR 300,000. The Complainant further stated that neither his money was black nor his intention was to smuggle the said amount. The Complainant prayed that the above narrated episode is a glaring example of sheer maladministration, mismanagement, highhandedness, misuse of authority and disrespect towards the citizens/taxpayers of Pakistan. Therefore, illegal seizer of his white money 10,000 pound, vide recovery memo dated 14.08.2023, be set aside, directions be issued for release of his amount and legal proceedings be initiated against the concerned officials, who misconducted/misbehaved/misled him.

3. The complaint was referred to the Secretary, Revenue Division for comments in terms of Section 10(4) of the FTO Ordinance, read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. In response, the Additional Collector, Collectorate of Customs IIAP, Islamabad, submitted reply dated 05.09.2023 stating that on 14.08.2023, during routine checking at Joint Search Counter established inside Int'l Departure Hall, IIAP, Islamabad, body search by the ASF staff of the Complainant led to recovery of foreign currency UK Pounds 10,000

equivalent to Rs.3.655 million from his pocket. On demand, the Complainant could not provide any proof/justification regarding legal possession and export of recovered foreign currency. The Complainant failed to declare the said currency either electronically (WeBOC/Pass Track App) or manually at the Customs Currency Declaration Desk established at the entry into Int'l Departure Hall of IIAP, despite the facts that the Complainant was bound under Section 139 of the Customs Act, 1969 (the Act) to do so. The subject recovered currency was seized under Section 168 ibid, after fulfilment of the legal, procedural and codal formalities. Accordingly, notice under Section 171 of the Act issued at the spot. The currency was seized for violation of Sections 2(S), 16, 139 of the Act read with the State Bank of Pakistan's Notification No.F.E.2/2022-SB dated 08.11.2022 and Section 8 of the Foreign Exchange Regulation Act, 1947, further read with para 42 of Chapter 17 of Foreign Exchange Manual, further read with Baggage Rules, 2006, notified vide SRO 666(I)/2006 dated 28.06.2006 further amended with SRO 2043(I)/2022 dated 15.11.2022, the Complainant punishable under Section 156(1)(8)(iii)(a)(70)(ii)(a) of the Customs Act, 1969 read with Section 3(3) of Import & Export (Control) Act, 1950. The seizure report has accordingly been submitted before the adjudicating authority for adjudication. After the seizure of the foreign currency, the Complainant launched smear campaign on media against the staff of Customs, causing mental distress and damaging their reputation in public. He levelled baseless allegation in an effort to get back this seized currency without the due process of law. The Complainant is requested to plead his case before the Additional Collector of Customs (Adjudication), Islamabad.

4. During hearing, AR and the DRs averred to their written arguments. The DR provided CCTV footages of the incidence on the directions of this Office, which was played and found that the CCTV footages covers the areas of ASF scanning machines only, but not the Customs counter, where the Complainant and Customs staff argued with each other. The

AR has stated that the Complainant himself asked the representative of ASF, as the first counter/point of contact between the passenger and the airport staff after entering into the airport and meant for ASF, who referred him to the Customs counter, which is located after ASF's scanning machines, for clarification and declaration of money, which he has to take with him for traveling to abroad, as there was no information desk or information boards placed at entry points of IIAP. The AC Customs was asked whether any kind of announcement regarding declaration of currency, intimation about the limit of currency to be taken along or any information board or desk is available for the information of outgoing international passengers. The reply was in negative, however, he stated that the standies indicating the currency limits are placed at different places of IIAP. But not a single standby was seen for the information of passengers in 04 different CCTV footages provided by the Deptt. The AR also reiterated that the behavior of the Customs staff is disrespectful with the passengers. The DR further stated that the adjudication proceedings are underway and the Additional Collector (Adjudication), Islamabad, has conducted two hearings in the proceedings. Mr. M. Shafqat Qazi (Inspector) Customs, stated that he and Inspector Sehrish were on duty. The Complainant was brought to them by ASF, the foreign currency was in his wallet and he informed ASF staff about the said currency. The DR has stated that they are facing issues due to shortage of staff at IIAP.

5. During proceedings, a CCTV footage provided by the DR, was thoroughly examined and it is observed that, at the entrance of IIAP or before ASF scanning machines, no information boards or Customs counter is available wherefrom a passenger can have information about permitted amount of foreign currency to be taken along or he can get some help regarding Customs baggage rules or any kind of declaration forms. It is also revealed from the CCTV footage that the Customs staff working at Airport was without uniform. It is observed that Customs staff has confiscated the whole amount of the Complainant without giving him

permission, on his request to hand over the amount in excess to the permissible amount to his family members standing outside the IIAP. No information desk or information display board is available before entering into the Int'l departure lounge of IIAP or before the ASF scanning machine for any kind of intimation or warning regarding Customs rules, currency limit and for declaration of currency etc. No Customs staff was visible in proper uniform. It is also observed that AC Customs, instead of resolving the issue, disappeared from the spot without performing his required administrative duty. The Deptt of Customs at IIAP appears to be in absolute disarray without any administrative control whatsoever, which leads to continuous pouring in of a plethora of complaints by outgoing Int'l passengers, regarding harassment, corruption and misbehavior at the Int'l departure lounge towards the passengers from Pakistan Customs staff posted at IIAP.

FINDINGS:


6. In view of supra, it is evident that the Complainant has declared the currency at the first point of contact with the first available uniformed staff i.e. at ASF scanning machine, however, inspite of his declaration, the ASF handed him over to the Customs staff, who instead of allowing him to take along the permissible limit of currency as decided by various legal foras and recently by CAT, Islamabad, vide its judgment dated 11.07.2023 in Appeal No.46/CU/IB/2023, detained and seized the whole amount of UK pounds 10000 and submitted the seizure to the Adjudication Collectorate where two hearings have already been conducted by the Additional Collector (Adjudication) who is the authorized officer to decide this matter, as per law and this forum need not intervene in the adjudication proceedings. However, it is established from the above narration of facts that the Customs staff disgraced the Complainant and misbehaved with him which establishes unreasonable, unjust and biased approach towards the Complainant as well as neglect, inattention, incompetence, inefficiency and ineptitude in discharge of duties and responsibilities by AC Customs (accompanied

baggage) IIAP and his staff and is tantamount to maladministration in terms of Section 2(3)(i)(b) & (ii) of the FTO Ordinance, 2000.

RECOMMENDATIONS:

7. FBR to direct:

- (i) Member Customs (Ops) to write to DG, Civil Aviation Authority, for making necessary arrangements for outgoing international passengers' awareness regarding Customs baggage Rules and permissible amount of foreign and Pakistani currency through announcements, display on electronic screens and bill boards etc. at different prominent places, parking area and entry hall of IIAP, etc.;
- (ii) Member Customs (Ops) to provide reasonable number of staff to the Collectorate of Customs (IIAP), Islamabad;
- (iii) DG Pakistan Customs Academy to make arrangements for educating and training the Customs staff posted at all international airports on baggage rules, foreign exchange manual etc. and how to interact with international passengers in a polite manner and provide them information about Baggage Rules and currency limit etc.;
- (iv) Chief Collector of Customs (North) to initiate a fact-finding inquiry against the AC Customs (accompanied baggage) and his concerned staff and take necessary disciplinary proceedings under E& D Rules, 2020, against those found guilty;
- (v) Collector, Collectorate of Customs (IIAP), Islamabad, to:
 - a) make appropriate arrangement for posting and ensuring availability of staff on 24/7 basis at Customs currency counter and ASF Scanning Machines in proper Customs' uniform;
 - b) ensure that CCTV cameras with recording facility are installed at all Customs counters;
- (vi) report compliance within 45 days.


 Director
 FTO Secretariat
 Islamabad
(Dr. Asif Mahmood Jah)
 (Hilal-i-Imtiaz) (Sitara-i-Imtiaz)
 Federal Tax Ombudsman

Dated: 27.10.2023

Approved for reporting

