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FTO Appreciates Overall Performance For the Year 2019

The Annual Advisors' Conference -2019 was held on January 13, 2020 under the Chairmanship of Hon'ble FTO, at FTO Secretariat, Islamabad.

In his opening remarks, the Hon'ble Federal Tax Ombudsman warmly welcomed all the participants, especially the Advisors, who came from various Regional Offices located

government in running this Office. Hon'ble FTO directed all the participants to ensure achievements of their respective targets using best of their abilities in the organizational and national interest.

The Registrar gave a detailed presentation, highlighting the status of main performance indicators during 2019, relating to all the



across the country. Hon'ble FTO, explaining the aims & objectives of the Conference hoped that the event would provide opportunity to review the performance of this Office, in relation to critical targets/indicators during 2019 and pave the way forward for a befitting planning and setting targets for the year 2020. Hon'ble FTO appreciated the overall performance during the year 2019, by all the Advisors/Offices and support staff compared with last year 2018.

He emphasized on maintaining the good performance, which will ultimately lead to the sustainability of the FTO's relief providing mechanism and justify the scarce resources being invested by the

stages of processing of complaints.

It was noted by the Chair that overall performance of the Investigation Officers remained quite appreciable, while 29% increase in fresh receipts of complaints as compared to previous year was noted as well as an increase of 40% in disposal of complaints during the period under review as compared to the previous year.

The Hon'ble Federal Tax Ombudsman while looking at the tax area-wise fresh receipt of complaints, appreciated the increase of fresh institution of complaints in the case of Income Tax (39% increase), Sales Tax (19% increase) and customs (17% increase) compared with last year.

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FTO's Suo Moto Against Smuggling-Sale of Iranian Petroleum Products

Federal Tax Ombudsman, in a suo moto case, has stated that failure of Customs and Law Enforcement Agencies (LEAs) to take action against smuggling and sale of Iranian Petroleum Products on main roads reflects inefficiency, incompetence and ineptitude in discharge of their duties.

Federal Tax Ombudsman (FTO) has directed FBR to constitute a joint task force of Customs and Law Enforcing Agencies to control smuggling, transportation and business of Iranian Petroleum Products throughout Pakistan causing huge loss to government revenue and constant hazard to life and property of people.

It was found during FTO's investigation that Customs



department does not register cases against smugglers and appraisal of goods and vehicles is made much less than its value and settlement proceedings result in release of goods and vehicles used in smuggling on nominal fine. According to FTO report, during investigation Collectorate MCC Quetta, Gwadar and Directorate I&I have expressed their inability to eradicate the menace by advancing excuse of shortage of manpower and logistics and shifted their responsibility to law enforcement agencies whereas it is the prime responsibility of Customs department to prevent smuggling and seize smuggled goods including petroleum products.

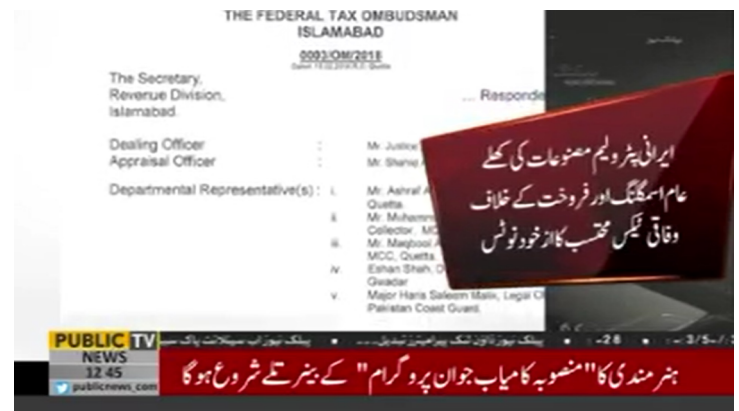
According to FTO report, illegal petrol pumps can be witnessed on main roads in all directions which are visible to everyone but not to Customs Authorities and Law Enforcement Agencies. Incident at Hub resulting in loss of 26 lives and 17 being seriously burnt should be an eye opener for law enforcement agencies as well as Customs department as the incident was result of their negligence and irresponsible attitude for which they being responsible are answerable. The plea of Police Department that police on its own cannot initiate action, has no force as police can take action against illegal act or business.

FTO, during investigation of this case, observed that Chief

Secretary, Govt of Balochistan and Secretary Home & Tribal Affairs Govt of Balochistan despite repeated notices did not respond. Hearing notices issued to them as well as FC also remained un-responded which reflects that the issue, which not only relate to economy of the country but also is serious hazard to human life and property, is not considered important to participate in the proceedings for evolving strategy to curb the menace.

OGRA ordinance also make OGRA responsible against failure to take action against illegal and unlicensed petrol pumps and filling points involved in sale of smuggled POL products.

FTO has recommended it to FBR to direct the Chief Collector, (Enforcement) Customs Quetta to constitute a task force consisting of officers/officials of Customs Deptt and LEAs entrusted with anti-smuggling power, to evolve strategy to control smuggling of Iranian POL products. FBR to take action, both criminal and disciplinary against individuals involved or connived in smuggling and business of smuggled Iranian POL as per law. FBR to request Ministry of Interior to form a dedicated joint task force consisting the FC, Coast



Guards, Police/Levies Personnel in each Collectorate to conduct joint operations and chalk out a program to undertake joint patrolling by Frontier Corps, Coast Guards and Customs on high risk routes across Pakistan Iran Border as well as on major high ways; FBR to request the Chief Secretary, Balochistan to issue necessary instructions to the concerned DCOs and Police in the province of Balochistan for taking action against persons involved in storage and sale of petrol/HSD, other than licensed petrol pumps, for violating Section 3 of the Petroleum Act, 1934 and Rule 90 of the Petroleum Rules 1937 and direct provincial road transport authorities to revisit fitness certificate issued to all buses and coaches and immediately stop movement of buses fitted with specially designed tanks to smuggle a huge quantity of diesel beneath the passengers, putting lives of hundreds of passengers at risk.

FTO's Office Fully Committed to Making Tax System Flawless: Hon'ble FTO

"Enhancing export is a national cause and facilitation to exporters shall be a service to the nation. Resolving the tax matters of exporters should be among the priorities of FBR. The office of the Federal Tax Ombudsman (FTO) is fully committed to fairly and independently correct the lacunas and flaws in taxation system.

The FTO as per the law may exercise its jurisdiction and authority against reported maladministration in FBR on individual claims and can also take suo moto in the larger

being the FTO, since assumption of responsibility, he has invoked his jurisdiction and authority and took suo moto on several taxation related matters and maladministration and referred the FTO inspections to probe several cases in Faisalabad, smuggling and confiscation of vehicles in Quetta and misuse of green channel by a mobile phone company in Karachi, which unearth the maladministration by functionaries administrating tax laws.

The FTO gave patient hearing to the problems and issues



interest of the country. FTO will swiftly respond to the requests of exporters for justice against non-compliance of laws, rules and procedures by FBR machinery which may cause unjustified delays, particularly against sales tax refund claims of exporters under new FASTER System."

This was stated by Honourable Federal Tax Ombudsman Mushtaq Ahmad Sukhera during his visit to Pakistan Apparel Forum office, PHMA House, Karachi. He was accompanied by Manzoor Hussain Qureshi, Advisor (Incharge), Income Tax / Sales Tax and Syed Ayaz Mahmood, Advisor and Abid Mahmood Director Admin.

Addressing the value added textile exporters, Honourable FTO took pride in stating that the FTO Offices across Pakistan were holding the professional advisers having high integrity and fame with remarkable career of service to the country. The FTO team has strong believe in service to Pakistan and reciprocate to the society and citizens. He informed that

apprised by the Chairman, Pakistan Apparel Forum, M Jawed Bilwani, Chairman (PHMA), Aslam Karsaz, Chairman (PRGMEA), Shaikh Shafiq, Chairman (PAKSEA), Kamran Chandna, Chairman (PCFA), Khawaja M Usman, former Chairman (PCMA) Abdus Samad, Deputy Chief Coordinator (PHMA) Junaid Makda, Senior Vice Chairman (PHMA) Khizer Mehboob, Vice Chairman (PHMA) Abdur Rehman and leading textile exporters and articulated that the grievances mentioned by the Forum were genuine, however, the current state of economy was also facing a set of unprecedented challenges like the current account deficit, fiscal deficit etc. The government in the last budget removed the Zero Rated Status for the five export sectors and imposed 17% sales tax. He was of the view that to start with 5% sale tax would have been an appropriate percentage to avoid any liquidity hardships for SME exporters as currently billions of rupees in shape of sales tax refunds have been stuck up.

FTO Assures Office Bearers of Pakistan & Lahore Tax Bar Associations to Help Improve Tax Filing System

Pakistan Tax Bar Association (PTBA) and Lahore Tax Bar Association (LTBA) office bearers met Hon'ble Federal tax Ombudsman (FTO) Mushtaq Ahmad Sukhera.

Hon'ble Federal Tax Ombudsman has ensured Pakistan & Lahore Tax Bar Associations to solve the issue of seventeen thousand pending cases of amnesty scheme. The FTO said that he would also seek response from the FBR as to why the internet system could not be able to cater the need of the taxpayers when the date of assets declaration was extended.

went inoperative when the filers attempt to file their returns by using the system.

The FTO ensured the representatives that there would be no discrimination between the tax collectors and taxpayers when it comes to hearing of the cases by the FTO advisors.

If anything happens in this regard he would take prompt action and the responsible would not be spared, Sukhera stated, adding tax returns would also be ensured to be



"This is not acceptable that over 15,000 thousand taxpayers are still hanging in balance and not being properly accommodated," he told the bars representatives.

During a meeting with the office bearers of Pakistan Tax Bar Associations (PTBA), it was agreed that PTBA would point out all those steps and measures of FBR which are contrary to Tax Laws. The tax bar members requested the FTO to take Suo Motto to solve the issue of seventeen thousand pending cases of amnesty scheme.

The FTO ensured the representatives of the bar that all out measures would be taken to correct the Federal Board of Revenue (FBR) systems especially IRIS as the system often

simplified.

The bars representatives also discussed with the FTO the matters relating to the draft for the small traders and the retailers. He said he would seek a comprehensive report on the delays in finalising the draft and as to why it was not finalized.

PTBA and LTBA former president Naeem Shah, PTBA former general secretary Rana Munir, PTBA Senior Vice President Habibur Rehman Zubari, General secretary Ferhan Shahzad, Finance Secretary Shahbaz Sidique, Vice presidents Sohail, VP Ansri, LTBA Khuram Shabaz Butt, Vice President Ashiq Ali Rana and other were present on the occasion.



Gang Using Fake Invoices to Evade Taxes Busted

After Hon'ble FTO's suo motto against bogus sales tax refund issue in Karachi, Karachi-based Directorate of Intelligence and Investigation of FBR has unveiled a scam of evaders, who are engaged in issuing and utilising fake and flying invoices either to evade sales tax or to facilitate other persons in minimising their sales tax liabilities.

According to Daily Dawn report, the gang is operating through various cities of Pakistan and issuing sales tax invoices without any physical movement of goods.

As per the investigation so far, paper transactions valuing Rs7.729 billion involving sales tax amount of Rs1.305bn is detected. The suspected revenue involve in the same can rise up to Rs10bn when the investigation completes, a senior tax official said.

The official said that investigations are underway to trace and apprehend the mastermind of the mafia.

Bogus companies, which exist only on papers, issue fake invoices. Then they claim refund from the sales tax department on raw material never purchased. Meanwhile, flying invoices are used by registered taxpayers to claim undue refunds from the FBR by showing excessive use of raw materials.

Further details show that an investigation is underway and so far suspension and black-listing of 10 bogus registered persons in Karachi has been initiated. These include Shahid Enterprises, Hashmi Traders, Jibran Enterprises, Rizwan Enterprises, Lucky Corporation, Zaid Enterprises, Zahid & Co, Khatri Enterprises, SSS Expo, and A-One Package.

The cases of bogus registered persons falling in other cities were referred to their respective directorates for further investigation.

These bogus registered persons have declared sales of multiple descriptions of goods, including coal and related products, lubricating oil and greases, petroleum and similar products, article of plastic, chemicals, paper, yarn and filament, textile articles, computer and other equipment, miscellaneous electrical, furniture beddings and cushion, which are not relevant to purchases of their buyers.

It was found that most of the persons engaged in the scam have not paid a single penny to the treasury either as sales or income tax despite the declared supplies of millions of rupees. The practice of issuing fake and flying sales tax invoice claims has been rampant for several years and costs billions of rupees to the exchequer every month. People involved in the cases are said to be using connections in the FBR for release of refunds which were delayed because of red alerts, making them 'suspicious' claims.

FTO Censures Tax Body Over Failure To Audit Cigarette Manufacturers

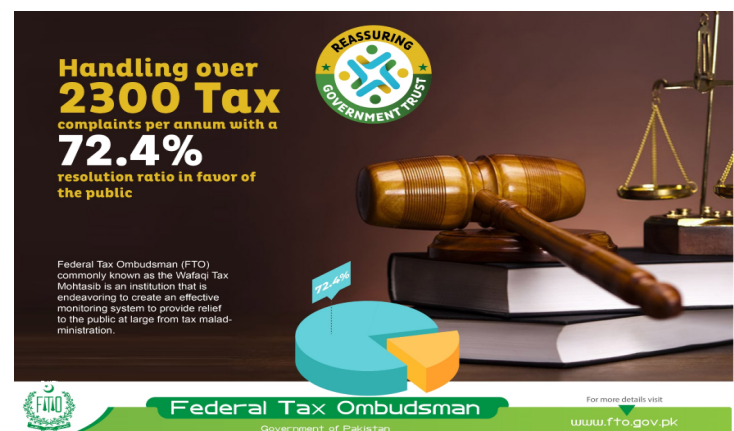
Hon'ble Federal Tax Ombudsman (FTO) has found that tax department is not realising full potential of federal excise duty and general sales tax from majority of cigarette manufacturers by either failing to conduct proper audit or ensuring account of production of these units.

Hon'ble FTO Mushtaq Ahmad Sukhera, in a suo moto case, directed the Federal Board of Revenue (FBR) to develop a special, focused and across the board monitoring and enforcement regime for high revenue yielding sectors like cigarette, cement, sugar, beverages and fertilisers.

The FTO observed that in these sectors, rules for record keeping of raw material, production, storage, compliance and monitoring be re-aligned with classic model of central excise, and implemented in IT-based system.

According to FTO's findings, the information provided by the FBR and its field formations was reviewed in order to investigate the effectiveness of monitoring and audit provisions of relevant laws for collection of due government revenue. According to the FTO report, despite the fact that snap monitoring of production of the cigarette units was in place for smaller units, since 2016-17, revenue from cigarette sector had considerably declined. The FTO identified non-implementation of certain laws and poor monitoring of the value chain of cigarettes and other products.

It was also observed that the monitoring regime is confined to the small KP-based cigarette manufacturing units. Large units run by multinationals are not covered under the regime. FBR has to request the AJK Government to adopt similar electronic system for record keeping and exchange of data as would be developed by FBR and sign MOU with AJK Government to work out a mutually agreed procedure for cigarettes manufactured in AJK including live electronic exchange of clearance data of the consignments destined to the tariff areas of Pakistan so as to ensure that only duty paid cigarettes enter areas of Pakistan.



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Bogus Sales Tax Refunds FTO Directs FBR to Initiate Action Against Tax Officials

Hon'ble Federal Tax Ombudsman, in suo motto case, directed FBR to initiate disciplinary action against the tax officials involved in sanctioning of millions of bogus sales tax refund during the period 2011-14.

According to FTO report, investigation conducted by Directorate General I&IR (FBR) revealed that in the case of M/s Crescent and Yasdan Traders International, a Registered Person (RP), Rs.46.916 million sales tax was refunded. Similarly, M/s AZ, had been issued sales tax refund amounting to Rs.7.507 million. M/s Silicon International had been issued Rs.5.458 million sales tax refund while M/s Amharic Traders had been refunded Rs.4.120 million.

Sales tax refund fraud cost exchequer millions of rupees

According to FTO investigation, Directorate General I&IR (FBR) had issued "Red Alerts" in such cases to the concerned field formations but neither any action was initiated against the fake claimants and their connivers in FBR and PRAL management nor was any action proposed against the related bank officers who opened the bank accounts through which refund cheques were drawn.

According to FTO report, failure of the FBR to sleep over such an important anti-tax evasion exercise carried out by the I&IR led to serious instances of maladministration on account of certain acts of omission and commission, reflecting



improper motives, jeopardizing good governance and transparency in tax administration.

FTO findings reveal that fake persons were registered with the connivance of the FBR staff, refunds were claimed on the basis of fake and flying vouchers which led to massive loss to already cash starved exchequer.

Although the Director I&IR Karachi issued Red Alerts,

however, FBR officials did not realize the gravity of the situation and except blacklisting status of the RP(Registered Persons), no efforts appear to have been made for retrieving loss of revenue incurred on account of issuance of refund amounting to millions of rupees.



Continued from Page 1

FTO Appreciates Overall Performance For the Year 2019

FTO also appreciated the overall increase in disposal of complaints from 1880 (2018) to 2633 (2019) which works out to 40% increase over the last year. The overall acceptance of Hon'ble FTO's findings/ recommendations by FBR/Complainants has touched the highest percentage of 98.2 during the year 2019 since inception of the FTO's institution, which testifies that the Tax payers/department are increasingly reposing their trust on the findings/ recommendations of the FTO's office.

It was explained by the Registrar that cases pending for implementation by the end of the years 2018 were 186 while 2095 cases were added for implementation during the year 2019 totaling 2281 cases for implementation against which 1884 cases were implemented in the year 2019. Hon'ble FTO showed his concern over the 397 pending cases for implementation. The Registrar clarified that out of total 397 cases, 125 cases related to the category of 'Own Motion' leaving a balance of 272 complaints out of which 166 cases related to the category of "Before-Due-Date (BDD)" and, therefore, could not be implemented by the end of December 2019.

The Hon'ble FTO directed that for implementation of recommendations, after completion of period given in the findings for implementations of recommendations, defiance proceedings be initiated against the quarter concerned responsible for delay in implementation of findings/recommendations by FBR.

FTO Takes Notice of System's Failure of FBR

The federal tax ombudsman (FTO) has taken suo moto notice of the difficulties faced by the people who were unable to submit asset declaration under the tax amnesty scheme for tax year 2019 due to failure of the Federal Board of Revenue's (FBR) online system.

This was despite having submitted tax returns worth Rs2.6 billion within the prescribed time. In this regard, the ombudsman sought a response from the revenue authority over the issue of non-disclosure of assets despite submission of tax challans.

FTO took notice of the situation on a complaint filed by the Pakistan Tax Bar Association. The FTO sought a reply from FBR.

On the other hand, the FBR prepared a preliminary report and sent it to the FTO in which it disclosed that there were 12,000 individuals who submitted the challans of tax dues under the amnesty scheme but failed to submit the declaration of assets.

They added that the FBR had received numerous requests from the Pakistan Tax Bar Association and other entities demanding to permit such people to disclose their assets despite non-submission of asset declarations.

Pakistan Tax Bar Association General Secretary Farhan Shahzad penned a letter to the FBR where he pointed out that approximately 11,000 persons were facing difficulties as they had failed to submit asset declarations within the deadline due to failure of the online system.

The two-page letter blames FBR over its carelessness in tax mechanism and states that that people failed to submit asset declarations due to high traffic at the FBR portal.

The association also requested FBR Chairman Shabbar Zaidi to allow these people to disclose their assets reasoning that tax challans had been submitted.

Shahzad underlined that the matter was stuck between the Ministry of Law and the FBR, because the tax authority had said that it sent a summary to the law ministry but no response was received so far.

However, he pointed out that he met with Minister of Law Farogh Naseem some time ago who informed him that the ministry had not received any summary on this matter from the FBR.

Sources in FBR maintained that they encountered the same problem in earlier amnesty schemes as well and some taxpayers had approached the court which ordered refund of the tax amount and FBR had duly refunded their amounts.

SCCI Calls For Close Cooperation with FTO Office

The Sarhad Chamber of Commerce and Industry (SCCI) has demanded of the government to make the Federal Tax Ombudsman (FTO) laws and rules business-friendly to provide speedy justice to the taxpayers.

The demand was made by SCCI president Engineer Maqsood Anwar Pervaiz during a meeting with FTO provincial advisers Abdul Wadud and Tariq Ahad Nawaz at the Chamber House.

According to a statement, the meeting was also attended by the chamber's senior vice-president Shahid Khan, members of the executive committee and officials of FTO regional office.

Mr Wadud and Mr. Nawaz asked the business community to approach their office for resolution of complaints about income tax, sales tax and customs and federal excise duty. They said that the FTO would continue to play its effective role against the unjust decisions affecting taxpayers. Mr Nawaz said that



Engineer Maqsood Anwar Pervaiz

their office had issued directives to the Federal Board of Revenue (FBR) to simplify the filing of tax returns and issue separate forms of returns for different sectors.

Mr Wadud asked the taxpayers to send their complaints on plain paper along with the copy of CNIC, on which instant action would be taken.

Earlier, Mr Pervaiz called for close liaison between the FTO and SCCI, saying the business community of Khyber Pakhtunkhwa was facing a host of difficulties. He urged the FTO to give special attention to resolution of issues of the community of this terrorism-hit region. He said that the FTO laws should be made business friendly through proper reforms so that the issues related to taxes could be resolved on priority



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Irregularities in Seizure/Auction of Non-Custom Paid Vehicles - Culprits Not Nominated, Apprehended by Custom: FTO

Federal Tax Ombudsman (FTO) has decided a suo moto case against irregularities of FBR field formations in making seizure of smuggled non-custom paid (NCP) vehicles, determination of assessable value and conduction of auction of the seized vehicles.

During investigation, the FTO found that Custom collectorates while seizing the vehicles did not nominate or apprehend even a single unlawful owner or culprit. The criminal proceedings including lodging of FIRs have, invariably, not been initiated during the last ten years and most of the seizures had been effected against unknown persons.

The FBR's report, regarding seizures of vehicles by all the Collectorates from July 2013 to January, 2019, submitted to



FTO Office shows that the number of vehicles seized has increased every year. In this period, total 3299 vehicles have been seized. FTO report states that the influx of Non Custom Paid vehicles and their seizures had increased which belies the plea of the FBR of asserting highest level of efficiency to curb the menace of smuggling of NCP vehicles. If anti-smuggling activities were conducted seriously with a view to discourage smuggling of vehicles, influx of such vehicles could have been dropped, reducing number of seizures.

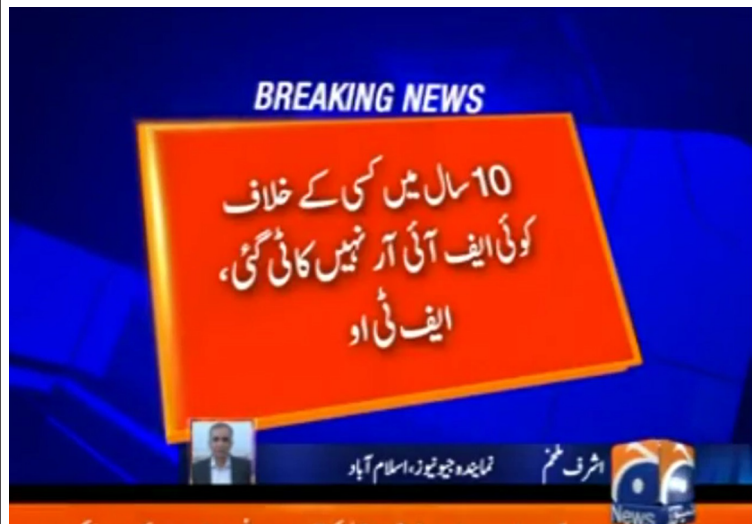
According to FTO report, in the last five years, 1662 vehicles have been auctioned including 1004 vehicles were auctioned by MCC (Preventive), Quetta, out of which 538 vehicles were disposed of in first auction, some below the reserve price. This was contrary to the instructions contained in para-7 of the Customs General Order (CGO) 12 of 2002.

Twenty Six vehicles confiscated vide single Order-in-Original (O-in-O) were disposed of just in first auction on 75-80 percent of the reserve price, before 3 months of issuance of order of confiscation. Names of Owner/persons from whom

the vehicles were seized were not indicated. Dates of seizure of 621 vehicles were not mentioned and despite prior information, not in a single case offender could be rounded up by the staff of the Collectorate. No action was initiated against the persons involved in violation of Section 2(s) of the Customs Act, 1969 (the Act) and CNICs of successful bidders were not available in all 621 cases.

According to FTO report, the tax functionaries used discretionary powers by exploiting conflicting provisions, regarding acceptance of bids in first auction of vehicles, in Chapter-V of Customs Rule 2001 and instructions issued by FBR vide Para-7 of Chapter-IV of CGO 12 of 2001, in arbitrary manner. The last ten years data shows that the discretion vested in the office of the Collector had been exploited on the plea of ensuring efficient and speedy disposal in view of revenue target, weather conditions, space constraints, security situation, among other extenuating circumstances warranting quick disposal of goods.

Federal Tax Ombudsman has recommended it to FBR to review conflicting provisions regarding acceptance of bid in first auction, in Chapter-V of the Rules and Chapter-VII of the CGO and make necessary amendments with a view to ensure uniform application of law. FBR to prescribe Model Auction rules for goods through electronic means as provided under sub-Section 1A of Section 201 of the Act and prepare and operationalize auction module in the WeBOC system to bring transparency and efficiency. FBR has to direct the Directorate General of Internal Audit (Customs) to carry out a detail audit



of auctions conducted by the field formations during last three financial years to identify weaknesses in the rules, procedures and processes and make recommendations to improve law and procedures, internal control and compliance.

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