

Mehtab Haider

**Gold trade: FBR representation against FTO's
recommendations rejected**

ISLAMABAD: President Dr Arif Alvi has rejected the representation filed by the FBR against the recommendations of Federal Tax Ombudsman (FTO) regarding illegal gold trade.

The president in its decision available with The News states that "It has been observed that by taking up the matter in suo motu jurisdiction the learned FTO did not commit any wrong, rather the step is laudable, suggestive of reforms and improvements of the system and workability. It is meant to curb the menace of tax evasion and wrongdoings. The tax/revenue collection functionaries of the state should take necessary steps to implement such recommendations wholeheartedly to improve its functioning and revenue collection.

It appears that certain steps are underway to implement the reformatory recommendations and efforts in the directions can yield positive results. There is no justification made out to upset the recommendations of the learned FTO, nor there is any ground for interference with the aforementioned directions".

The Federal Tax Ombudsman Mushtaq Ahmad Sukhera on its Own Motion (OM) had exercised his jurisdiction for investigation of alleged systemic mal-administration. The investigation was based upon a news item published on 11th June, 2018 regarding misuse of import-cum-export facility in respect of gold, jewellery and other precious metals at various customs stations, where some exporters of jewellery failed to remit foreign exchange and customs stations department did not take cognizance in the matter due to jurisdictional issue. The news item referred to cases detected against gold/jewellery exporters and failure of the department to take action for violation of import and export policy orders under the Customs Act, 1969.

Prima facie, the FBR did not put in place institutional mechanism to stop abuse of scheme regulated through concessional SROs issued by the Ministry of Commerce. As a consequence the importers-cum-exporters hoodwinked the department with impunity especially in cases where concession available under Entrustment Scheme/Self Consignment Scheme was misused. Allegedly no serious efforts had been made by the department to recover the adjudged amount of arrears as per provision of Section 202 of the Customs Act, 1969 read with Chapter-XI of the Customs Rules 2001, notified vide SRO 450(1)2001.

The FTO had recommended to the FBR and FIA to initiate inquiry against all the officers, departments and importers/exporters involved in misuse of imports-cum-exports' facility in respect of gold, jewellery and other precious metals resulting in massive loss of revenue to national exchequer.

The FTO finding reveals that gold worth billions of rupees was either not exported against imported gold or was exported against fake form-E. The FTO observed that the export promotion scheme did not put in place institutional mechanism to stop abuse of entrustment

scheme/self-consignment scheme regulated through concessional SROs issued by the Ministry of Commerce.

The entrustment scheme provides facility for export of jewellery against imported gold supplied as partial advance payment, by the foreign buyer to be used in the manufacture of jewellery to be exported. The exporter is required to export eligible and authorised items within 120 days from the date of import. Under self-consignment scheme export of gold jewellery is made from locally procured gold and gemstones and sale proceeds are realised in foreign exchange.

According to the scheme the registered exporter shall apply to the TDAP for export authorisation. The sale proceeds shall be realised within 120 days from the date of export and the commercial banks shall ensure that sale proceeds are repatriated in full within 120 days; otherwise, commercial banks shall inform State Bank of Pakistan as well as to TDAP.

The FTO observed that during special audit, the Directorate General of Internal Audit detected serious irregularities relating to Customs Collectorates of MCC, Peshawar, MCC (Export), Port Qasim, Karachi, MCC, Islamabad and MCC (Preventive), Lahore.

It was observed that repeated exports were made by exporters. Admittedly, foreign exchange was not repatriated against Form-E which subsequently turned out to be fake. Ignoring the said fact, there is no explanation that how subsequent exports were allowed when it was evident that foreign exchange was not repatriated within the specified period. This reflects the negligence, inattention and ineptitude in discharge of duties and responsibilities.

It is rather strange that the Collectorates had failed to recover the adjudged amount of fine imposed on the clearing agents, who are, otherwise, licensee of the department. Perusal of the record shows that either no stay had been granted or the period for stay of order under appeal had been lapsed. But the department had not initiated recovery proceedings for which no explanation could be advanced. This again reflects negligence, inattention, inefficiency and ineptitude in discharge of duties and responsibilities by concerned officers/officials of the department which are tantamount to mal-administration.

The position emerged on the basis of information provided by TDAP and SBP, reveals that there is a gap between the value of import and value of export and lack of data synchronisation relating to data provided by the TDAP and SBP. It appears that the TDAP has not put in place any mechanism of monitoring and reporting of exports and imports taking place under SRO 760(I) 2013 dated 02.09.2013. In the absence of authentic and complete data of import and exports under the said SRO, no meaningful analysis can be carried out.

The FTO recommended to the FBR to direct the chief collectors (North), (Central), and (enforcement) South to initiate departmental enquiry against officers/officials and take disciplinary action against those found involved in illegal/inadmissible imports/exports.