



Connivance, red tape allow evaders to escape tax net

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ISLAMABAD: As the country's tax machinery has been struggling to achieve revenue target for many years, tens of billions of rupees worth of genuine tax claims remain unrecovered because of lack of institutional support, poor follow up and connivance of the tax authorities with the tax evaders.

Informed sources say that a lot of cases end up in courts every year and a huge amount is lost due to long delays and transfer of responsibility from one formation to another and from one institution to another.

At a recent meeting, the director general of Customs internal audit reported to the top management that at least 14 cases involving Rs63 billion required a push from the top management of the Federal Board of Revenue. Of them, three big revenue loss cases in gold and jewellery sector involving more than Rs35.5bn were being suppressed or delayed on weak jurisdictional arguments and application of wrong clauses of law despite repeatedly pointed out by internal audit and inquiries.

Taxes worth billions of rupees remain unrecovered

Interestingly, the three big cases were dropped from further discussion on the basis of an anticipated opinion of the law ministry. A single case involved revenue loss of Rs34bn due to failure of 19 exporters to repatriate foreign exchange of Rs17bn from Model Customs Collectorate (Preventive), Lahore in the year 2012-13 under the concessions and restrictions of an SRO 266(I)/2001. The SRO was issued by the Ministry of Commerce under section 3(1) of the Imports and Exports (Control) Act. The exporters' failure to repatriate foreign exchange after export of gold jewellery under the SRO constituted a violation of restrictions of the SRO.

It was pointed out that Section 3(3), 5(1) and 6(a) of the Imports and Exports (Control), Act and Section 156(1)(9) of the Customs Act conferred upon Customs authorities the jurisdiction to take cognizance of such violations and recover from defaulters a penalty twice the value of foreign exchange not repatriated.

Interestingly, when FBR's auditors detected the case in 2015 and asked the Customs authorities of Lahore to take recovery action, the relevant authorities declined to take action claiming lack of jurisdiction and passed on the responsibility to the Foreign Exchange Tribunal, Karachi which had no jurisdiction in cases under the Imports and Exports (Control), Act.

Big cartel

The Customs authorities of Lahore shifted the responsibility notwithstanding the fact that Collector Port Muhammad Bin Qasim had informed them of a big cartel involved in the scam and had asked them to trace whereabouts of people involved in it and take action against a Lahore-based jeweller (M/s Ganj Bakhsh Jewellers) falling in the jurisdiction of Lahore Customs which ultimately disappeared.

The record showed nearly three years passed after detection of the case but Customs authorities did not visit and verify the existence of M/s Ganj Bakhsh Jewellers, one of the 19 exporters which alone had exported gold jewellery worth Rs13bn and had his business premises at a modest locality of Chungi Amer Siddhu, Lahore.

On repeated calls from auditors, FBR finally sought to vindicate the last three years' inaction in the case by sending a reference to Ministry of Law for clarification on the issue of jurisdiction but excluded from the reference relevant provisions of law that conferred jurisdiction on Customs authorities. The case was pushed under the carpet on the strength of a Ministry of Law's clarification that also highlighted responsibility of the State Bank of Pakistan but did not exclude Customs jurisdiction in the case.

The second case involving duty/tax loss of Rs916 million resulted from a violation of the restrictions of the same SRO 266(I)/2001. In this case, another Karachi based jeweller (M/s Makkah Enterprises) imported duty/tax free gold under the SRO but exported only a small quantity of gold jewellery made from it rendering the duty/taxes of Rs916 millions exempted on the remaining gold recoverable.

The importer had classified the imported gold as impure gold which was exempt from 17pc sales tax at import stage. The importer did so to avoid duty/tax liability in a pre-planned move to export the gold jewellery made thereof.

The Customs authorities of Karachi did not read Clause 16 of the SRO which allowed the import of only pure gold in semi manufactured form under the SRO and instead changed a plain duty loss case into a classification controversy case thus saving the importer from payment of Rs916 millions. The classification controversy was first referred to Classification Committee of Karachi and then to Classification Committee of World Customs Organisation, Brussels for the case to languish there for an indefinite period of time.

The third case involves duty of Rs933 millions in the Customs clearance of 1188 old/used machinery containers cleared from Dry Port Faisalabad in the year 2011-2013. The case was detected by an Inquiry Committee constituted by FBR in 2016 in compliance of Tax Ombudsman's Order of January 2013. The Inquiry Committee found that due to hasty and same day clearance of 50.8pc of the containers, an average duty/tax of Rs.630,325 was collected on each of the 1188 containers as compared with zero same day clearance and an average duty/tax collection of Rs.1,415,620 on similar containers cleared from the same Dry Port in a subsequent Collector's tenure.

An Inquiry Committee found a less realisation of duty/taxes of Rs785,295 on each of the 1188 containers that caused a total loss of Rs933 million. The case involved some senior officers but inquiry was assigned to juniors. The internal disputes thereof made the case time barred and irrecoverable despite orders of the federal tax ombudsman five years ago.

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