

Federal Board of Revenue

Versus

M/s Fair Trade Impex

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**REPRESENTATION PREFERRED BY FEDERAL BOARD OF REVENUE  
ISLAMABAD AGAINST FINDINGS / RECOMMENDATIONS PASSED BY THE  
WAFAQI MOHTASIB IN COMPLAINT NO. HQR/0003998/2015**

I am directed to refer to your Representation No. HQR/0003998/2015 dated 22<sup>nd</sup> December, 2015 on the above subject and to say that the President has been pleased to pass the following orders:

1. The Federal Board of Revenue, Islamabad (hereinafter referred to as the Agency) has filed this representation against the revised findings dated 09.11.2015 of the Wafaqi Mohtasib, whereby the original findings dated 09.07.2015 in complaints lodged by M/s Fair Trade Impex, F.B Area Gulshan-e-Amin, Karachi (hereinafter referred to as the complainants) with regard to cancellation of auction of an imported Mitsubishi Shogun Jeep, were recalled and the review petition of the Agency was rejected in the following terms:

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9. *The Agency should reconsider the matter and hold on in depth inquiry about auction/ proceedings & use of vehicle by a junior custom officer and if there are violations against procedure/ rules/ regulation then fix the responsibility on the delinquent officer/ take disciplinary action against him/ them and compensate the complainant.*

10. *In view of above, the Review Petition is allowed and, in consequence, the original findings dated 09.07.2015 is set aside."*

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2. Brief facts of the case are that one Mr. Naseer Ahmed s/o Asal Khan had imported a used Mitsubishi Shogun Jeep model 2009 from UK. His Custom Agent viz M/s Fair Trade Impex could not present the Good Declaration (GD) to the concerned officer of the Custom House, Karachi for assessment of the vehicle under Section 80 of the Customs Act 1969. Despite repeated notices, the Agent failed to comply with the statutory provisions. Consequently, the Custom Authorities auctioned the said vehicle for a sum of Rs.3,700,000/-. After calculation of sale proceeds as per procedure envisaged under Section 201 of the Act, cheque bearing No.C102543 dated 14.11.2014 for an amount of Rs.719,669/- was sent to Mr. Naseer Ahmed, the owner/ importer of the vehicle. The said cheque was accordingly, cleared on 19.01.2015 by the State Bank of Pakistan for payment to the importer's account with the Bank of Punjab, Saddar Road Branch, Peshawar.

3. In the meanwhile customs agent/ complainant filed an application with the Customs Authority for re-import of the vehicle or return of the sale proceeds which, however, was not acceded to as he had not responded to the Agency's notices earlier served upon him for filing of GD and also that the sale proceeds could have been returned

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only to the importer/ owner of the vehicle under the law. The complainant, thereafter, approached the Wafaqi Mohtasib for relief. Who initially closed the findings for the matter being *subjudice* before the higher courts, but subsequently, on a review petition filed by the complainant recalled the closure findings and issued directions *vide* revised findings dated 09.11.2015 as reproduced hereinabove.

4. The Agency has filed instant representation on the specific ground of jurisdiction as the matter falls within the ambit of the Federal Tax Ombudsman Ordinance 2000. The complainant *vide* his comments on the representation as reiterated his stance pleaded earlier before the Wafaqi Mohtasib.

5. After promulgation FTO's Ordinance 2000, the matters regarding maladministration by functionaries administering tax laws fall within the ambit of the Federal Tax Ombudsman. Section 37 of the Ordinance *ibid*, categorically excludes the jurisdiction of the Wafaqi Mohtasib in such matters. Even otherwise, Chapter-XIX of the Customs Act 1969 provides a hierarchy of departmental and judicial fora, where an aggrieved person can file a complaint/ appeal against any order passed by the Customs Authorities. In view of such circumstances, the impugned findings/ recommendations of the Wafaqi Mohtasib have been passed without jurisdiction and as such do not hold any ground.

6. The Honourable President of Pakistan has been pleased to accept the instant representation and set aside the findings/ recommendations for the reasons stated above.

(Arshad Farid Khan)  
Director (Legal)

The Chairman,  
Federal Board of Revenue House,  
Constitution Avenue, Sector G-5,  
Islamabad.

No. 655/WM/2015 dated 16<sup>th</sup>, November 2016

Copy for information to:

1. The Secretary, Wafaqi Mohtasib's Secretariat, Islamabad.
2. M/s.Fair Trade Impex, C/o S.M.Ramzan Gilani (Advocate) Room No.7, Idrees Chambers Opp. NBP Head office, Talpur Road Karachi.
3. Director to Secretary to the President.

(Arshad Farid Khan)  
Director (Legal)

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