

GOVERNMENT OF PAKISTAN  
(REVENUE DIVISION)  
FEDERAL BOARD OF REVENUE

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Islamabad, the 4<sup>th</sup> January, 2021.

**NOTIFICATION**  
**(Customs)**

S.R.O. 05 (I)/2021.- In exercise of the powers conferred by section 219 of the Customs Act, 1969 (IV of 1969), section 50 of the Sales Tax Act, 1990, section 40 of the Federal Excise Act, 2005 and section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001), the Federal Board of Revenue is pleased to direct that the following further amendments shall be made in the Customs Rules, 2001, which, as required under sub-section (3A) of the said section 219, were previously published *vide* Notification No.S.R.O 1243(I)/2020, dated the 19<sup>th</sup> November, 2020, namely:-

In the aforesaid Rules, after Chapter XXXVI, the following new Chapter XXXVII shall be added, namely: -

**“Chapter XXXVII**

**FORFEITURE OF PROPERTY RULES**

**813. Definitions.-** (1) In this Chapter, unless there is anything repugnant in the subject or context,-

- (a) **"administrator"** means a person or persons appointed under the Act to manage the affairs and business of the property forfeited under these rules;
- (b) **"assets"** means property, both movable and immovable, owned, controlled or belonging to a person convicted on the charges of smuggling, whether directly or indirectly, or in the name of his spouse or relatives or associates inside and outside Pakistan;
- (c) **"associate"** in relation to a person, means-
- (i) any individual who is or has been residing in the residential premises, including out-houses and servant-quarters, of such person;
  - (ii) any individual who is or has been managing the affairs or keeping the accounts of such person;
  - (iii) any association of persons, body of individuals, partnership firms, or private limited company within the meaning of Companies Act, 2017 (XIX of 2017), of which such person is or has been a member, partner or director;
  - (iv) any individual who is or has been a member, partner or director of an association of persons, body of individuals, partnership firm or a private limited company referred to in sub-clause (iii);
  - (v) a trustee of any trust created by such person; or

- (vi) where the Special Judge, for reasons to be recorded, considers that any property of such person is held on his behalf by any other person, such other person;
- (d) "relative" in relation to an accused, means the spouse or any lineal descendant of the accused and includes any other person holding property for or on his behalf;
- (e) "freezing" means prohibiting parting, transfer, conversion, disposal or movement of any assets and includes the holding, controlling, assuming custody or managing any assets in pursuance of such order and, in the case of assets which are perishable the disposal thereof; and
- (f) "tracing" means finding out the true nature, source, disposition, movement or ownership of assets and includes determining the movement or conversion of assets by any means, and "trace" shall be construed accordingly.

**814. Assets acquired by smuggling not to be held.**- (1) It shall not be lawful for any person to hold assets acquired through proceeds of smuggling either directly in his own name or indirectly in the name of any relative or associate.

(2) Where a person is found to hold any assets in contravention of the provisions of the Customs Act, 1969, such assets shall be liable to be forfeited to the Federal Government in accordance with the provisions of the Act *ibid*.

**Explanation.**- "smuggling" shall have the same meaning as defined in section 2 of the Customs Act, 1969.

**815. Power to trace and freeze assets.**- (1) During the investigation or trial of an offence of smuggling, the Collector or an officer authorized in this behalf under section 163 of the Customs Act, 1969 shall trace and identify assets for the purpose of forfeiture by the Special Judge, regarding which suspicion arises of having been acquired by any person through proceeds of smuggling and holds them either directly in his name or indirectly in the name of his relatives or associates.

(2) This may include inquiry, investigation in respect of any premises, place, property, conveyance, documents and books of accounts.

(3) Whenever an Officer of Customs, not below the rank of Assistant Collector or an officer authorized in this behalf under section 163 of the Customs Act, 1969 has reasons to believe that within the limits of his jurisdiction any person, either in his own name or on behalf of any relative or associate holds any assets, which are reasonably suspected of having been acquired through proceeds of smuggling, the officer of customs after obtaining approval from Collector may freeze such assets for fifteen days and before the expiry of fifteen days the freezing order shall be submitted to the Court of the Special Judge Customs with the grounds on which such freezing was carried out and further continuation of the freezing or forfeiture shall so be decided by the Court.

(4) Where the Special Judge trying an offence of smuggling is satisfied that there appear reasonable grounds that accused has committed such an offence, he may order the freezing of assets of the accused, his relatives and associates.

**816. Notice to person holding property suspected to be acquired through smuggling.**- (1) Whenever a Special Judge receives information through the Collector of Customs or any officer authorized under section 163 of the Customs Act, 1969, that within

the limits of his jurisdiction any person, either in his own name or in the name of any relative or associate, is holding assets which are reasonably suspected to be acquired through proceeds of smuggling, the Special Judge shall call upon such person to show cause by means of a notice, within such time as stipulated in the notice, and not less than thirty days, as to why the whole or any part of such goods should not be declared as property acquired by smuggling and be ordered to be forfeited to the Federal Government.

Provided that no such proceedings shall commence against the accused unless, taking into consideration one's sources of income, past involvement in smuggling or abetting the act of smuggling, conviction under any law meant to prevent smuggling, the Special Judge has reasonable grounds (which he shall record in writing) for commencing proceedings against the accused.

**817. Order of Special Judge.-** (1) Where the Special Judge is satisfied that any assets were derived, generated or obtained through proceeds of smuggling, he may order that such assets shall stand forfeited in the name of the Federal Government free from all encumbrances.

(2) The burden of proving that any assets specified in a notice under rule 816(1) is not acquired through proceeds of smuggling shall be in accordance with section 187 of the Customs Act, 1969.

**818. Option to pay fine in lieu of property forfeited.-** (1) Where by virtue of an order made by the Special Judge less than full of any asset stands forfeited to the Federal Government and such asset is indivisible or cannot be easily separated from the rest without substantially impairing the value of the asset, the person holding it prior to such declaration shall be given, by the Special Judge, an option to pay in lieu of forfeiture of that part of the asset a fine equal to the market value of the asset prevalent at the time of its forfeiture.

(2) Where such person pays the fine in lieu of forfeiture, within such time as may be allowed to him, the Judge may, by order, revoke the declaration of forfeiture made under rule 817 and thereupon such asset shall stand released.

**819. Transfer of certain assets void.-** (1) After the issuance of a notice under rule 816(1), the property mentioned in such notice shall not be transferred by any mode whatsoever, nor shall any change be created thereon, until proceedings of forfeiture are pending in the court.

**820. Power to conduct inquiry, investigation, etc.-** (1) Notwithstanding anything contained in any other law for the time being in force, for the purpose of any proceedings under these rules, or initiation of any such proceedings, the Collector shall have the power to conduct or cause to be conducted any inquiry, investigation or survey in respect of any person, place, assets, documents, books of accounts and any other relevant matters.

(2) For the purposes of this section, the Collector shall have the power to require any officer or authority of the Federal Government including civil armed forces and Federal Investigation Agency or a Provincial Government including Police and Revenue Authorities or a local authority or any financial institution to furnish any information in relation to such persons, property, assets or other matters as are, in his opinion, useful for or relevant to, the purposes of this Chapter.

**821. Forfeited property to be surrendered.-** (1) Where any property has been declared to be property acquired by smuggling and forfeited to the Federal Government under this Act, or where a person who has been given option under rule 818 has not paid the fine within the specified time, the Collector may direct such person or any other person who is in

possession of such property to surrender or deliver possession thereof to an Administrator authorized in this behalf by the Collector within thirty days of the service of such directions.

(2) If any person to whom a direction has been issued under this section refuses or fails to comply with such direction, the Collector may cause possession of the property to be taken and for that purpose may authorise use of such force as may be necessary.

(3) The property forfeited under the said rule, if it is agricultural property, be mutated in the name of the Federal Government, or be transferred to an Administrator duly authorised by the Collector in such manner as the Court may direct.

(4) For the purpose of taking possession of forfeited property under these rules, the Collector can requisition the services of any officer of the civil armed forces including Police for assistance and it shall be the duty of such officer to comply with such requisition.

**822. Proper accounting of properties.**- The Administrator shall, at the time of receiving the assets, ensure proper identification of such assets with reference to its particulars mentioned in the freezing order or as the case may be, the forfeiture order made under the Act.

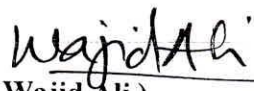
**823. Management of property.** - The Administrator may authorize any member of staff or other persons, provided to him by the Collector, to take possession of vacant property in respect of which-

- (a) an order or orders of freezing of such property have been made under the Act; and
- (b) an order or orders of forfeiture of such property have been made under the Act.

**824. Disposal of property.** - The property so forfeited shall be disposed of by the Administrator or any other Customs officer authorized by Collector after completion of legal formalities in the following manner, namely:-

- (a) the movable property shall be disposed of through public auction and shall be governed by Chapter V (Auction), of the Customs Rules, 2001; and
- (b) the disposal of immovable property shall be governed by Chapter XI (Recovery of Arrears), Part III and Part IV, of the Customs Rules, 2001.

[C. No.2(1)L&P/2020(F.P)]

  
(Wajid Ali)  
Secretary (Law & Procedure)