Pakistan Introduces New Valuation for Used LCDs and LEDs

Karachi, February 9, 2024 – In an effort to address under-invoicing concerns and streamline the determination of duties and taxes, Pakistan Customs has introduced a new valuation for old and used computer LCDs and LEDs.

The move comes as a response to recommendations from the Federal Tax Ombudsman (FTO) and aims to ensure fair and accurate assessments at the clearance stage.

The Directorate General of Customs Valuation issued Valuation Ruling No. 1849 / 2024, establishing a valuation of $0.70 per inch for imported old and used computer LCDs and LEDs. This ruling is based on a comprehensive assessment and analysis of the market, taking into consideration various factors that impact the valuation of these electronic goods.

The FTO, in a directive dated December 12, 2023, urged the Directorate of Customs Valuation in Karachi to determine customs values for old and used LCD and LED computer monitor panels under Section 25A of the Customs Act, 1969. Subsequently, a meticulous evaluation process was initiated to establish a fair and transparent valuation system.

To ensure accuracy in valuation, meetings were held in January 2024 at the Directorate of Customs Valuation in Karachi. The analysis involved retrieving and scrutinizing 90 days' clearance data, revealing that a significant portion of imported goods had been declared and assessed at a value of US $12 per piece.

Further investigation uncovered a concerning practice of certain importers declaring lower values for identical goods, indicative of a phenomenon known as group under-invoicing. Importers were requested to provide documentation to substantiate their declared values, including invoices, information about foreign manufacturers, contracts, sales tax invoices, and more. Unfortunately, the importers failed to comply with these requests.

In adherence to Section 25 of the Customs Act, 1969, the Directorate of Customs Valuation explored various valuation methods, with a sequential order to arrive at the customs values of the subject goods. The transaction value method was found inapplicable due to a lack of required information. Similarly, the identical goods value method and the similar goods value method were not solely relied upon due to inconsistencies in declared values.

Market inquiry, as outlined in Sub-Section (7) of Section 25 of the Customs Act, 1969, was conducted, but no results were obtained as the subject goods were not readily available in the market. Consequently, the computed value method, as provided in Section 25(8), could not be applied due to unavailability of conversion cost data from the country of export for manufacturing old and used LCD/LED computer monitor panels.

Finally, the Customs values of the subject goods were determined under Section 25(9), read with Section 25(5), and Customs Rule 121(2) of Customs Rules, 2001. This ruling allows flexibility in the application of valuation methods while ensuring conformity with the aims and provisions of the relevant sections.

The new valuation ruling aims to promote transparency, discourage under-invoicing practices, and facilitate a fair and equitable assessment of duties and taxes on imported old and used computer LCDs and LEDs. Importers and stakeholders are urged to comply with the established valuation for the collective benefit of the industry and the economy.

Sindh Tax Collection from Food and Hospitality Grows 41%

Karachi, February 10, 2024 – Sindh has reported a remarkable 41 percent surge in sales tax collection from the food and hospitality sector during the fiscal year 2022-23, according to the annual report released by the Sindh Revenue Board (SRB).

The robust growth in the food and hospitality sector indicates a thriving trend in dining out, food delivery, and social gatherings outside homes, extending even to smaller cities within the Sindh region. Key contributors to this sector include Restaurants, Hotels, Clubs, Caterers, Marriage Halls, and Event Management services.

Tax collection from the food and hospitality sector poses unique challenges, primarily due to the nature of Business-to-Consumer (B2C) transactions dominating this industry. The direct consumption of hospitality services by customers results in a significant portion of transactions being cash-based and unrecorded, making revenue collection a complex task.

Ensuring the sustainability of tax compliance is an ongoing challenge, necessitating continuous field enforcement and data analysis efforts. Additionally, obstacles such as the lack of digitization, tax illiteracy, and a history of chronic non-compliance further complicate the tax collection process.

Despite these challenges, the SRB has taken proactive measures to strengthen enforcement throughout the province. In a bid to incentivize compliance, the SRB lowered the registration threshold for restaurants and caterers from Rs 4 million to Rs 2.5 million.

During the fiscal year 2022-23, the SRB concentrated on monitoring middle-level restaurants while also overseeing high-end establishments. On-site audits and field monitoring activities were conducted at various establishments, including restaurants, hotels, clubs, ice cream parlors, cigar lounges, and caterers.

These efforts have yielded impressive results, contributing to the noteworthy 41% year-on-year growth in the food and hospitality sector. The integration of the SRB-POS (Point of Sale) system during this period has played a pivotal role in supporting this growth. The POS integration of online marketplace players such as Foodpanda has facilitated the identification of new restaurants, resulting in the registration of 266 new businesses and 90 additional brands under already registered entities.

The SRB’s strategic focus on bringing digital solutions into the tax collection process has not only streamlined operations but also expanded the tax base within the food and hospitality sector. As the sector continues to evolve, the collaborative efforts of tax authorities and industry stakeholders will play a crucial role in ensuring sustained growth while addressing the challenges unique to this dynamic and vital segment of the economy.

IRIS portal: PTBA for introducing online jurisdiction transfer system

KARACHI: The Pakistan Tax Bar Association (PTBA) has recommended introducing an online jurisdiction transfer system within the FBR's IRIS portal. This comes in light of ongoing issues with incorrect tax jurisdiction assignments causing difficulties for taxpayers.

In a letter sent to the chairman FBR, the PTBA acknowledged FBR's previous efforts to rectify improper jurisdiction allocations for builders, contractors, and companies registered in Karachi, Lahore and Islamabad. However, the process of transferring jurisdictions needs to be faster and more convenient.

"We recommend that the Jurisdiction Tab in the IRIS portal for transfer of jurisdiction be developed so that the taxpayer can file the transfer application online with complete details and reason," the PTBA said.

The proposed online system would allow taxpayers to submit jurisdiction transfer requests and supporting documents digitally. The Chief Commissioners from the current and correct tax jurisdictions would have 15 days to review and approve the transfer.

If no action is taken within 15 days, the application will automatically be escalated to Member Operations, FBR, for a final decision within another 15 days.

The PTBA stressed that determining the correct tax jurisdiction is an essential right of taxpayers under Article 10A of the Constitution. Without properly established jurisdiction, any proceedings against taxpayers would be considered "null and void."

An automated and transparent jurisdiction transfer process would ease difficulties for compliant taxpayers, reduce litigation, and improve efficiency according to FBR mandates, per the PTBA.

The tax body urged the FBR to promptly institute the "Jurisdiction Tab" on the IRIS portal, stating it would benefit taxpayers, avoid revenue leakage and uphold FBR's responsibility towards facilitation.

2 more FIRs lodged against Customs Sargodha officials for stealing

SARGODHA: Customs Enforcement Sargodha has lodged an FIR against four Customs officials for allegedly stealing high-value goods from an intercepted truck and replacing them with expired and damaged goods.

According to sources, the customs staff acted on a tip-off from Collector Ali Abbas Gardezi and Deputy Collector Dr Zohaib Sandhela, who received credible information regarding theft of high value goods by Customs officials.

According to the FIR, the incident took place on the night of February 1-2, 2024, when a truck trailer/container carrying foreign-origin goods was intercepted by Customs squad at JCP Sakhi Sarwar and taken to the Customs warehouse at D.G.Khan.

However, another truck trailer/container followed the intercepted truck and entered the warehouse premises. The driver of the second truck claimed that he was carrying whey powder, but upon inspection, it was found that the bags were expired and damaged.

The FIR further stated that 30-35 labourers then unloaded the whey powder bags from the second truck and shifted the foreign-origin goods from the intercepted truck to the second truck. The foreign-origin goods included skimmed milk, welding electrodes, cigarettes, poppy seeds, dry yeast, tyres and fabric rolls.

The FIR accused Superintendent Shahid Naseem Joiya, Inspector Ghulam Mustafa, Inspector Shehbaz Younis Bhatti and sepoy Talib Hussain of being present at the scene and facilitating the theft of the goods. The accused then allowed the second truck to leave the warehouse by misleading the gate security staff.

The FIR also named Syed Aziz, the owner of the foreign-origin goods, as a co-accused in the case. He allegedly managed the replacement of goods with the help of the Customs officials.

The FIRs said that the preliminary investigation confirmed the involvement of the accused in the crime and that further action would be taken against them.

SHC allows two SCRA's filed by Directorate of Intelligence & Investigations Hyderabad

KARACHI: Two Special Custom Reference Application filed by Director, Directorate of I&I, Hyderabad were allowed by the Customs Appellate bench of High Court of Sindh impunging orders of Customs Appellate Tribunal pertaining to vehicles involved in smuggling of POL products.

The impugned Judgments dated 06.04.2022 and 04.06.2022, were respectively passed by the Customs Appellate Tribunal, Karachi, in Customs Appeal No.K-227/2022 and Customs Appeal No. H1050/2022 (Old No.H-1321/2019) giving rise to various questions of law. One of the SCRA's No. 412/2022 was admitted for regular hearing on 12.10.2022 while SCRA No. 494/2022 was subsequently tagged with SCRA No. 412/2022.

The major question of law proposed was that " Whether in view of the facts and circumstances of the case the impugned container, having "fabricated tank carrying POL product inside the open top truck" exclusively and wholly used for the transportation of smuggled HSD recovered, is not liable for outright confiscation under Section 157(2) of the Customs Act, 1969, read with clause (b) of preamble of SRO 499(I) dated 13.06.2009?

The allied question of law framed and adjuged is "Whether the Appellate Tribunal has not erred in law by ignoring condition clause (b) of the SRO 499(I)/2009 dated 13.06.2009 that the option under Section 181 of the Customs Act, 1969 shall not be given to conveyance carrying smuggled goods in false fabricated cavities or being used exclusively or wholly for transportation of offending good sunder clause(s) of section 2 of the Customs Act, 1969".

As per details the Vehicles being claimed by the Respondents were seized along with smuggled diesel and show cause notices were issued on 05.08.2020 & 10.04.2019 alleging that smuggled diesel was found in the extra hidden fuel tanks of the Vehicles; hence, an offence was committed under Sections 2(s) & 16 of the Customs Act, 1969, ("Act") punishable under Sections 156(1), (8), (89) & 157(2) of the Act.

The departmental adjudicator maintained the charge in Order-in-Original(s) whereby, the diesel as well as the Vehicles in question were confiscated out rightly in terms of the above provisions read with clause (b) of SRO 499(I)/2009 dated 13.6.2009. The present Respondents being aggrieved to the extent of confiscation of the Vehicles in question filed Appeals which were dismissed by the Collector of Customs (Appeals), against which further Appeals were preferred before the Customs Tribunal.

The tribunal allowed the appeals through the impugned orders subject to payment of redemption fine @ 20% of the assessed value of the said vehicle. The relevant finding of the Tribunal in both the impugned orders reads as under: "8. After perusal of the record and hearing the parties at length(sic). The legislature has stipulated Section 157 of the Customs Act, 1969 and the purpose of the said Section is to penalize and discourage clandestine involvement of owners of conveyance used in assistance of commission of an offence under the Act. Section 157 of the Customs Act is being reproduced as under:- 157. Extent of confiscation. Confiscation of any goods under this Act includes any package in which they are found, and all other contents thereof. Every conveyance of whatever kind used in the removal of any goods liable to confiscation under this Act shall also be liable to confiscation. Provided that, where a conveyance liable to confiscation has been seized by an officer of customs, the appropriate officer may, in such circumstances as may be prescribed by rules, order its release, pending the adjudication of the case involving its confiscation if the conveyance famishes him with a sufficient guarantee from a scheduled bank for the due production of the conveyance at any time and place it is required by the appropriate officer to be produced: Provided further that where conveyance found carrying smuggled good in false cavities or being used exclusively or wholly offending goods under clause (s) of section 2 of this Act, has been for transportation of seized for the third time, no option to pay fine in lieu of the confiscation shall be given.]. Confiscation of any vessel under this Act includes her tackle, apparel and furniture.

The SHC bench referred to beneficial amendment introduced vide Financial Act, 2021 (VIII of 2021) only in case of offence committed for the transportation of offending goods under second proviso of this Act. It can be inferred and deduced from perusal of the above mentioned provision that a habitual offender who has committed the offence for the third time, only then ‘no option to pay fine in lieu of confiscation shall be given in the instant case there is no such allegation as the vehicle involved in the offence of smuggling for the third time so the Bench is of the considered view that benefit of beneficial legislation may be extended to the Appellant.

The Customs Appellate Tribunal concurs and subscribes to the legal view point of Customs Appellate Tribunal in the case of Muhammad Younas Vs Superintendent, Customs Intelligence and Investigation, Faisalabad and others reported as 2018 PTD (Tribunal) 1056 that the object of confiscation under the Custom Act, 1969 is mainly to penalize perpetrators of the offence of smuggling impliedly it is not the purpose of legislator to penalize the owner of vehicle unless any convenience is proved. Fact of the matter is that Hino Truck/Trailer bearing Registration No.NAA-558 was apprehended for the first time and therefore is entitled to relief provided in the second proviso of Sub Section 2 of Section 157 of Customs Act as reported as PTCL 2021 BS-468.

The bench after perusing order by tribunal noted that the above finding reflects that the Tribunal has held that insertion of the 2nd proviso to Section 157(2) of the Act, vide Finance Act, 2021 (effective from 1.07.2021) has to be given a retrospective effect, notwithstanding the fact that admittedly, the alleged offence of smuggling was committed much prior in time.

The bench allowing the SCRAs held that “We have not been able to subscribe to such view taken by the Tribunal as it is not a case of grant of any exemption or otherwise a clarificatory amendment in law, which in certain cases can be given retrospective effect. It is also an admitted position that subsequently vide Finance Act, 2022 (w.e.f. 1.07.2022) this 2nd proviso stands omitted as well. At the relevant time when the offence in question was committed, the issue was to be governed in terms of SRO 499(I)/2009 issued in exercise of the powers conferred by section 181 of the Act, wherein it has been directed that no option shall be given to pay fine in lieu of confiscation in respect of (a) smuggled goods falling under clause (s) of section 2 of the Act; and (b) lawfully registered conveyance including packages and containers found carrying smuggled goods in false cavities or being used exclusively or wholly for transportation of offending goods under clause (s) of Section 2 of the Act. Once it is not denied that the Vehicle in question was carrying smuggled Diesel, then it was liable to be confiscated out rightly. It could not, even be released against payment of any redemption fine, whereas, the Tribunal has failed to take this provision of law into consideration and has altogether decided the issue on a wrong premise that the doctrine of retrospective effect will apply to the 2nd proviso to Section 157 (2) of the Act. 4. The provisions of Section 181 of the Act and its proviso along with SRO 566(I)/2005 dated 6.6.2005 and SRO 574(I)/dated 6.6.2005

The bench held that vehicle was being used exclusively and wholly smuggling of diesel along with extra tank fitted separately in the same truck which amounts to having a secret cavity. This finding of fact has not been overturned by the Tribunal in its impugned order(s); nor the Respondent (s) have been able to successfully dispute this fact. In fact, the entire order of the Tribunal is on a legal plane and no effort has been made to address this important factual issue which still remains decided against the present

Respondents. In view of such factual position the order of the Supreme Court so relied upon by the Respondents' Counsel is not applicable in this case. 6. Accordingly, the proposed questions as above are answered in favor of the Applicant and against the Respondents. As a consequence, thereof, the two impugned orders are set-aside and the Reference Applications stand allowed, the bench ordered.