

RTO detects tax evasion case against cigarette manufacturing firm

Regional Tax Office (RTO) Rawalpindi has detected alleged evasion of sales tax and federal excise duty (FED) by a Karachi-based multinational cigarette manufacturing company and also exposed an undeclared warehouse which was being misused for storage and sale of undeclared/concealed production of non-tax paid cigarettes.

The official sources told *Business Recorder* here on Wednesday that during the course of FBR's recent campaign against illicit cigarette trade, on the basis of discreet intelligence officers and staff of Intelligence Investigation & Prosecution-HQ, Regional tax Office, Rawalpindi, tracked a vehicle loaded with cigarettes of different brands manufactured by M/s Philip Morris (Pakistan) Ltd (company). The said vehicle was intercepted soon after its exit from company's hitherto undeclared Warehouse at GT Road, Chakwal Morr, Mandra, tehsil Gujjar Khan, district Rawalpindi. PMP's warehouse staff produced certain record in follow up of seizure of their vehicle for clarification. Examination of record revealed that statutory provisions of Federal Excise Act, 2005, Federal Excise Rules, 2005 and SRO 217(I)/2010 dated 31.03.2010 are not being observed.

As a result of this exercise, a total of 132 packarites of unmatched cigarette were seized and a separate contravention report has already been framed and sent for adjudication to LTU Karachi. However the alarming ratio of mismatched cigarette, unearthed while examining the aforesaid vehicle necessitated and triggered the subsequent action by RTO Rawalpindi (within its jurisdiction) wherein the above team members were authorised for detailed physical checking of undeclared warehouse. The team accordingly visited the premises in question, and found the cigarettes.

Official said that huge cigarette manufacturing and packing machines were parked at the premises despite the fact that company had submitted a categorical report to Directorate General I&I-IR that all machines of Mandra factory have been scrapped and cut into pieces. (This reply was furnished during an inquiry by I&I-IR wherein one of such company's machines was detected by I&I-IR at an undeclared/illegal cigarette manufacturing unit at Buner, KPK.) Presence of huge plant and machinery not only belies PMP's statement to I&I and its presence poses a potential threat on account of any possible illegal manufacturing. A contravention report in this regard has already been forwarded to LTU Karachi.

The huge stock of 14,000 packarites of different brands was stored in the warehouse. Detailed stock taking and cross matching of different documents/record (impounded during the said exercise) revealed some serious violations of FED/ST law & procedure, leading to and establishing factum of tax evasion and tax fraud. Some glaring details are given hereunder.

The respondent had never declared the premises at Mandra as their warehouse to the department as provided under Rule-15 of the Federal Excise Rules, 2005. It was only after the aforesaid operation that this warehouse was added by PMP on its web profile.

The reconciliation of physically available stock at the premises vis--vis Transport Advice-Cigarette ie Annex-3 to SRO 217(I)/2010, dated 31.03.2010, was made in the presence of

warehouse manager of company and senior security supervisor of company at Mandra. This exercise revealed that following 5,988 packarites of different brands, available in stock did not match with the transport invoices.

The officials said that the said mismatch clearly indicates that aforesaid 5,988 packarites of different brands of cigarettes were not transported through prescribed stock transport advice-cigarette ie Annex-3 and are therefore, not identifiable nor mentioned in federal excise record available in the warehouse. This is how undocumented stock of cigarettes was shifted for non-documented / un-declared sales with the intention of evasion of federal excise duty and sales tax.

There was a huge stock of missing cigarette packarites which were brought from factory to this warehouse but at the time of stock taking neither found physically available nor surfaced in the sold quantities. The available non-documented packarites of cigarettes were thus seized under Section 26 of the Federal Excise Act, 2005 in their warehouse located at GT Road, Mandra, Tehsil Gujar Khan, district Rawalpindi, till decision by the competent adjudicating authority at LTU, Karachi. The above discrepancy also leads to the logical conclusion that the undeclared warehouse is being misused for storage and sale of undeclared/concealed production of non-tax paid cigarettes.

The available sales record at the said warehouse was also checked and found infested with glaring discrepancies. Sales invoices are being issued by the warehouse management in complete violation of SRO 217(1)/2010 because the crucial most field ie Serial No of packages of the prescribed "Sales-cum-Transport Invoice for supplies from warehouse to distributor or wholesaler" (Annex-4) is left blank. This non-compliance itself renders all sales unverifiable because in the absence of distinct and serialised number of packarites the warehouse management can conveniently manipulate the figure of sales. It is pertinent to mention here that all Sales Invoices are generated through a centrally controlled computerised mechanism at Karachi, meaning thereby all warehouses across the country are churning the same unverifiable, incomplete and manageable sales invoices.

The 5,988 out of 14,665 packarites have been found mismatched. This ratio is alarmingly high and similar trends of tax evasion are suspected from the day this undeclared warehouse is being operated. Similar discrepancies at other warehouses of company cannot be ruled out.

Meanwhile, a communication of RTO Rawalpindi to FBR revealed that it is clarified that under existing FED regime transportation, warehousing and sale of cigarette, without compliance of statutory & regulatory provisions of FED/ ST laws and SRO 217(1)/2010 can be checked by any regional tax authority in whose territorial jurisdiction the default is taking place. So in this case no jurisdictional overstepping has been committed. Moreover material facts are being twisted, presented out of the context only to dilute the gravity of a solid case of tax fraud and tax evasion.

Factual position is that the RTO Rawalpindi being the lead IR formation/ Central Co-ordinator of IR-Enforcement Network (IR's initiative against illicit tobacco/ cigarette trade in Pakistan) has unearthed this case of tax fraud on 10.3.2017. Ever since 10th March 2017 investigation proceedings in the instant case have been witness to the fact that the company has voluntarily joined and participated the investigation proceedings without any reservation or protest. The

company representatives from its all ranks & files ie finance, tax, operations, warehousing, business development, government relations and administration including its top management have been visiting RTO Rawalpindi time and again.

All proceedings have been conducted in a decent manner and full opportunity of being heard was offered by the RTO Rawalpindi in company management. The whole trail of investigation, spread over almost two months, witnessing the removal of illegal machinery, physical stock taking of cigarette parked at the undeclared warehouse, checking of legal provisions and procedural compliance and seizure & detention of undeclared/ non-tax paid cigarette at the said premises, has been done and documented with the consent and participation of company.

Moreover, since long both leading companies have been campaigning against ever expanding volume of illicit cigarette trade in Pakistan, but when their own tax affairs have been checked and incidence of tax evasion been detected how all of a sudden department's across the board legal action is being labelled as an act of harassment. Throughout the proceedings against PMP, FBR's top management (Rehmat Ullah Khan Wazir, M-IR(OPS), Dr Muhammad Irshad, Chairman FBR and Haroon Akhtar Khan, SA to PM on Revenue) was kept in the loop from time to time.

As the result of investigation since March 10, 2017, 02 contravention reports (one on transportation of 132 non-tax paid packarites of cigarette and the other on malafide mis-declaration and concealment of cigarette manufacturing machines) have already been sent to LTU Karachi for adjudication, 34 contravention report is ready for dispatch.

Notwithstanding facts of the instant case, IR Enforcement Network has so far seized over 142 million non-tax paid cigarette sticks and 3,100 bales of illegal processed tobacco, sufficient for the manufacturing of 400 million cigarette sticks. The volume and scope of IR enforcement network's operations against illicit cigarette trade are unprecedented in the history of FBR, RTO Rawalpindi added.

Meanwhile a statement of the Philip Morris (Pakistan) Limited stated, "The trade in illicit cigarettes is a major concern in Pakistan which directly and adversely impacts our business as well as governments fiscal and public health objectives. We routinely co-ordinate with the FBR and relevant authorities to combat this serious problem and will continue to assist them on an ongoing basis.

"Philip Morris (Pakistan) Limited is a responsible company and taxpayer that dedicates significant resources to combat the serious problem of illicit cigarettes. As a company, we pay taxes according to the law and contribute around PKR 25.3 billion annually to the National Exchequer. Also, we cooperate with the FBR and other agencies to demonstrate that we have the right permissions and practices in place to run our business in a fully compliant manner," the statement added.

On this issue, the spokesperson of the company was of the view that the warehouse at Mandra has been a declared premisis of Philip Morris Pakistan Limited since inception. Due to some technical issues on the FBR web-portal none of the premises of PMPKL were being reflected

due to which there was a misconception that the premises may be undeclared. We wish to clarify that this is incorrect and reiterate that Mandra is a declared premises of PMPKL. All other allegations stem from this one issue, which once clarified will put an end to all other annexed allegations.

"We also wish to clarify that according to Section 4 of the FED Act 2005, read with Rule 44 of the FED Rules, incidence of excise duty is triggered at the time of sales and required to be deposited at the time of filing sales tax and federal excise returns under FED Act. We reiterate that in case of internal transfer, neither FED nor Sales Tax is required to be paid, hence the question of non-tax paid cigarettes does not arise," the spokesman added.

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