

# 5 Foreign Exchange Adjudication

## 5.1 Overview

Foreign Exchange Adjudication Department at BSC persuades delinquent exporters to bring stuck up export proceeds back and in case of default, imposes penalties there-against as per procedure detailed in related provisions of the Foreign Exchange Regulation Act, 1947 and Adjudication Proceedings and Appeals Proceedings Rules, 1988. Despite difficulties, the department has managed to arrange repatriation of a sizeable amount of foreign exchange in recent years. During the year under review, the department compiled a data base containing handy information for the use of management besides working on a plan with the technical assistance of ISTD for computerization of notice issuance process as an extension of the Oracle based Export Overdue Program, which is being implemented.

## 5.2 Repatriation of export proceeds

During FY09, stuck up export proceeds equivalent to US\$12.2 million were got repatriated as compared to US\$12.3 million during the preceding year indicating slight decrease of US\$ 0.10 million or 0.8%. Court-wise comparative position of repatriation in respect of nine

Table 5.2 Export Proceed realized in US \$				
Adjudication Court		2007-08	2008-09	+ / (-) %
Location	No. of Courts			
Karachi	3	5,460,847	5,375,383	- 1.5
Lahore	2	3,465,905	1,623,593	- 53.1
Faisalabad	1	2,357,151	3,511,271	48.9
Multan	1	388,458	218,933	- 43.6
Sialkot	2	648,595	1,488,865	129.5
Total	9	12,320,956	12,218,045	- 0.8

Adjudication Courts at Karachi, Lahore, Faisalabad, Multan and Sialkot is given in **Table 5.2:**

Tracing the delinquent exporters has been one of the most critical and tedious jobs for which the department not only use traditional means like contacting the authorized dealers but also seek information from agencies including Income Tax, NADRA, Customs, Stock Exchanges etc. In cases where delinquent exporter gets located, the department tries to convince him to repatriate the export proceeds by allowing flexible repatriation plans. Whereas if the delinquent exporter is either not traceable or is not willing to repatriate, the adjudicating officers empowered to take ex-parte decisions and impose penalty there-against. Imposition of penalty however merely adds up to the already outstanding pile of penalty as recovery of the penalty has been dismally low due to no or only limited cooperation of the Revenue Department<sup>1</sup>. A total amount of Rs. 8.264billion was outstanding as penalties recoverable from delinquent exporters as on 30<sup>th</sup> June, 2009, the EPD has been approached to devise a strategy for addressing the long outstanding issue.

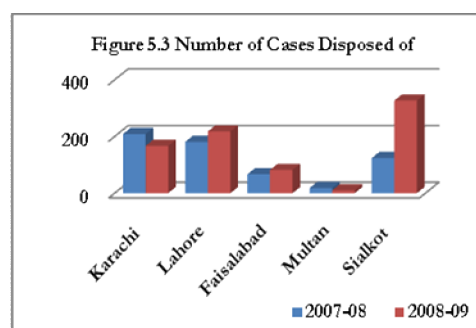
## 5.3 Disposal of complaints

As a matter of overall strategy, the department during the current year continued to persuade exporters for realization of export proceeds. A total number of 694 cases in respect of delinquent exporters on a country wide basis were received during FY09 as compared to 905 cases received during FY08. During the year under review 804 cases

<sup>1</sup> The penalties are recoverable as arrears of land revenue through District Revenue Officers (DROs).

were disposed off as compared to 599 cases disposed of last year. Court-wise details of the cases disposed of during 2007-08 and 2008-09 are given in **Table 5.3** below.

Adjudication Courts	2007-08	2008-09	+ / (-) %
Karachi	209	167	(-) 20.0
Lahore	181	218	20.4
Faisalabad	67	82	22.3
Multan	18	10	(-) 44.4
Sialkot	124	327	163.7
<b>Total</b>	<b>599</b>	<b>804</b>	<b>34.2</b>



## 5.4 Coordination with Stakeholders

During the year the department continued to rigorously coordinate with stakeholders like Exchange Policy Department, Foreign Exchange Operations Department, Authorized Dealers and delinquent exporters for expeditious realization of overdue export proceeds. Besides using powers given in the relevant provisions of FERA, 1947, other agencies like NADRA, FBR, Customs etc. were also approached with a view to trace the whereabouts of the delinquent exporters. Moreover, higher officials of authorized dealers were also engaged to make use of their good offices in locating the delinquent exporters to pursue them for repatriation of export proceeds. The efforts proved quite a success and contributed significantly in repatriation/realization of export proceeds of US\$ 12.2 million during the year.

## 5.5 Major Initiatives

Following new initiatives were taken during current year:

1. Based on FEAD's day to day experience, certain suggestions were sent to EPD for imposition of penalties against authorized dealers who violate the prescribed instructions of FE Manual in respect of certification of E forms.
2. The total amount in US\$ equivalent of un-realized export proceeds (based on 'E' form value) of all cases in which penalty was imposed since inception was compiled. Similarly the total amount in US\$ equivalent of un-realized export proceeds (based on 'E' form value) of complaints outstanding in all the Adjudication Courts was worked out.
3. An Administrative Office (Courts) was established at HOK with a view to enhance the qualitative aspects of complaints. The office would ensure that all the pre-adjudication formalities have been fulfilled by the complainant and that complaint is complete in all respect.
4. Highest ever realization of overdue export precedes US\$ 2,118,112 in a single case was made.
5. The recovery of penalty amount (country-wide basis) was compiled.
6. The Manual of Instructions of the Department was updated.
7. Due to strenuous follow up with the Revenue Authorities, penalty of Rs. 326,658/- was recovered through DRO.

## 5.6 Capacity Building of Human Resource

Besides the participation of FEAD officers in the training programs at NIBAF Islamabad and Karachi, the department arranged a one week training program at Federal Judicial Academy, Islamabad in coordination with Training & Development Department. This year the Directors/ officers from the related departments including EPD, GCO and

FEOD were also invited to attend the program to improve their understanding of intricacies involved in the overall adjudication process.