

5 Foreign Exchange Adjudication

5.1 Overview

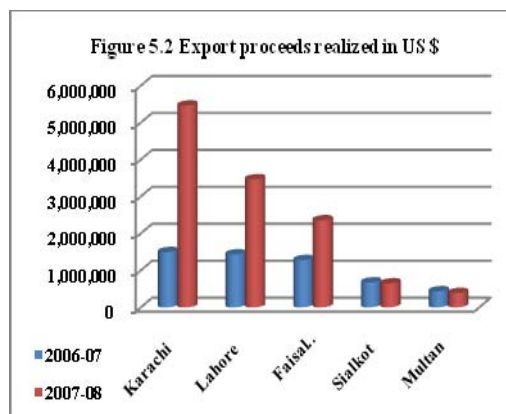
Foreign Exchange Adjudication Department (FEAD) is an adjudication forum to ensure compliance of requirement of FERA-1947 concerning repatriation of foreign exchange. In order to run the foreign exchange adjudication matters effectively and efficiently the organizational structure of Foreign Exchange Adjudication Department (FEAD) has been split into Judicial, Coordination & Recovery and Administration Divisions at Head Office, Karachi. This initiative has led to prompt judicial process, efficient and effective data compilation and follow up of the closed cases where penalties were imposed on the delinquent exporters.

5.2 Realization of export proceeds

During FY08, stuck up export proceeds equivalent to US\$12.3 million were realized as compared to US\$5.3 million during the preceding year indicating a net increase of US\$7.0 million. Court-wise comparative position of all Adjudication Courts at Karachi, Lahore, Faisalabad, Multan and Sialkot is given below:

Table 5.2 Export proceeds realized in US\$

| Adjudication Court | 2006-07 | 2007-08 | + / (-)% |
|--------------------|------------------|-------------------|--------------|
| Karachi | 1,496,649 | 5,460,847 | 264.8 |
| Lahore | 1,434,033 | 3,465,905 | 141.7 |
| Faisalabad | 1,281,468 | 2,357,151 | 83.94 |
| Sialkot | 674,762 | 648,595 | -3.9 |
| Multan | 434,797 | 388,458 | -10.6 |
| Total | 5,321,709 | 12,320,956 | 131.5 |



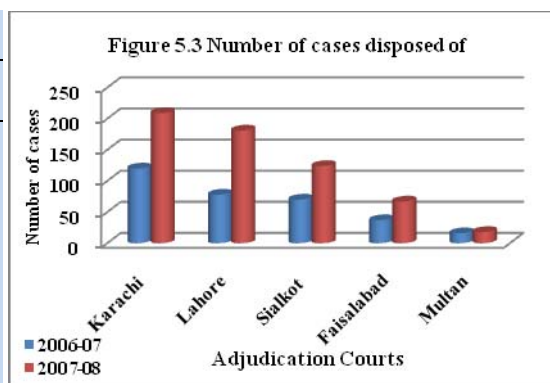
The Adjudicating Officers are empowered to take exparte decisions and impose penalty on the accused. This mode of settling the cases though are quite efficient and simple but at the cost losing the chance of repatriation of foreign exchange. Secondly recovery rate of penalty imposed through District Revenue Officer remained quite negligible in the past.

To overcome this FEAD has continued to motivate the accused to repatriate the foreign exchange by giving a reasonable time or the option to repatriate in installments. Over years it has been observed that this strategy has resulted in increasing the number of outstanding cases. Therefore at present the department is using a mixed strategy to gradually restart the exparte option available under law viz a viz persuading the delinquent exporter to repatriate.

5.3 Decisions on complaints

During the year 599 complaints were disposed of as against 321 last year. Court-wise details are as under:

| Table 5.3 Number of cases disposed of | | | |
|---------------------------------------|------------|------------|-------------|
| Adjudication Courts | 2006-07 | 2007-08 | % Increase |
| Karachi | 120 | 209 | 74.1 |
| Lahore | 78 | 181 | 132.0 |
| Sialkot | 70 | 124 | 77.1 |
| Faisalabad | 37 | 67 | 38.5 |
| Multan | 16 | 18 | 12.5 |
| Total | 321 | 599 | 86.6 |



5.4 Main Achievements

A uniform strategy and standardized instructions/ manual has been developed by FEAD HOK and provided to all Adjudication Courts with a view to give clear guidelines to optimize efforts for realization of stuck up export proceeds.

- A single huge repatriation of US\$1,096,864 in one case was recovered by FEAD first time since its inception in 1990.
- Realization of export proceeds reached US\$12.3 million during current year from US\$5.3 million last year showing an increase of 131.5 percent.
- An amount of Rs.942,000/- has been recovered through District Revenue Officer (DRO) in the form of 38 post dated cheques in respect of a case decided in October, 1995 due to continuous recovery efforts. Out of this, Rs.100,000/- has actually been realized on the respective due dates of the cheques.
- In one case maximum recovery of penalty of Rs.148,419/- was made through the DRO due to concerted recovery efforts.
- Two Court Rooms at FEAD, HOK have been erected during the year.
- Reconciliation of the recovery/ penalty figures has been carried out on country wide basis.
- Complaints disposed during the year remained 18 percent (outstanding + received during the year) as compared to 11 percent last year.

5.5 Coordination with Stakeholders

Coordination with stakeholder viz., Exchange Policy Department SBP, Foreign Exchange Operations Department of BSC, Authorized Dealers and accused (exporters and importers) was enhanced during FY08. As a strategy to focus on repatriation of foreign exchange from delinquent exporters maximum coordination was sought from the stakeholders. To this end various government agencies like NADRA, FBR, Customs etc were approached with a view to trace the whereabouts of accused. Besides, authorized dealers were also encouraged to make efforts in locating the accused exporter so as to pursue them for repatriation of export proceeds.

5.6 Monitoring & Adjudication

The department has redesigned the statements/ returns to facilitate reporting of data by various FEAD Courts. This has been done with a view to keep close monitoring of all the adjudication courts on a periodical basis. In this way performance of all the adjudication

courts was ascertained in a more focused manner. These statements covered various aspects such as complaints filed, disposed of and proceeds realized/ penalties imposed/ recovered from the delinquent importers/ exporters. These returns also disclose the duration of outstanding cases in FEAD.

5.7 Automation

The department has support of computer network linked with ISTD besides it also takes optimum advantage of its outlook facilities for intra communication and with external stakeholders as well. The system based infrastructure and technology has enabled the department to computerize significant part of record on all Pakistan basis. In this respect all outstanding complaints have been listed and year-wise penalty imposed/ recovered since inception of the department has been reconciled. Now consolidated data of outstanding cases pertaining to all FEAD Courts on updated formats exists besides the record of cases already decided. The department also intends to computerize the work relating to issuance of show cause notices, summons/ notices for each case to facilitate timely action against accused. Accordingly, the computerized database is being maintained at the HOK in the following categories:

- a) Cases where penalty has been imposed.
- b) Cases where export proceeds have been realized.
- c) Under process cases in various Adjudication Courts.
- d) The cases which were vacated either after realization or exonerated on other grounds.
- e) The cases under which the penalties are recoverable and pending with District Recovery Officers.

5.8 Capacity Building of Employees

During FY08, officials of FEAD have received training under various standardized training modules conducted by NIBAF Islamabad and Karachi as per arrangements made by the Training and Development Department. Further, for the first time since inception of the department, judicial training has been provided to the Adjudication Officers (AOs) of FEAD at Federal Judicial Academy (FJA), Islamabad. All the nine AOs from a similar number of Courts of FEAD received the said training. The certificate awarding ceremony was also attended by the Managing Director, SBP-BSC who in his speech emphasized upon that such training arrangements should be continued as an ongoing capacity building process in future as well. Due to its significance the event got sufficient coverage in the leading news papers.