

Foreign Exchange Adjudication



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Foreign Exchange Adjudication Department (FEAD) adjudicates cases relating to violations of different sections of Foreign Exchange Regulation Act (FERA), 1947 as per powers vested in it under Section 23B of the Act. The Adjudicating Officers are appointed by the State Bank Governor through Gazette Notifications in terms of Section 19 of SBP BSC Ordinance, 2001.

5.1 Foreign Exchange Adjudication Department

Foreign Exchange Adjudication Department manages Foreign Exchange Adjudication Courts established under Foreign Exchange Regulation Act, 1947. These courts adjudicate complaints filed by the complainant i.e. Foreign Exchange Operations Department (FEOD) against the delinquent exporters and importers under relevant provisions of Foreign Exchange Regulation Act, 1947. The courts are empowered to impose penalties, if prosecution (FEOD of SBP BSC) proves that the contravention was willful, and subsequently direct the relevant authorities for recovery of these penalties as per Section 23-J of FERA. The proceedings are conducted under Adjudication Proceedings and Appeal Rules, 1988.

Box.5.1: Major Initiatives/Achievements

1. With a view to improving the working of the Department, especially to ensure prompt judicial process, new courts have been established at Karachi and Lahore during FY17. Another Adjudication Court in Rawalpindi has been approved by the Competent Authority which will be operational shortly.
2. The Department took steps to enhance recovery mechanism by instructing banks through emails to recover penalties.
3. Guidelines are now being given to all commercial banks regarding recovery. Previously, instructions were given to only those banks who endorsed E-Forms for exporters. This move has significantly enhanced the recovery mechanism.
4. To further enhance the performance of the Department, Adjudicating Officers were assigned realization and disposal targets during FY17. The initiative served as a key contributor towards the increase in Foreign Exchange realization during the year.
5. A four-day comprehensive training of Adjudicating Officers, allied staff and FEOD officials, in coordination with NIBAF was arranged at NIBAF, Islamabad during the year under review.

In order to ensure prompt judicial process, justice, smoothness, effective and efficient data-base compilation and follow up of the closed cases, the Department has been divided into four wings at Head Office, Karachi. The function is supported by ten offices of Adjudicating Officers (four at Karachi, three at Lahore, and one each in Faisalabad, Multan and Sialkot) established across Pakistan.

Since establishment of the Foreign Exchange Adjudication mechanism in 1990 till end-June, 2017, the FEAD has managed repatriation of a considerable sum of US\$ 543.8 million from the exporters, who had violated section 12(1) of FERA, 1947 and failed to realize export proceeds within the time limit as per instructions issued by the State Bank of Pakistan.

Table 5.1: Realization of Export Proceeds

Adjudication Courts	Export Proceeds Realized in Million US\$		% Change
	FY16	FY17	
Karachi	24.3	35.2	45%
Lahore	13.5	26.3	95%
Faisalabad	14.8	6.1	-59%
Multan	0.8	1.6	100%
Sialkot	4.4	9.5	115%
Total	57.8	78.7	36%

5.1.1 Performance Highlights

During FY17, export proceeds equivalent to US\$ 78.7 million (highest ever in a year) were realized as compared to US\$ 57.8 million in FY16. (Table 5.1).

The share of four Adjudicating Courts at Karachi (out of total ten courts) stood at 45% in overall realization of stuck-up proceeds during FY17.

The total number of complaints pertaining to the delinquent exporters/Authorized Dealers (Banks) received from FEOD on a country-wide basis stood at 2,503; of which 3,308 complaints were disposed of during FY17 as compared to 2,784 in FY16, depicting an increase of 19% (Table 5.2).

A total amount of Rs 4.873 million was also recovered from the defaulting exporters during FY17 in terms of penalty imposed under Section 23-J of FERA, 1947 (Table 5.3).

Table 5.2: Disposal of Complaints

Adjudication Courts	Number of Cases		% Change
	FY16	FY17	
Karachi	1,367	1,585	16%
Lahore	633	935	48%
Faisalabad	537	370	-31%
Multan	30	81	170%
Sialkot	217	337	55%
Total	2,784	3,308	19%

Table 5.3: Recovery of Penalty

Adjudication Courts	Amount
	(in '000 Rs) FY17
Karachi	2,625
Lahore	618
Faisalabad	1,620
Multan	10
Total	4,873

5.2 Future Outlook

Continuous improvements are being ensured in the functioning of the Foreign Exchange Adjudication Department. Efforts are being made by FEAD to focus on automation of its processes and development of an interactive database. A project regarding “Development of Electronic Complaint Lodgement & Management System” is under preparation, which is supposed to facilitate the Bank in exercising efficient and effective monitoring of complaints, thereby moving forward to the paperless environment in adjudication proceedings.

Furthermore, recovery of penalties, which is one of the key functions of Adjudicating Officers, still features a number of issues that are affecting the smoothness of recovery process. This is despite the fact that the Department is working effectively to ensure excellent performance for achieving the responsibilities assigned to it. Accordingly, with a view to removing the residual log jam, a forthcoming Working Paper will address those bottle-necks. The Paper would empirically analyze ways and means to improve the recovery of penalties and also propose amendments in legal framework to remove impediments in recovery of penalties.