JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

1. W.P. No. 1469 of 2021

Omer Khalid Anwar

Versus

FOP through the Secretary Establishment, Pak Secretariat, Islamabad, & Others

2. W.P. No. 3352 of 2022

Jibran Ali

Versus

Director Excise and Taxation Department & 2 others.

&

3. W.P. No. 2216 of 2023

Muhammad Musarat ul Haq

Versus

Federation of Pakistan & Others

Petitioners By	:	Muhammad Waqas Malik, Advocate
Respondent By	:	Ch. Kamal Hayat, Advocate for respondent No. 6 Ms. Shaista Tabassum, AAG. Ms. Sumaira Khursheed, State Counsel. Mr. Asif Jahangir Khan, Inspector (Excise and Taxation)
Date of Hearing	:	08.05.2025

MUHAMMAD ASIF, J. By way of this single order, I intend to decide the titled writ petitions, as they are interlinked.

2. Through the petition i.e. (W.P. No. 1469/2025), the petitioner has impugned the Order dated 13.10.2020 issued by the Excise and Taxation Officer, (**"Respondent No. 03"**) whereby vehicle No. YY-431, Toyota Land Cruiser Chassis No. Before Chemical Treatment JTEBU253605106297, Chassis No. after Chemical TreatmentJTEBU29J000003318 was confiscated in favour of the State/Government of Pakistan.

3. The facts material to the adjudication of the present petition shall be considered at a subsequent stage in this judgment.

4. The learned counsel for the petitioner contends that Respondent No. 3 has failed to duly consider the important documentation and certification of the impounded vehicle issued by the competent Excise & Taxation Office on multiple occasions. The vehicle's examination was conducted alone, in the absence of the petitioner and without any notice or intimation, thus, violating the principles of due process. Furthermore, there is no material on record indicating compliance with the Standard Operating Procedures during the examination process, thereby rendering the proceedings opaque and indicative of a misuse of authority. Under Section 5(3) of the Capital Territory (Seizure & Disposal of Motor Vehicles) Rules, 2014, the Motor Registration Authority (MRA) was under a mandatory obligation to serve notice upon the petitioner via registered post, which was not done. The petitioner was condemned unheard, despite having appeared before the Excise & Taxation Officer; nonetheless, it was erroneously recorded that he failed to present his defense, thereby showing deliberate evasion of procedural requirements by the MRA. The learned MRA also failed to issue the Proclamation mandated under Section 6 of the aforementioned Rules prior to issuance of the impugned order. Moreover, the vehicle in question was not taken into possession in accordance with Section 115 of the Motor Vehicles Ordinance, 1965, which governs the detention of vehicles lacking

valid registration or permit. No criminal complaint or FIR has been cited in relation to any discrepancies allegedly revealed in the Chemical Examiner's Report, nor has Respondent No. 3 accounted for the petitioner's lawful custody of original documentation. The petitioner asserts that deprivation of his property amounts to a violation of his constitutional rights under the Constitution of the Islamic Republic of Pakistan, as the impoundment was based merely on conjecture and suspicion. It is further alleged that the impounding/confiscation of the vehicle is actuated by malafide intent under Section 7 of the Capital Territory (Seizure & Disposal of Motor Vehicles) Rules, 2014, with the proviso therein being misused to facilitate unauthorized use of the vehicle by officials prior to final determination of the chassis number's authenticity. The tracker report evidences this abuse of authority and misconduct by concerned officers. Therefore, the petition may be allowed.

5. The learned counsel for Respondents No. 1 has filed his written reply wherein it has been submitted that the instant petition relates to other respondents and the respondent No. .1 has been impleaded as proforma party as nothing is claimed against it and the petitioner is not aggrieved by any order issued by the respondent No. 1, therefore, the instant petition may be decided in the light of comments filed by the other respondents.

6. The respondent No. 2, 3 & 4 have submitted their written synopsis wherein it has been submitted the petitioner has wrongly invoked the constitutional jurisdiction of this Court without first exhausting the alternate and efficacious departmental remedies available under the law. The petition is based on mala fide intent, on concealment and distortion of material facts, and thus the petitioner has not approached this Court with clean hands, disentitling him from any relief. The averments contained in the petition raise disputed questions of fact, which cannot be adjudicated upon in exercise of the

writ jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. The contents of the petition are denied in toto unless specifically admitted herein. It is submitted that the vehicle in question, bearing Registration No. YY-431, Chassis No. JTEBU25J605106297, Engine No. GR5588144 (Toyota Land Cruiser), was initially registered in the name of Jamshed Tahir S/O M.S Tahir on 25.04.2013, and was subsequently transferred in the name of the petitioner, Omer Khalid Anwer S/O Khalid Anwer, on 29.06.2018. On 17.07.2020, Mr. Rukhsar Ahmed S/O Muhammad Zareef presented the said vehicle for transfer of ownership and physical inspection. Upon examination, the chassis number was found to be suspicious, whereafter the vehicle was taken into custody by the Excise & Taxation Department/Motor Registering Authority, Islamabad, under the Islamabad Capital Territory (Seizure and Disposal of Motor Vehicles) Rules, 2014. The vehicle was sent to the Forensic Science Laboratory (FSL) for examination, and as per FSL report dated 20.07.2020, the chassis number was found to have been tampered. A notice was accordingly issued to Mr. Rukhsar Ahmed, who submitted a written reply on 13.08.2020. After due hearing, the vehicle was confiscated in favour of the Government of Pakistan through order dated 13.10.2020. The petitioner subsequently filed an appeal against the confiscation order on 27.10.2020, which was decided on 12.11.2020. However, the petitioner did not challenge the said appellate order in revision before the Director General, Excise & Taxation. Instead, the petitioner has directly approached this Court through the present writ petition, without exhausting the statutory remedies provided under law. Therefore, the present petition is incompetent, not maintainable, and may be dismissed.

7. The respondent No. 5 through his written submissions submits that the contents of all paras of the writ petition do not relate to National Forensic Science Agency, National Police Bureau. The record of the office transpires that the vehicle bearing registration No.

YY-431, Toyota Land Cruiser was neither brought to the National Forensic science Agency (NFSA), nor it was inspected by the concerned section of the NFSA.

8. As per para-wise comments filed by respondent No. 6, wherein it has been submitted that the in the instant petition and no relief has been sought against him. However, it is submitted that Forensic Examination dated 20.07.2020 proved that chassis number of the impugned confiscated vehicle is tampered one. Therefore, respondent No.02 has been requested vide letter No.1(22) DGCI/Legal/HQs/2022/773 dated 17.03.2022 to hand over the confiscated vehicle to the answering respondent for initiation of proceedings under the relevant provisions of the Customs Act, 1969("Act"). The Petitioner has got no locus standi or cause of action to file the instant petition against the answering respondent. The petitioner has not come before this Court with clean hands as he has suppressed actual and material facts so the instant petition, therefore, instant petition may be dismissed.

9. I have heard the arguments of the learned counsel for the parties and gone through the record with their able assistance.

10. Perusal of the record reveals that the petitioner had purchased a Toyota Land Cruiser, Model 2007, bearing Engine No. GR558814 and Chassis No. JTEBU25J605106297, imported from Hong Kong in the name of Mr. Syed Raziq Hussain, dated 03.09.2012. The vehicle was acquired by the petitioner through an Agreement to Sell dated 14.07.2013, executed with Mr. Jamshed Tahir. Prior to the execution of the said agreement, and upon the petitioner’s request, the vehicle was registered in the name of Mr. Jamshed Tahir on 24.04.2013. The petitioner had paid earnest money amounting to Rs. 200,000/- and a further sum of Rs. 6,000,000/- via Cheque No. 05335329 Summit Bank, F-6 Markaz Branch (II), Islamabad. An additional amount of Rs. 300,000/- was paid as registration tax. The registration of the

subject vehicle was duly processed and approved by the Excise & Taxation Department, Motor Registration Authority, Islamabad, assigning Registration No. YY-431 on 25.04.2013. Subsequently, the vehicle was transferred in the name of the petitioner on 04.07.2018 after due physical inspection and verification. Furthermore, on 16.07.2018, the petitioner applied for, and was issued, a Vehicle Identification Card (VIC) by the competent authority. The vehicle underwent multiple inspections and verifications by the Excise & Taxation Department during its period of registration in Islamabad, with no objection or discrepancy noted at any prior instance. However, on 20.07.2020, the vehicle was taken into custody by the Excise & Taxation Department. The record indicates that the chassis number JTEBU25J605106297 had consistently appeared in all import, registration, and ownership documents, and was never flagged in connection with any other vehicle in Pakistan. The JTEBU25J series is generally associated with left-hand drive models, the subject vehicle was imported as a right-hand drive with alterations approved and inspected at the port of import in Hong Kong, and subsequently by Pakistani Customs and Excise & Taxation Authorities. The impugned confiscation was initiated upon the presentation of the vehicle by a subsequent purchaser, Mr. Rukhsar Ahmed, whereafter it was subjected to chemical examination. A confiscation notice dated 17.08.2020 was purportedly issued but not served upon the petitioner, who however submitted a written reply dated 21.08.2020. Said reply was not given due consideration by the learned Excise & Taxation Officer. The impugned order dated 13.10.2020 records a finding that the chassis number was found to be tampered with, replaced with number JTEBU29100003318 following chemical treatment, and concludes:

> "The owner of vehicle was summoned vide Notice No. YY-431/E&T/2020 dated 08-08-2020 and 17-08-2020 as required under Rule 5(3) with direction to establish the genuineness of his ownership of

> said vehicle, but he did not bother to appear in his defense... In view of the FSL report dated 20-07-2020, it is proved that the chassis of the vehicle is tampered. Therefore, I, Irfan Ahmed, Excise & Taxation Officer, Motor Registration Authority, in exercise of powers under Rule 7 of the Capital Territory (Seizure & Disposal of Motor Vehicles) Rules, 2014, hereby order confiscation of the said vehicle in favour of the State."

11. The petitioner being aggrieved preferred a departmental appeal as per the prescribed rules. During the pendency of the said appeal, the vehicle had remained in private custody and that the tracking device installed in the vehicle was unlawfully removed. The petitioner also filed an application regarding this action.

12. It is a matter of record that the matter pertains to confiscatin of vehicle in question, namely Toyota Land Cruiser bearing Registration No. YY-431, Chassis No. JTEBU25J605106297, Engine No. GR5588144, was initially registered on 25.04.2013 in the name of Mr. Jamshed Tahir S/O M.S. Tahir with the Motor Registering Authority, Excise & Taxation Department, Islamabad. Subsequently, the said vehicle was transferred in the name of the petitioner, Mr. Omer Khalid Anwer S/O Khalid Anwer, on 29.06.2018, following due verification and compliance with the applicable procedures of the registering authority.

13. During the inspection, the competent authority found the chassis number of the vehicle to be suspicious and, in consequence, took the vehicle into custody in exercise of powers under the Islamabad Capital Territory (Seizure and Disposal of Motor Vehicles) Rules, 2014. Thereafter the matter was referred to the Forensic Science Laboratory (FSL) for chemical examination. The FSL issued its report dated 20.07.2020, opining that the chassis number of the vehicle in question had been tampered with. Based on the findings of the said report, the Respondent No. 3 issued a show cause notice to the then-present possessor of the vehicle, who submitted a written

reply dated 13.08.2020.Thereafter, the Respondent No. 3 issued an order dated 13.10.2020, whereby the vehicle was confiscated in favour of the Government of Pakistan under Rule 7 of the Capital Territory (Seizure and Disposal of Motor Vehicles) Rules, 2014. Being aggrieved of the aforementioned confiscation order, the petitioner filed an appeal on 27.10.2020, in accordance with the statutory framework laid down under the applicable Rules. The appeal was decided and disposed of vide order dated 12.11.2020. However, the petitioner did not file a revision petition before the Director General, Excise & Taxation Department, an available and mandatory statutory remedy provided under the rules.

14. Instead of availing the said remedy, the petitioner directly invoked the constitutional jurisdiction of this Court by filing the present writ petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. It is a settled principle of law that where alternate and efficacious remedies are provided under the statute, constitutional jurisdiction cannot ordinarily be invoked without first exhausting such remedies.

15. In view of the foregoing, the instant writ petition alongwith connected writ petitions No. 3352 of 2022 and 2216 of 2023 are not maintainable and accordingly **dismissed**. However, the petitioners are at liberty to file an appeal before Director General Excise and Taxation for redressal of their grievances.

(MUHAMMAD ASIF*)*
JUDGE

Announced in open Court on ___08.2025

JUDGE

//*Kamran*//