

Custom Officers' Reward Fund - 2023

1 Financial Statements

1.1 Qualified Opinion

The audit of the financial statements of the Custom Officers' Reward Fund of the Sri Lanka Customs for the year ended 31 December 2023 comprising the statement of financial position as at 31 December 2023 and the statement of comprehensive income, statement of changes in equity and fund flow statement for the year then ended, and notes to the financial statements, including material accounting policy information, was carried out under my direction in pursuance of provisions in Article 154(3) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with provisions of the National Audit Act No. 19 of 2018. My comments and observations, which I consider should be report to Parliament, appear in this report.

In my opinion, except for the effects of the matters described in Paragraph 1.5 of this report, the accompanying financial statements of the Fund give a true and fair view of the financial position of the Fund as at 31 December 2023, and of its financial performance and their fund flows for the year then ended in accordance with Sri Lanka Public Sector Accounting Standards.

1.2 Qualified Opinion

My opinion on the accompanying financial statements is qualified based on the matters described in Paragraph 1.5 of this report.

I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAuSs). My responsibilities, under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

1.3 Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation of financial statements that give a true and fair view in accordance with Sri Lanka Accounting Standards, and for such internal control as management determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Fund's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intend to liquidate the Fund or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Fund's financial reporting process.

As per Section 16(1) of the National Audit Act No. 19 of 2018, the Fund is required to maintain proper books and records of all its income, expenditure, assets and liabilities, to enable annual and periodic financial statements to be prepared.

1.4 Auditor's Responsibility in Auditing Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Sri Lanka Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Sri Lanka Auditing Standards, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtained an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Fund's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause to cease to continue as a going concern.
- Evaluate the structure and content of the financial statements, including disclosures, and the transactions and events on which the content is based are appropriately and fairly included in the financial statements.

The scope of the audit also extended to examine as far as possible, and as far as necessary the following.

- Whether the organization, systems, procedures, books, records and other documents have been properly and adequately designed from the point of view of the presentation of information to enable a continuous evaluation of the activities of the Fund, and whether such systems, procedures, books, records and other documents are in effective operation;

- Whether the Fund has complied with applicable written law, or other general or special directions issued by the governing body of the Fund ;
- Whether the Fund has performed according to its powers, functions and duties; and whether the resources had been procured and utilized economically, efficiently and effectively within the time frames and in compliance with the applicable laws.

1.5 Audit Observations on the preparation of Financial Statements

1.5.1 Non-compliance with Sri Lanka Public Sector Accounting Standards

Non Compliance with the reference to particular Standard	Comments of the Management	Recommendation
(a) In accordance with Sri Lanka Public Sector Accounting Standard No.01,	All penalty and forfeiture sales proceeds are credited to the temporary retention account on statutory payments and the proceeds are not disbursed during the same year. There are also cases where the penalties related to certain investigations have to be paid back to the relevant persons after the investigations are completed. Therefore, the money will be credited to the Customs Officers' Reward Fund at the time of completion of investigation and payment. This situation will be recorded under special disclosures when preparing the final accounts in the future.	Compliance to Sri Lanka Public Sector Accounting Standards should be required.
(i) Although the financial statements should be prepared on the accrual basis, the financial statements were prepared by considering only the award files received for payment to the finance department, and ignoring the award files and arrears of penalty income that were not received by the department.		
(ii) The cumulative balance of Rs.1,530,781,892 in Fuel Fund, Narcotic Fund and the fund for the officers of the departments providing support services (2.5% fund) was shown as funds under equity instead of being recognized as current/non-current liabilities.	As the balances in these sub-funds are subject to expenditure on occasion, the balance is shown as funds in the non-current liabilities section of the statement of financial position. However, in future this was recorded to be shown as non-current liabilities.	Compliance to Sri Lanka Public Sector Accounting Standards is required.

1.5.2 Accounting Deficiencies

Audit Observation	Comments of the Management	Recommendation
<p>(a) Although, a sum of Rs.25,530,106 had been paid from the fund for the officers of the departments providing support services (2.5% fund) during the year under review, it was shown as Rs.15,496,264 in the financial statements understating the payments by Rs.10,033,842. In order to adjust the above difference, the amount allocated from the reward fund to the other pools in the month of December 2023 was reduced by Rs.10,033,842.</p>	Agree with the audit observation.	The errors made in accounting should be properly corrected.
<p>(b) Although, the aggregate value of the total files offered for payment of the reward funds was Rs.8,247,989,408, it was erroneously disclosed as Rs.3,295,256,449 in the notes to the account No. 2.6.1. Furthermore, in the same notes to the account, excluding the value approximately amounted to Rs.3,135,184,683 related to the total files paid from January to May 2023, only the amount of Rs.7,846,092,400 paid from June to December was shown. Based on the above incorrect data, the audit could not confirm that the value of Rs.200,948,504 shown as the balance of the reward fund payable at the end of the year under review was accurate.</p>	Do not agree with the audit observation.	Accurate information should be disclosed in the financial statements.

1.5.3 Unreconciled Control Accounts or Reports

Subject	as per Financial Statements Rs.	As per corresponding Record Rs.	Difference Rs.	Comments of the Management	Recommendation
<p>The credit balances of the funds for Fuel Fund, Narcotics Prevention Fund (Narcotics Fund), Paying Fund for Officers in Support Services (2.5% Fund) and other pools shown in the trial balance</p>	1,844,632,679	1,382,870,064	461,762,615	<p>The trial balance shows the opening balance of funds and the financial statement shows the closing balance. The</p>	<p>Balances shown in the Statement of Financial Position should be reconciled with that of the relevant schedules/reports.</p>

as at the end of the year under review, had been unreconciled with the balances shown in the Statement of Financial Position by Rs.180,744,198, Rs.61,565,303, Rs.87,735,802 and Rs.131,717,312 respectively aggregated to Rs.461,762,615.

reasons for the change identified by the audit are clearly stated in the statement of changes in equity.

1.6 Non-compliance with Laws, Rules, Regulations and Management Decisions

Reference to Laws, Rules, Regulations etc.	Non-compliance	Comments of the Management	Recommendation
(a) Section 153 (2) (b) of the Customs Ordinance No. 17 of 1968	(i) Although, the approval of the Minister of Finance should be obtained and a suitable system should be prepared for the distribution of reward money from the reward fund, Rs.19,429,331,820 were distributed as reward funds for officers and Rs.2,980,886,848 for informants in 12 years from the year 2012 to 2023, without confirming that the approval of the Minister of Finance has been obtained for the Departmental Order No. PL 118 of 28 January 1988.	The Director General of Customs has the power to sanction payments to informants and parties instrumental in investigations, taking into account the existing requirements as per the provisions of departmental circulars.	Compliance to the provisions of the Customs Ordinance is required.
	(ii) Although, the distribution of reward money among concerned officers and informants should be made according to a scheme approved by the Finance Minister in terms of Section 153(2) (b) of the Customs Ordinance, the management had	Since the performance of the Customs Department is a performance based on the contribution of the officers of all sections, I would like to mention that in order to motivate and encourage the officers of each section, reward money has been	Compliance to the provisions of the Customs Ordinance is required.

brought about 19 amendments to the department order No. PL 118 so far and distributed the forfeited money and penalty money to the officials of other 18 departments of the customs who do not contribute directly to the said works. Accordingly, the value of the reward fund allotted to officers in such departments was Rs.444,437,389 for the year under review. distributed to represent the officers of all sections related to customs raids.

- (b) Financial Regulations of the Democratic Socialist Republic of Sri Lanka- F.R.102 and 110
- At the end of the investigations conducted in relation to a consignment of cigarettes shipped from Singapore under the transshipment method by a foreign private company, the consignment of cigarettes was auctioned for Rs.5,901,750. However, as the customs was found guilty in the cases filed by the relevant foreign agency against the sale, the customs had to pay Rs.69,451,809 due to this wrong decision. Although, the file related to this investigation was later misplaced and the report of the preliminary investigation committee appointed on 11 May 2023 against the responsible officers and the officers responsible for the above wrong decision was supposed to be submitted within two months, it had not been submitted even by 30 May 2024.
- The Chairman of the Preliminary Investigation Committee has submitted an interim report on 19.03.2024 stating the current status of the preliminary investigation. It is stated that as soon as the cases related to the court proceedings are received, the investigations will be completed and the final report will be given. Further, steps have been taken to complete the preliminary investigations as soon as possible.
- Compliance to the provisions of the Financial Regulations is required.

2. Financial Review

2.1 Financial Results

The operating result of the year under review was a surplus of Rs.424,344,028 and the corresponding surplus for the preceding year was Rs.217,437,608. Accordingly, an improvement of Rs.206,906,420 was observed in the financial results. The increase in penalties by Rs.2,426,905,437 was the main reason for this improvement.

3. Operational review

3.1 Inappropriate Transactions

Audit Observation	Comments of the Management	Recommendation
(a) An importer had filed a suit against a forfeiture and penalty imposed as a result of a customs investigation and was ordered to repay Rs.31,000,000 to the importer from the amount recovered by the customs. Although, 50 per cent of the forfeiture and penalty value is credited to this fund, while there were approximately 541 officials who received reward money, without recovering any money from them, the amount credited to the Consolidated Fund and the amount credited to the Management and Compensation Fund were withdrawn and the importer was compensated.	In completing the full payment of the reward file, it is practically difficult to collect the amount of Rs.29 million due to the fact that almost 541 officials have been paid from the money allocated for the pool fund (Pool Fund) and Rs.2,716,696 has been paid as government taxes. After pointing out, the concerned institution has paid back the money on the agreement to get only the amount that can be paid without charging the officials.	The necessary measures should be taken to secure the state revenue.
(b) In relation to a stock of animal feed imported by a private company by submitting false invoices, the tax value that the company attempted to evade was Rs.15,198,755 and the undervalued amount of the goods was Rs. 63,519,586. However, at the end of the investigation, the investigation officer had only imposed a mitigated forfeiture of Rs.500,000 for the customs duty value attempted to be defrauded and a forfeiture of Rs.19,000,000	The amount of Rs.500,000/- is imposed as a mitigated forfeiture under Sections 129 and 163 of the Customs Ordinance, and not on the duty value attempted to be defrauded, but on the ground that the customs offense was committed knowingly. According to the investigation file, the customs penalty was imposed after a formal	The necessary measures should be taken to secure the state revenue.

for the undeclared value of goods. The penalty imposed was very low at 3.2 per cent compared to the tax value attempted to be evaded. Therefore, it is emphasized here that the customs should be more careful to secure the government revenue.

customs inquiry. Further, the mitigated forfeiture by the Inquiry Officer has been done within the legal framework as per the provisions of the Customs Ordinance.

(c) Although, a consignment of sugar imported from India detected as white sugar was classified as high risk by the Customs Risk Management Unit (RMU) and subjected to thorough inspection, the work was not carried out properly and the sample selected was insufficient to detect defects. Therefore, there was a stock of brown sugar in the container and the goods had been cleared by the customs. However, following a tip-off from the Compliance and Facilitation Division, during the inspection, 20 undeclared containers of brown sugar were also found there. At the end of the investigation, a fine of Rs.500,000 and forfeiture of Rs.189,293,778 was imposed against the importer and the importer agreed to the penalty and released the goods from customs custody on a bank guarantee of Rs.190,000,000 without confiscation. Accordingly, the following points were observed.

(i) The appeal made by the importer to reduce the penalty imposed in terms of Section 165 of the Customs Ordinance was rejected by the Minister at the first instance and later, taking into account the appeal, the penalty imposed was reduced by Rs.30 million. The reasons for the second relaxation were not clear.

The Honourable Minister of Finance had decided to reduce the fine by 30 million rupees and this is according to Section 165 of the Customs Ordinance.

Compliance to the provisions of the Customs Ordinance is required.

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| (ii) The total revenue loss to the government due to this relaxation was Rs.56,106,333. | If the quantity of 607.55 metric tons of brown sugar in question was imported legally, the duty payable on it would be Rs. 56,410,083 was observed through the calculation process during the customs inspection. The weight of the total stock of sugar, which consisted of both white sugar and brown sugar, was 1,214.90 metric tons, and the importer had paid a tax amount of Rs.303,750 to the government declaring the total amount as white sugar. | The revenue due to the government should be collected properly. |
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3.2 Management Inefficiencies

Audit Observation	Comments of the Management	Recommendation
(a) According to a sample audit conducted on investigations completed in the year 2023, the importers committed various customs offenses in 10 cases and attempted to evade the payment of tax amounting to Rs.59,583,245, for which the total penalty value imposed by the customs was Rs.1,821,501,276. Due to the subsequent mitigation of the penalty value, it had reduced to Rs.88,116,774 and the value of 30 per cent (30%) credited to the government from the mitigated penalty value was Rs.26,435,033. Compared to the amount of tax attempted to be evaded, it was amounted to Rs.59,583,245 and a decrease in state revenue by Rs.33,148,213. Thus, the revenue	A decision in a customs investigation is similar to a decision in a quasi-judicial proceeding. A decision at the end of a customs investigation is made after taking into account all the evidence presented during the investigation, and the necessary provisions for that are set out in sections 129, 130, 163 and 166B.	The revenue due to the government should be collected properly.

that can be earned by the government from the money earned by the imposition of penalties is lower than the tax revenue that the government receives through the normal system and therefore, it was problematic whether the customs has acted prudently as an institution that bears the main responsibility of generating income for the government.

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| (b) | In terms of section 129 of the Customs Ordinance, every person who fraudulently evades or attempts to evade or knowingly evades the duty on imports or any part thereof may, at the discretion of the Director General of Customs, be liable to a forfeiture of three times the value of such goods. However, according to the sample audit, in only 3 cases was a penalty equal to the value of the goods and in the remaining 7 cases was the penalty lower than the value of the goods. Accordingly, audit could not excluded the fact that by failing to impose a significant penalty for customs offences, there may be an incentive for the concerned persons to commit further frauds. | -Do- | The revenue due to the government should be collected properly. |
| (c) | Although, when imposing the penalty, the Director General of Customs shall take into account the seriousness of the violation, the amount of revenue lost as a result of the violation, and the availability or scarcity of the contravened goods as the case may be, there were also cases where the punishment was reduced considering the financial hardship of the importers of which was not mentioned in section 166 of the | -Do- | Compliance to the provisions of the Customs Ordinance is required. |

Customs Ordinance as the reason for the mitigation of the penalty.

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| <p>(d) Out of 1902 investigations taken into account on the basis of the investigations concluded in the year 2023, 498 were related to import of undeclared goods and in addition 224 were related to import of excess quantity and 207 was undervaluation also. However, through the establishment of a strong legal system, these common customs errors can be reduced to a significant level and the management has the ability to collect the import tax revenue due to the government.</p> | <p>-Do-</p> | <p>The management should focus on establishing a strong legal system.</p> |
| <p>(e) Although, many divisions of the customs involved in the clearance process were engaged in the customs investigations that started due to the incidents, there was no system to know the progress of those investigations and each of the divisions carried out the investigations individually and after the investigations were completed, they were referred to the finance department for reward payments. The information about the investigation files was decentralized in each division and accordingly the divisions did not have a centralized information system necessary for making management decisions about the progress of investigations and also for performance checks.</p> | <p>A CCR register is being maintained for the centralization process in this regard and necessary steps are being taken to improve it.</p> | <p>A centralized information system should be maintained at Sri Lanka Customs.</p> |

3.3 Operational Inefficiencies

Audit Observation	Comments of the Management	Recommendation
<p>(a) With the aim of taking settled the fuel expenditur for customs investigations, a sub fund of a reward fund called fuel fund had been established and a sum</p>	<p>Agreed with the observation.</p>	<p>The attention should be paid to the utilization of funds.</p>

of Rs.181,298,698 had been credited to that fund during the year under review. However, no expenditure for investigation affairs was incurred from the fund from the year 2019 to the year 2022 and only an amount of Rs.554,500 had been incurred during the year under review as the expenditure was a burden on the general expenditure head of the department. Accordingly, due to continuous accumulation of money in this fund without actual need, its accumulated balance was amounted to Rs. 940,499,772 as at the end of the year under review.

- (b) Although, the Narcotics prevention fund (Narcotic Fund), which is a sub-fund of the reward fund for payments to officers participating to the drug raids, was credited by Rs.61,565,304 during the year under review, no any money had been paid out of it during the year.
- Agreed with the audit observation. The attention should be paid to the allocation of funds.
- (c) The accumulated balance related to fuel fund, drug prevention fund, payment fund for officers in support services (2.5% fund) and other reserve fund at the beginning of the year under review was Rs.1,420,288,652 and out of that Rs.818,564,381 or 58 per cent of the balances were prevailed from the year 2017 and prior to that. An amount of Rs.384,985,028 or 27 per cent of the balance was the balances from 2 to 5 years. Accordingly, in conducting an age analysis of the accumulated balance, it was
- According to 153 (2) (b) of the Customs Ordinance, when submitting files for payment of reward money, a certain percentage of the total amount of the reward file is allocated to the relevant funds, so the amount is credited to these funds and payments are made based on the relevant requests. The fund balance remains cumulative until such request is received. The attention should be paid to the allocation of funds.

observed that without the need to spend money from many years, these sub-funds had been maintained.

- (d) Customs investigations are initiated on the basis of information provided by informants or detected by customs officers related to fraud and wrong doing by importers, exporters and other parties involved in the import and export of goods to Sri Lanka and the same is carried out by various departments of customs. As at 31 December 2023, there were 8450 customs investigations conducted by various divisions. Out of these, 3080 investigations were more than 05 years, 4348 investigations were from 02 to 04 years, and 1022 investigations were remained unsolved and delayed within a year. Due to the delay in the investigation, the seized goods were destroyed, spoiled, could not get proper value from the subsequent sale, and the informants and officers were demoralized. Furthermore, in the delay in finalizing the investigation files, there was also a delay in receiving the revenue due to the government.
- The following reasons have contributed to the delay in completion of customs investigations. The parties concerned,
- i. Resorting to legal proceedings and delays in those proceedings.
 - ii. Non-regular attendance.
 - iii. Appeals have been made to the Director General of Customs or to the Minister of Finance.
 - iv. Significant delay in receipt of documents requested for investigation by Customs.
 - v. Impact of Covid 19 Pandemic Status.
 - vi. Lack of staff.
- Despite the facts, necessary steps are being taken to speed up investigations by minimizing delays.
- The steps should be taken to complete the investigations expeditiously.