

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/65/2017

Dated 18th May, 2017

**Order in Revision No. 341 /2017 under section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1060/2017 dated 01-03-2017**

- i. This copy is granted free of charge for the private use of the person to whom it is issued.
- ii. An appeal against this Order-in-Revision lies to the Appellate Tribunal, Customs having jurisdiction, under section 194-A of the Customs Act, 1969, within stipulated period as prescribed under the law. An appeal should bear a court fee stamp of Rs.1000/- (Rupees one thousand) only as prescribed under schedule-II item 22 of the Court Fee Act, 1870 and must be accompanied by a copy of this Order.
- iii. An extra copy of appeal, if filed, should simultaneously be sent to this office for information and record.
- iv. If an appeal is filed, the appellant should state whether he desires to be heard in person or through an advocate.

M/s. AR Traders & Others

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing

11-05-2017

For the Petitioners

Mr. Zueb, Syed Nazim Shah & Mr. Tariq Iqbal

For the Respondent

Mr. H. Muhammad Jokhio, Principal Appraiser



This revision petition was filed under Section 25-D of the Customs Act, 1969 against Customs values determined vide Valuation Ruling No.1060/2017 dated 01-03-2017 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. That M/s AR Traders, Karachi is a regular importer of Kitchenware of different capacity different sizes in single pieces and in sets from China from several years.
3. That in the instant case previously there was no Valuation Ruling and goods were being assessed under Section 25 ranging from US\$ 1.75 to US\$ 2 per kg. Suddenly Director Valuation issued valuation ruling @ US\$ 3.50/kg for the aluminum cooking ware simple & anodized and @ US\$ 5.75 per kg for Aluminum Non Stick Kitchenware with or without Glass Lid. It is pointed out that at least 50% weight in the product is of the glass lids and values of glass were fixed @ US\$ 0.68 to US\$ 1/kg vide Valuation Ruling No.788/2016 dated 05-01-2016. All the importers including the appellant were importing the above referred goods and the Customs department was releasing these goods in the light of prevailing 90 days data and there was no loss of revenue. It is particular to mention here that there was no dispute of valuation before issuing of current valuation ruling. The business of the traders was running smoothly and there were no litigations.

The market trend of the product i.e. aluminum kitchenware is going down words even there are several exporters offering the product on various web sites. In the instant case importer after due discussion and bargaining with the suppliers purchased a consignment of kitchenware. We came on a contract and the exporter issued us Invoice and goods shipped on board). However during this period the respondent above named, in absence of any lawful justification, issued Custom Value in the name of Valuation Ruling bearing No 1060/2017 dated 01/03/2017. As mentioned in the subject valuation rulings pare 3 not a single stake holder was presence in the meeting in which value of the product is decided. The values were fixed under the false and frivolous background saying Transaction value method under Sub-Section (1) of Section 25 of the act ibid was found inapplicable because required information under the law was not available identical and similar goods.

4. The plea reported by the valuation department in para 5 regarding apply method is as under:-

a) Method adopted to determine Customs values: Valuation methods given in Section 25 of the Customs Act, 1969 were applied sequentially to address the valuation issue at hand. Transaction value method under sub-Section (1) of Section 25 of the Act ibid was found inapplicable because required information under the law was not available. Identical and similar goods valuation methods provided in sub-Sections (5) and (6) of Section 25 of the Customs Act, 1969 provided some reference values but due to wide variations in the declarations the same could not be relied upon exclusively. In the sequential order this office also conducted market inquiries in terms of sub-Section (7) of Section 25 of the Customs Act, 1969. Input and feedback given by the stakeholder Gujranwala Chamber of Commerce and Industry representing manufacturers during available information collected in above methods was analyzed and evaluated. Keeping all the above information in view Customs values of Aluminum Utensils are determined under Sub-Section (9) of Section 25 of the Customs Act, 1969.

b) In the light of above para it is crystal clear that the valuation ruling is issued only to oblige the Gujranwala Chamber of Commerce and Industry manufacturers. There is no fall back method is mentioned in the back ground of valuation ruling.

c) On the other hand values of aluminum composite panels which are manufactured from pure aluminum is fixed vide Valuation Ruling No.909/2016 dated 15.08.2016 US\$ 1.75 for China origin and US\$ 2.50 for UAE/Korea origin.

d) As stated above that the valuation department has not emphasize for fixing of values of aluminum kitchen ware on same are similar goods due to reason the values of aluminum foil and Aluminum Sheets were previously fixed vide valuation ruling no. 851/2016 dated 05.09.2016 of China Origin 2 of US\$ 2.0 to US\$ 2.9/Kg even this products are made from the prime quality of aluminum ingots.

e) That the Customs Values of kitchen ware (Classifiable under HS Code 7615.1000 was enhanced arbitrarily by the respondent, in absence of any lawful justification in the light of provision of Section 25 of the Custom Act, 1969.

f) That the Customs values of kitchenware (Classifiable under HS Code 7615.1000 was framed arbitrarily by the respondent which is very much evident from the comparison of prevailing data.



g) That the impugned valuation Ruling has been framed in clear disregard to the legal dictates on various Customs and dis-obedience to Supreme High Courts orders & the sequential methods as provided under Section 25 of the Customs Act & other relevant laws. It is very much clear from the values of our kitchenware is fair. No documentary evidences have been provided to the stakeholder / importers in support of the contention raised therein, neither any calculation provided to the stake holders.

h) That the respondent above-named failed to abide by the norm of Audi Alteram Partum, natural justice as no opportunity of being heard in person was provided to the applicant above named at the time of framing impugned valuation ruling, which warrants to be annulled and remanded back for fresh investigation and determination of Customs values on this count alone, as per transaction values.

j) That the said valuation ruling is nothing but bad, void, arbitrary attempt and deception with the facts and law of the case, which is in clear disregard to mandates of Section 25/ 25-A of the Customs Act, 1969, as well as enunciated principles of law under the mandate of Article 189, 201 and 10-A of the Constitution of Islamic Republic of Pakistan. It is also pertinent to mention here that in the international market values of raw materials having a down ward trend as compared to the value at the relevant point of time when the goods were being purchased.

k) It is therefore, humbly prayed that kindly pass an order to set aside the impugned Valuation Ruling and directions may please be passed for re determination of the Customs values as per transaction values thereof after giving proper and fair opportunity of being heard to all stakeholders on the basis of evidence/contention by the applicants above-named.

l) It is specially requested that our imported goods (kitchenware) are basic need of every home. The values of its raw material having a downward trend. Our transactions value as per invoice is genuine and the impugned Valuation Ruling No.1060/2017 cannot be applied to our consignments because we purchase the goods as per declared transaction values.

m) A print obtained from the website of China indicating fair values of the product indicates actual values prevailing in open market.

PRAYER

It is requested that kitchenware is made from secondary material. Please issue orders for re-fixing valuation ruling or revise the value. The prayer is being made in the interest of justice. Detail of the product and samples and all type of evidences will provide at the time of hearing.

5. The respondent department was asked to furnish comments to the arguments submitted by the petitioner in the case. Para-wise comments on the petition are given as under:-

PARAWISE COMMENTS OF DIRECTORATE OF VALUATION

Upon receipt of representation from the Gujranwala Chamber of Commerce & Industry, Gujranwala, regarding lower assessment of under reference goods, an exercise was undertaken to determine the Customs values of Aluminium Utensiles in order to bring them in line with current price trend in the international market. Accordingly, meetings of stakeholders were convened on

09-02-2017 and 14-02-2017 to get inputs and point of view of stakeholders / importers but no one appeared except representative of Gujranwala Chamber of Commerce & Industry, Gujranwala. However, they were requested to provide import documents, however, no any documents were received. In this situation, the matter could not be pended indefinitely and exercises were undertaken to determine the Customs values of said goods. After exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969, finally values were determined in terms of Sub-Section (9) of Section 25 of the Customs Act, 1969, vide Valuation Ruling No.1060/2017, dated 01-03-2017, for uniform assessment all over the country.

FACTS

Para-(1) : Not agreed. It is submitted that the Customs values in the impugned valuation ruling have lawfully and correctly been determined after exhausting all valuation methods and giving reasons for rejection of previous methods by giving reasons for rejection of the same. Finally, values were determined in terms of Section 25(9) of the Customs Act, 1969. Therefore, it is not correct that values said ruling was issued to oblige the Gujranwala Chamber of Commerce & Industry, Gujranwala, rather the same are based on ground realities i.e. import data of last 90 days, local market enquiry, online prices etc. which are applicable on relevant imports for uniform assessment all over the country.

Para-(2&4) : Not agreed. It is submitted that the impugned Valuation Ruling No.1060/2017, dated 01-03-2017 has lawfully issued by the Respondent under Section 25A of the Customs Act, 1969, after exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969. These values are not arbitrary or unlawful as the same have been determined after properly analyzing and evaluating so gathered from different sources. Moreover, these values have not been fixed as the concept of "fixation of value" no more exist in the Customs Act, 1969, rather the same have been determined in terms of Section 25A of the Customs Act, 1969, after extensive exercises and holding meetings with relevant stakeholders of the said goods. As such the same is applicable for imports of under reference goods for uniform assessment all over the country.

Para-(5&6) : In this regard it is submitted that the Petitioner has simply claimed for the acceptance of their declaration but did not submit any tangible documents in support to justify their declarations disclosing full and accurate details relating to the value of the imported goods as per Para-108 of Customs Rules, 2001. As such the transaction value cannot be accepted in absence of any relevant import evidences and documents etc. The impugned Valuation being correctly and lawfully issued is applicable for uniform assessment purpose all over the country. Moreover, these values were not fixed rather the same have been determined in terms of Section 25A of the Customs Act, 1969, after fulfilling all the requirements and analyzing and evaluation all factors surrounding the import. Further, two meetings were convened but no any stakeholder / importer appeared except representative of Gujranwala Chamber of Commerce & Industry, Gujranwala.

Para-(7to9) : Denied. It is submitted that the impugned Valuation Ruling is not void or arbitrary rather it is based on principles of law and powers vested to the Respondent under Section 25A of the Customs Act, 1969. Further, no any import documents i.e. sales tax paid invoices, L/C, B/L or other documents related to import were produced to substantiate their contention of decrease in market prices. Instead of furnishing any documentary evidence about downfall in prices in international market, they relied upon their rhetoric of decline in international market prices. They were repeatedly requested to furnish sales tax invoices along with monthly sales tax return filed with Inland Revenue Department as sales tax invoices are authentic document to ascertain local market price and as the Customs has authority in terms of Sub-Section (11) of Section 25 of the



Customs Act, 1969, to call any documents to satisfy themselves about the truthfulness or accuracy of any information or declaration made to Customs for valuation purpose. None of them submitted sales tax invoices along with monthly sales tax return, on one excuse or the other. Since the matter was lingering on, it was decided to proceed on merits in the light of available record as well as local market enquiry conducted by the Department. The minimum Customs values were determined in the Valuation Ruling No.1060/2017, dated 01-03-2017 for level playing field and for uniform assessment all over the Customs Stations of the country. Import data of previous 90 days was analyzed and evaluated and after gathering all information, the Customs values have been determined in terms of Section 25(9) of the Customs Act, 1969, vide above referred Valuation Ruling. As such the said ruling is lawfully applicable for assessment of impugned goods.

PRAYER

In view of above, it is prayed that the said Valuation Ruling may be allowed to hold filed for assessment being lawful and valid. Further, transaction value cannot be accepted in absence of any tangible import documents. As such no relief is warranted to be given to the petitioners and under reference revision application filed being not maintainable may be rejected accordingly.

ORDER

6. I have gone through the verbal and written submissions made by the petitioners and department as well as the case record. The main grievance of the importer/petitioner is against Customs values determined for 'Aluminum Non Stick Kitchen Ware with or without glass lid' of China origin as determined/notified vide the impugned valuation ruling. During the hearing, the petitioners contended that the weight of glass lid is also included in the 'Aluminum Non Stick Kitchenware with or without glass lid' which is not fair. On the other hand, the department in their written submission, have not been able to provide a satisfactory explanation as to the valuation methodology adopted to arrive at the assessable values of the items notified vide the impugned valuation ruling. I, therefore, conclude that there is a need to conduct comprehensive investigations taking into account the points raised by the petitioners as well as all other related aspects which are relevant to determine Customs value of subject goods. The case is, therefore, remanded back to the Director Valuation Karachi to conduct fresh investigations and issue afresh Valuation Ruling for Chinese origin 'Aluminum Non Stick Kitchen Ware with or without glass lid' taking on board the petitioners, other stakeholders as well as the representatives of FPCCI and KCCI. Views of the clearance Collectorate(s) may also be solicited and their representatives may be invited to participate in the valuation proceedings. To alleviate the hardship faced by the genuine taxpayers it is directed to complete the exercise of determining the values afresh and notify the same within 03 weeks. The case is disposed of accordingly.

9. Being identical on facts and law point, this order shall apply mutatis mutandis to following (03) petitions.

1. M/s Arslan Traders, Rawalpindi
2. M/s Peer & Company, Peshawar
3. M/s Aiman Enterprises, Peshawar


(Suraiya Ahmed Butt)
Director General

Registered copy to:

M/s AR Traders,
C/o Expert Law Associates, Office No.4, Ground Floor,
Golden Heights, Opp: Custom House, Karachi.

M/s Arslan Traders,
Shop No.B-106 and 107, New National Market, Ground floor
(in the end of market Bara Bazaar), Rawalpindi.

M/s Peer & Company
Shop No.11, 12 and 13, Royal Plaza Road, Peshawar

M/s Aiman Enterprises,
Opp: GPO Rahmat Lane, Saddar Road, Cantt. Peshawar

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisement (South)/Enforcement, Karachi/
(North) Islamabad / (Central) Lahore.
3. Collector, MCC Appraisement (East)/ Appraisement (West)/Port M. Bin Qasim/
Preventive, Karachi.
4. Collector, MCC, Appraisement/Preventive, Lahore/Quetta/Peshawar/Faisalabad/
Sambrial/Multan/Hyderabad/Islamabad/Gilgit-Baltistan/Gawadar.
5. Director, Customs Valuation, Karachi/Lahore.
6. Deputy Director (HQ), Directorate General of Customs Valuation, Karachi for uploading
in One-Customs and WeBOC database.
7. Asstt. Director (Review), Karachi.
8. All Deputy/Assistant Directors (Valuation)
9. Guard File