

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/346/2016

Dated: 13<sup>th</sup> October, 2016

**Order in Revision No. 253/2016 under section 25-D of the Customs Act, 1969  
against Valuation Ruling No.774/2015 dated 01-12-2015**

- 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 Zubair Electronics & Other

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing

16-05-2016, 07-06-2016, 21-06-2016  
& 12-07-2016

For the Petitioners

Mr. Anjum Rashid, M/s NatPec  
Mr. Madan Lal, Consultant  
Mr. Wahid BVux, Consultant

For the Respondent

Mr. Abdul Majeed, Assistant Director  
Mr. Safdar Abbas, Principal Appraiser

This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.774/2015 dated 01-12-2015 issued under section 25-A of the Customs Act, 1969, inter alia on the following grounds:

- (i) The Petitioner is a regular importer of Networking Equipment's from China. The petitioners being aggrieved and dis-satisfied with the Valuation Ruling No. 774/2015 DATED 01-12-2015 annex at A issued by the respondent in respect of items serial no 27,28,29 ,30,105,106,107,108,109,110, 111,112,113,114,115,116, 196,197,198,-199,217 ( SERIAL NO 27) PORT SWITCH 8X100/100M AUTO NEGOTIATION RJ45 PORTS (TENDA BRAND) AT US\$3.25 PER PIECE ,(SERIAL NO 28) PORT SWITCH 5 -PORTS 10/100Mbps AUTO SENSING 10/100 Mbps TENDA

BRAND AT US\$ 2.30 PER PIECE ,(SERIAL NO 29) PORT SWITCH 16-PORTS 10/100 Mbps MDI /MDI-X TENDA BRAND AT US\$ 7.20 PER PIECE, (SERIAL NO 30) PORT SWITCH AUTO SENSING SWITCH 10/100 Mbps SWITCHED PORTS TENDA AT US\$ 14.87 PER PIECE, ( SERIAL NO 105) A301 WIRELESS RANGE EXTENDER ROUTER (BRAND TENDA) AT US\$9.99 PER PIECE, ( SERIAL NO 106) 4G/3G WIRELESS 4 G 300 ROUTER (BRAND TENDA) AT US\$12.55 PER PIECE , ( SERIAL NO 107) ROUTER 4G/3G WIRELESS 4 G 600 ROUTER (BRAND TENDA) AT US\$11.38 PER PIECE (SERIAL NO 108) ROUTER The Tenda w 1500 A is an 150Mbps (Tenda) (BRAND AT US\$18.59 PER PIECE , (SERIAL NO 109) THE N150ROUTER (BRAND TENDA) AT US\$5.34 PER PIECE -(SERIAL NO 110) ROUTER TENDA N301 WIRELESS N 300 ROUTER 300 Mbps (BRAND TENDA) AT US\$6.27 PER PIECE --(SERIAL NO 111) HIGHPOWER AMPLIFIER ,FH303 ROUTER (BRAND TENDA) AT US\$102.22 PER PIECE -(SERIAL NO 112) 3G 150 B ROUTER (BRAND TENDA) AT US\$ 9.06 PER PIECE -(SERIAL NO113) 150 Mbps WIRELESS N 3 G ROUTER 3G 611 (BRAND TENDA) AT US\$9.06 PER PIECE ---(SERIAL NO 114) ROUTER 300 Mbps WIRELESS N3 G ROUTER 3 G 622 (BRAND TENDA) AT US\$10.45 PER PIECE (SERIAL NO 115) 300 Mbps WIRELESS & ROUTER (BRAND TENDA) AT US\$9.18 PER PIECE -(SERIAL NO 116) ROUTER W 308 R 300 Mbps WIRELESS & ROUTER ,10/100 Mbps (BRAND TENDA) AT US\$7.78 PER PIECE -(SERIAL NO 196 ) USB ADOPTOR WIRELESS N 150 NANO USB ADOPTOR (BRAND TENDA) AT US\$2.35 PER PIECE --(SERIAL NO 197) USB ADOPTOR WIRELESS N 150 PICO USB ADOPTOR (BRAND TENDA) AT US\$2.35 PER PIECE -(Serial no 198) USB ADOPTOR WIRELESS N 150 HIGH POWER USB ADOPTOR (BRAND TENDA) AT US\$3.09 PER PIECE (SERIALNO 199) USB ADOPTOR WIRELESS N 300 HIGH POWER USB ADOPTOR (BRAND TENDA) AT US\$3.84 PER PIECE ( SERIAL NO 217)- PC1 ADOPTOR WIRELESS N TECHNOLOGY DATA RATE TRANSFER UP TO 1500Mbps PC1 ADAPTOR WIRELESS N 150 NANO USB ADOPTOR (BRAND TENDA) AT US\$2.99 PER PIECE issued in an un-lawful and malafide manner, the petitioner above named prefer to file Revision Petition on the following terms.

- (ii) The respondent in paragraph 2 of the Valuation Ruling stated that in order to bring the uniformity in assessment, the available data, international prices, and prices in local market were consulted. However, the Valuation Ruling is defective, same do not indicate the working even the TP link brand is well known & popular brand their products are more costlier in market, the vital specification of TP link is missing, the determined value of TP link brand vide impugned Valuation Ruling is lesser rather than Tenda Brand.
- (iii) As regards the para 3 of the impugned Valuation Ruling, which reveals that fresh exercise of determination of Customs Values of Networking equipment's were conducted, but Importer is being regular Stakeholders, who was neither called in regular meetings nor his suggestion were sought. As such the Respondent had denied right of participation in meeting, which is in stark contradiction to the Order of the





Honorable Sindh High Court vide CP-D No 1300/2015 dated 5.5.2015 directing to the Respondent No 1 to hear the petitioners point of view on the ground that the internationally the prices of the aforesaid items as been declined drastically. In para 3 of the said Valuation Ruling, the Directorate of Customs Valuation conducted the market enquiry in terms of Sub section (7) of Section 25 of the customs Act 1969 determined the Customs value of above item vide aforesaid valuation ruling. The basis of revision is only confined to the market enquiry without adopting the sequential method given vide section 25 of the Customs Act 1969.. As such the determined Custom value is on exorbitant side, hence not reasonable, justifiable with the prevalent selling prices of the market, which tantamount to malafide and ulterior motive which render the fresh VR is to be outright illegal and un-lawful.



- (iv) Without prejudice to the above, it is submitted that there is no visible indication in the contents of paragraph that don't contain any valuable proposal / input put forth by concerned Collectorate, same have been considered / applied in the determination of impugned VR, whereas no input has been incorporated in the impugned VR.
- (v) It is submitted that the contents of valuation ruling do not show the method of calculation, and same has not been incorporated in impugned VR in order to show that Cost-Profit ratio, the sale / purchase by importers / whole sellers / dealers / retailers after proper application by work back method right from point of sale at the retailers end up to the point of purchase at the importers end.
- (vi) It is respectfully, submitted that Respondent No 1 had not considered the transactional value of the product which is being regularly imported against letter of credit and also corroborated documents i.e. BL, Invoices and past evidential GDs in order to justify their import value is true being transactional value in terms of section 25 of the Customs Act 1969. They also failed to consider currency fluctuation) and Sales Tax return, Sales Register Import. Therefore the maximum benefit may kindly be considered in the interest of Public at large. The exorbitant Customs value vide impugned VR is irrational, not logical same has been issued in violation of the Rehan Umer case (2006 PTD 909) , where in it was observed by the Honorable High Court that an exercise of market enquiry cannot be termed as legal without accommodating the view of majority of stake holder.
- (vii) That there is no justification or raison deter for slight revision in Customs valuation of the product, ignoring the transactional value and other sequential method given vide section 25 of the Customs Act 1969.
- (viii) That the arbitrary and whimsical issuance of this impugned Ruling would most certainly and necessarily result in blocking of import of goods through legal channel and would only culminate in encouraging the smugglers and abusers of Afghan Transit Trade (ATT.) facility. The Government exchequer is already losing in billion of rupees as result of rigid and unfair policies of various Government Organization.



followed Valuation methods given in Section 25 of the Customs Act, 1969 were found 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 such as brand/other specifications were not declared by the importers in their goods declaration. 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 and suppressed declarations the same could not also be relied upon. In the sequential order this office then resorted to conduct a market inquiry in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969. Wherein local market prices of Networking Equipments covering maximum items available were obtained. The customs values shall be applied on imports from any country as the values have been determined on the basis of brand names, models and specifications and it has been observed that origin does not significantly affect the values where brands and models are specifically mentioned in the networking equipment trade. Consequently, customs values were determined under section 25(7) of the Customs Act, 1969 vide Ruling No. 774/2015 dated 08-12-2015.

9. **Facts**

Para (1): Need no comments being introduction of Applicant.

Para (2): Need no comments being related to information by the MCC-Appraisement to the Applicant for existence of Valuation Ruling No. 774/2015 dated 01-12-2015.



10. **Grounds**

Para (1&2): Denied. For the purpose of determination of customs values of the Networking Equipment followed Valuation methods given in Section 25 of the Customs Act, 1969 were found 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 such as brand/other specifications were not declared by the importers in their goods declaration. 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 and suppressed declarations the same could not also be relied upon. In the sequential order this office then resorted to conduct a market inquiry in terms of sub-section (7) of Section 25 of the Customs Act, 1969. Wherein local market prices of Networking Equipments covering maximum items available were obtained. The customs values shall be applied on imports from any country as the values have been determined on the basis of brand names, models and specifications and it has been observed that origin does not significantly affect the values where brands and models are specifically mentioned in the networking equipment trade. Consequently, customs values were determined under section 25(7) of the Customs Act, 1969 vide Ruling No. 774/2015 dated 08-12-2015.

Para (3&4): Denied. The Director of Customs Valuation is empowered under section 25A of the Customs Act, 1969 to determine the customs value of any goods imported into Pakistan. Accordingly after exhausting all valuation method laid down in Section 25 of the Customs Act, 1969, customs values were determined under Section 25 (7) of the Customs Act, 1969.

Para (5): Denied. Valuation Ruling is itself a speaking one clearly reveals that transaction value method under sub section (1) of the Section 25 of the Customs Act, 1969 was found inapplicable because required information such as brand /other specification were not declared by the importers in their goods declaration. Moreover, the applicant had not furnished their



transaction value evidences at the time of exercising for determination of customs value under section 25A of the Customs Act, 1969. There is no acknowledgement received by the applicant for the same.

Para (6): Denied. 25A (1) of the Customs Act, 1969 clearly reveals that customs value may be determined of any goods or category of goods into Pakistan, after following the methods laid down in section 25, *whichever is applicable*. However, the customs values were under section 25 (7) of the Customs Act, 1969 after following the valuation method 25 (1), (4), (5) and (6) of the Customs Act, 1969. Moreover, para (4) of the Valuation Ruling described the reasons for rejecting the transaction value.

11. **Prayer**

It is respectfully prayed that the applicant have not furnish any corroboratory documents in support of their contention as in the aforementioned letter accordingly, the review application have no merits for consideration and liable to be rejected and maintained the valuation ruling No. 774/2015 dated 01-12-2015 issued under section 25A of the Customs Act. 1969.



**ORDER**

12. I have deliberated on the case record as well as verbal and written submission put forth by the petitioners and respondents department. The petitioners submitted that TP Link brands are well known and popular, their products are more costly in market, the vital specification of TP Link is missing. The determined customs values of TP Link brand vide impugned valuation ruling is lesser rather than Tenda brand.

13. They further stated that during the exercise for determination of valuation ruling, the petitioner was totally ignored and neither called for meeting nor his suggestion were sought, which is in stark contradiction to the order of the Honorable High Court of Sindh, Karachi vide CP-D No.1300/2015 dated 05-05-2015. They contended that the contents of Valuation Ruling do not show the method of calculation and same has not been incorporated in impugned valuation ruling showing cost of profit, sales / purchase of importer, whole seller / dealers, retailers etc. They contended that the values of Tenda brand and TP Link are almost same in the market but the Tenda brand values have been fixed much on higher side than TPL brand. The petitioner furnished price list of both brands of Tenda and TP Link and requested for inserting in valuation ruling for future.

14. Conversely, the respondent department initiated the exercise for determination of customs values of Net Working Equipment under section 25-A on a reference forwarded by MCC Appraisalment (East) in the light of letter No.Appg-19/DCI/R&A/TP Link/2015/3910 dated 02-06-2015 of Directorate General Intelligence and Investigation-FBR, Karachi. The Networking Equipments were being cleared on different prices and there was no uniformity in their assessment. In this regard, meeting with stakeholders were fixed on 21-10-2015 and 23-11-2015. They were asked to furnish their selling price list and sales tax invoices on the final date of meeting i.e. 23-11-2015 but they all failed to furnish the same. All valuation methods under sub-section (1) to (7) as prescribed under section 25 of the Customs Act, 1969 were exhausted sequentially. Consequently, customs values were determined under section 25(7) of the Customs Act, 1969 vide Ruling No.774/2015 dated 08-12-2015.

15. Meetings were fixed with all stakeholders belonging to Tenda and TP Link brands on 12-07-2016, 18-07-2016 and 19-07-2016. Market survey was conducted at different times. Initially the Tenda launched complaint and requested that prices of TPL have been fixed 200 – 300% lower than Tenda whereas their products are similar in the market with almost same price. Later TPL was also called. They stated that their values are correct and that values of Tenda may be brought down. After seeing their interest the Tenda also joined and changed stance and stated that instead of increasing values of TPL, their values may be brought down. At initial stage M/s Tenda submitted some examples regarding comparison of values of Tenda and TP Link as under:

S No. of VR	Description	Brand	Model	Value in US\$	Selling price
29	16 Port Switch	Tenda	S16	7.20	400
87	16 Port Switch	TP Link	TL-SG1016O	2.67	700
30	24 Port Switch	Tenda	S1024	14.87	1300
89	24 Port Switch	TP Link	TL-SP1024D	8.36	1700
110	Router	Tenda	N301	6.27	550
176	Router	TP Link	TL-WR940N	2.18	1640



16. However this Directorate General of Customs Valuation conducted its own market inquiry. The market inquiry showed that the values are much higher. M/s Tenda and TP Link did not agree to the prices and insisted on prices which are given by the team jointly which is much lower than market prices. Keeping above in view, customs values are re-determined on the basis of market inquiry as under:-

S No.	Description of goods / Model	Brand	Value in US\$/pc
1)	8 Port Switch (e.g. S108)	Tenda	3.00
2)	8 Port Switch (e.g. TL-SF1008D)	TP Link	3.25
3)	5 Port Switch (e.g. Super -S1105)	Tenda	3.55
4)	5 Port Switch (e.g. TL-SG1005D) and equivalent products	TP Link/Tenda	5.55
5)	5 Port Switch (e.g. TL-SF1005D)	TP Link	3.55
	5 Port Switch 5G	Tenda	5.55
6)	16 Port Switch (e.g. S16)	Tenda	8.50
7)	16 Port Switch (e.g. TL-SG10160)	TP Link	9.70
8)	24 Port Switch (e.g. S1024)	Tenda	13.70
9)	24 Port Switch (e.g. TL-SP1024D1024)	TP Link	14.55
10)	A301 Range Extender (e.g. A301/AC750N) and equivalent products	Tenda / TP Link	9.99
11)	3G/4G Router (e.g. 4G300 and 4F300)	Tenda / TP Link	12.55



12)	3G/4G Router (e.g. 4F600 and 4G600)	Tenda / TP Link	11.38
13)	Router High Quality (e.g. W1500A 150 MBPS and W15000A)	Tenda / TP Link (W1500A)	18.59
14)	Router (e.g. N150/TL-WRN720N)	Tenda / TP Link	5.34
15)	Router (e.g. N301)	Tenda	6.27
16)	Router (e.g. TL-WR841N)	TP Link	6.17
17)	Router (e.g. FH303/F3)	Tenda	11.00
18)	Other Routers	TP Link/Tenda	11.00
19)	Router (e.g. TL-WR940N) and equivalent products	TP Link	11.00
20)	3G Router (e.g. 3G150B) and equivalent products	Tenda / TP Link	9.06
21)	3G Router (e.g. 3G611R+) and equivalent products	Tenda / TP Link	8.06
22)	3G Router (e.g. 3G622R+) and equivalent products	Tenda / TP Link	10.45
23)	Router (e.g. W303R) and equivalent products	Tenda / TP Link	9.18
24)	Router (e.g. W308R) and equivalent products	Tenda / TP Link	7.78
25)	Wireless N150 Nano USB Adapter (e.g. W311M)	Tenda	3.46
26)	Wireless N150 Nano USB Adapter (e.g. TL-WN727N)	TP Link	3.40
27)	Wireless N150 PICO USB Adapter (e.g. W311MI)	Tenda	2.85
28)	Wireless N150 PICO USB Adapter (e.g. TL-WN723N)	TP Link	2.85
29)	Wireless N150 High Power USB Adapter (e.g. W311U+)	Tenda	4.74
30)	Wireless N150 High Power USB Adapter (e.g. RL-WN722N)	TP Link	4.70
31)	Wireless N150 High Power USB Adapter (e.g. UH150 and TL-WW 7200ND)	Tenda / TP Link	5.66
32)	Router (e.g. TL-WR740 N) and equivalent products	Tenda / TP Link	4.50
33)	Router (e.g. TL-WR841 ND) and equivalent products	Tenda / TP Link	4.50
34)	Router (e.g. TL-WR 841 HP) and equivalent products	Tenda / TP Link	4.50
35)	Router (e.g. ARCHRC 3200) and equivalent products	Tenda / TP Link	4.50
36)	Antenna (e.g. Omni) and equivalent products	Tenda / TP Link	4.50
37)	Router (e.g. Enginus Brand) and equivalent products	Tenda / TP Link	5.90
38)	Accessories Point (e.g. CPE 210) and equivalent products	Tenda / TP Link	3.48
39)	Witch Networking (e.g. 84 (8) Port) and equivalent products	Tenda / TP Link	3.79



17. Being identical on facts and law point, this order shall apply mutatis mutandis to the following (02) petition.

S#	Petitioner' Name	File No.
1	M/s Kainat Communication	DG(V)Val.Rev/352/2016
2	M/s Silicon Technologies	DG(V)Val.Rev/332/2016

(Syed Tanvir Ahmad)  
Director General

Registered copy to:

M/s Zubair Electronics  
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M/s Silicon Technologies  
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Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisement (South)/Enforcement, Karachi/ (North) Islamabad/ (Central) Lahore.
3. Collector, MCC Appraisement (East/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.