GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/406/2016 Dated: 8th February, 2017

Order in Revision No.300 /2017 under section 25-D of the Customs Act, 1969 against Valuation Ruling No. 809/2016 dated 25-01-2016

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 Chawla Industries (Pvt) Ltd ..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi ..... RESPONDENT

Date(s) of hearing	21-03-2016 & 02-06-2016
For the Petitioners	Mr. Faraz Shahid
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.809/2016 dated 25-01-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. Being aggrieved and dissatisfied with an ex-parte order passed by the worthy respondent, the Applicant file this review application under section 25D of Customs Act 1969 on the following facts and grounds:

3. That the applicant is the regular importer of the BOPP/OPP Self Adhesive Tape in Jumbo Rolls from China/Malaysia.

(i) That the worthy respondent has re-determined the value of the impugned goods, vide its valuation uling No.809/2016 (MISC/27/2014-II/7910) Dated 25-01-2016, without considering the transactional value of the applicant under Section 25 of the Custom Act 1969 and revised the value under Section 25(9) of the Custom Act 1969.

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(ii) That the unjust and harsh valuation ruling vide impugned order dated 25-01-2016 has been passed by the worthy respondent under Section 25A and re-determined the value of the goods @ US$ 1.6/Kg.

(iii) The worthy respondent has re-determined the following value of the imported Bopp/Opp SELF Adhesive Tape in Jumbo Rolls on the basis of the online value method as laid down under Section 25(9) of the Custom Act 1969, without giving the cogent and plausible reason to reject the transactional value of the applicant.

S.No.	Description of Goods	PCT Heading	Propose PCT for WeBOC	Origin	Customs Value (C&F) US$/kg
(1)	(2)	(3)	(4)	(5)	(6)
1	Self Adhesive Transparent Bopp/Opp) Tape width exceeding 20cm (Jumbo Rolls)	3919.9010 3919.9090	3919.9010.1000 3919.9090.1000	China/ Malaysia	1.60

4. Being aggrieved with the impugned Valuation Ruling Dated 25-01-2016, determined by the worthy respondent, this review application is filed on the following grounds.

GROUNDS

5. That while re-determining the value of the goods the learned Respondent has ignored the direction of the Honorable High Court of Lahore. The relevant extracts from the above writ petition being direct are reproduced as follows:-

(i) There is total ignorance of the sequential order. Regarding advice, its first para speak of non-reliability of available data as the same was based upon assessments by the appraisement department. The second para speak of direct jump to deductive value method, which means application of section 25(7) and total ignorance of transaction value method provided from section 25(1) to 25(6). All these advices are in total ignorance and in deviation of transaction value method provided from section 25, which is contradiction of the provision of section 25A (1). The valuation advise also being directly on the basis of deductive value method is hit by this judgment while the others being in total disregard to section 25 are also without any lawful authority.

(ii) The Customs authorities are directed to re-appraise all the import consignments following the criteria fixed by this Court in the earlier part i.e. after adoption of the sequential order provided in section 25 and if the department wants to issue fresh valuation advices for the respective period it should also be after adoption and following the lawful procedure.

6. That the respondent has also ignored the transactional value of the importers under section 25(1) of the Custom Act 1969 and determined the value of the goods in his own assumption and presumption and examined the case only the information provided by the local manufacturer.

7. That while re-determining the impugned value the learned Respondent was not considered the LC / Contract documents, Commercial Invoice, Bill of Landing of the exporter clearly shows that the

transactional value of Bopp/Opp self Adhesive Tape in Jumbo Rolls from Chine/Malaysia is US$ 1.16/Kg.

8. That Honorable Apex Court of Pakistan has clearly held that the fixation of value must be in a sequential order in line with the spirit of Section 25 as well as GATT Rules, operative para of ruling of Supreme Court is as under:-

> Section 25 of the Custom Act authorizes and officer of the custom department imported in Pakistan and to assess the same. Section 25 lays down various modes in which the officials of the customs department are required to proceed in determining or assessing the value of the consignment after rejecting the declared value. However for rejecting or refusing to accept of imported goods the concerned officer is required to give cogent plausible and satisfactory reasons. For non-acceptance of the declared value and rejection thereof which cannot proceed on the whims or desire of the officer of the customs.

9. That in the Judgment of the Honorable Sindh High Court of Karachi has ruled the same position of law, wherein it was categorically held that:-

> Language of section 25 is mandatory and it requires the department to follow step by step for the purpose of determining value and if there is no result coming out then may avail the remedy under section 15-A, as per language of the above section the domination of the import value should be on the basis of transaction value, provided that conditions provided in sub-section (1) (a) of section 25 are not available. If an importer is crossing sub-section (1) (a) then other sub-sections of section 25 the Act to be followed.
>
> In such a situation ruling relied upon by the department cannot be sustained and assessment on its basis is set aside.

10. That Honorable Sindh High Court of Sindh clearly held that the enhancement of value on the basis of any methodology which is not given under Section 25 if the Custom Act has no legal value, operative para of the same is reproduced as under:

> When a system is laid for purposes of valuation it has to be adhered to and appreciation of any evidence in this respect has to be in conformity with what is prescribed because otherwise depending on something outside the laid methodology would amount to an aberration and upon hearsay and can damage the requirement given by this the law and due to the said reason advice of Traders Association for the purpose if valuation is not to be taken as main factor in clash with the provisions of Section 25 is not tenable in law.

11. That the Honorable High Court has re-enforced the same position of law that fixation of value without following a proper sequential order as required under section 25 of the Custom Act has no legal value and also held in such circumstances relevant authorities are bound to release the consignment under section 81 of the Customs Act and finalization of same in accordance with the spirit of section 25 in a sequential method, operative para of the same is reproduced as under:

> It is held that if the goods declaration is filed on custom computerized system, the provisions contained in the customs as explained above are equality applicable.

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12. The Honorable Sindh High Court Karachi has ruled:-

Where the legislature has expressly prescribed one or more particular modes of dealing with the matters specified therein and then if excludes any other method of doing acts are treated as absolute enactments.

13. That due to overall financial crunch in through out the world the prices of every commodities are drastically going downward same is like the prices of the raw material are also internationally fluctuating downwards.

14. That the applicant opts for personal hearing or through his counsel to crave leave to highlight more or further grounds if arising out at the time of hearing.

Prayer

15. Keeping in view of above it is requested that:

a. The valuation ruling 809/2016 dated 25-01-2016 (MISC/27/2014-11/7910) may kindly be ordered to be reviewed.

b. The falling prices of petrochemicals may be factored in the calculations for custom value determination of BOPP PVC adhesive tape Jumbo rolls.

c. A reasonable and healthy balance between customs value of Jumbo Rolls, Log Rolls and retail packing may be created in the Ruling.

d. Till the finalization of new Ruling the consignment Appellant held up or arrived or in pipeline may be allowed under Section 81 of the Custom Act 1969, without any delay as per orders of Honorable Sindh High Court.

16. 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

Para-1 & 2 Denied. The customs values of the subject goods were determined alter exhausting the valuation method of transactional value under section 2 (1) of the Customs Act, 1969, but the transactional value under section 25(1) of' the Customs Act, 1969 was inapplicable due to different grades and non-availability of resources to verify the declared specifications. Consequently, the customs values were determined value under section 25 (5) & (6) of the Customs Act, 1969 and after categorizing in two different major types. Moreover, the relevant stakeholders were also associated by calling meeting.

Para- 3 Denied. The customs values of the subject goods have been determined under Section 25 (5) & (6) and not under Section 25 (9) of the Customs Act, 1969. Need no comments being related to categorizing six categories in brand wise.

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Grounds

Para-(1) Denied. Though, sequential order have been adopted but the Section 25A (1) of the Customs Act, 1969, clearly reveals that the customs value of any goods may be determined after following the methods laid down in Section 25.

Para-(2) Denied. Transactional Value Methods provided in Section 25 (1) was inapplicable due to different grades and non-availability of resources to verify the declared specifications. Consequently, the customs values were determined value under section 25 (5) & (6) of the Customs Act, 1969.

Para-(3) Denied. The applicant neither furnished the corroboratory documents in support of their suggested prices @US$ 1.16/Kg as against the customs value determined @ US$ 1.60/Kg in the impugned valuation ruling nor submitted the same with this review application.

Para-(4) & (5) Denied. Transactional value methods provided in Section 25(1) was inapplicable due to different grades and non-availability of resources to verify the declared specifications. Consequently, the customs values were determined value under section 25 (5) & (6) of the Customs Act, 1969.

Para-6, 7 & 8 Denied. The customs values have been determined strictly in the light of valuation methods laid down in Section 25 and nothing have been depended on something outside the methods of section 25.

Para- (9) Denied. The applicants have not furnished any corroboratory documents that the price of the raw material has gone down internationally. In this connection, the applicant have not furnished any contract from their supplier that due to the downward trend of raw material, their supplier have also contracted the downward prices of the subject goods with the applicant.

Para- (10) Need no comment being related to further grounds at the time of hearing.

17. It is respectfully prayed that the customs value of the subject goods strictly in terms of valuation methods laid down in section 25 and consequently, the customs values were determined under section 25 (5) & (6) of the Customs Act, 1969, @ US$ 1.60/kg as against the applicant's suggested prices i.e. US$ 1.16/kg. The applicant have not furnished any contract/proforma invoice of US$ 1.16/kg or any other evidence showing that their supplier have reduced the prices of the subject goods due to downward prices of raw material. Accordingly, the review application does not merit for consideration and is liable to reject.

ORDER

18. The record of the case has been examined and arguments put forward by the applicant as well departmental representative during the course of hearing have been considered. The petitioner has contended that prices of BOPP PVC Adhesive Tape in jumbo rolls have been declined in international market upto US$ 1.25/kg whereas they are paying duty/taxes at US$ 1.60/kg.

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19. The record of the case has been examined and the comments submitted by the Respondent Department have also been considered. Perusal of the case record reveals that the Petitioner was invited to appear for hearing on 21-03-2016 and 02-06-2016 along-with relevant documents. It is evident that the Petitioner is not interested in furnishing valid and legally maintainable documents like import invoices, Letters of Credit, etc. so as to enable this forum to verify truth and accuracy of transaction value under Section 25(1) ibid. As per Rule 109 of the Valuation Rules issued under SRO 450(I)/2001 dated 18.06.2001 (Chapter X), in the absence of valid import documents, the burden, to prove correctness of transaction value shifts to the importers / Petitioners. Non submission of valid import documents clearly manifests that the petitioner has failed to substantiate his case with any conclusive evidence.

20. In view of aforesaid position, the factual imperfections and legal infirmities, the revision petition is not maintainable. Hence, the same merits no consideration and is accordingly rejected.

(Syed Tanvir Ahmad)
Director General

Registered copy to:

M/s. Chawla Industries (Pvt) Ltd,
B-7, Sector 6-F, Mehran Town, Korangi Industrial Area, Karachi.

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)
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