

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/628/2016

Dated: 11th August 2016

**Order in Revision No.229/2016 under section 25-D of the Customs Act, 1969
against Valuation Ruling No.864/2016 dated 03-06-2016**

- 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 NFS Traders and Others PETITIONERS

VERSUS

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

Date(s) of hearing 19-07-2016

For the Petitioners
Mr. Ghulam Ali
Mr. Usman Kha
Mr. Sikandar Khan
Mr. Qamar ul Haq
Mr. M. Asif
Mr. Jalees

For the Respondent Mr. Safdar Abbas, Principal Appraiser

These revision petitions were filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.864/2016 dated 03-06-2016 issued under section 25-A of the Customs Act, 1969. They challenged the value of Vacuum Flask fixed inter alia, on the following facts and grounds:

2. Being aggrieved and dissatisfied with valuation ruling 864/2016 issued by the respondent under reference No.Misc/03/2008-VIII/IX/9382 dated 03.06.2016 by determining the import price of Vacuum Flasks, the applicant respectfully prays that this August authority may kindly be pleased to call the working done by the respondent/his staff as well as all the connected material/record and after hearing, further be pleased to set-aside the impugned valuation ruling No.864 dated 03.06.2016 on the consideration of following facts and finds inter-alia the grounds, which shall be raised at the time of hearing with the leave of this reputed authority and direct the respondent to make fresh

ruling, while adopting the duly prescribed procedure/following the relevant laws.

3. That the applicant above named is a respectable person, who is engaged in import of Vacuum Flasks from China since the very long. Neither the name of the applicant nor its owner/proprietor is new in the record of customs as such fair business practice of the applicant is evident from perusal of its/his previous history. Simultaneously the applicant enjoys reputable goodwill among the business circle.

4. That a stereotyped statement has been made in the impugned valuation ruling, whereas neither Vacuum Flasks has been increased in the international market nor there was any requirement for determination of such enhanced value. The participation of the stakeholders has also been wrongly mentioned, whereas neither the applicant nor the stakeholders from general business circle were intimated before the determination.

5. That the primary methods given under section 25 of the Customs Act, 1969 have also been intentionally bypassed in order to achieve the ulterior motives and direct application of the method provided under section 25(9) the Customs Act, 1969 is unjust, unfair & unwarranted. That the value of China origin Vacuum Flasks has been increased more than 100%, whereas the value of steel, plastic and other material used for manufacturing the Vacuum Flasks has been determined at very low price. There is no justification for the argument that value of Vacuum Flasks has been increased in the international market, whereas no evidence has been collected from the competent source.

6. That it was required by the respondent to collect data of the last three months i.e. March, April & May 2016 for properly determination of the value. If price of the raw material is summed up with 30% manufacturing cost, the value of the Vacuum Flasks can be determined but it has been worked on papers only without consulting the market as well as the other necessary material.

7. That no classification/recognition has been given regarding the difference between the steel & GP sheets and consequently the concerned officials exploit the importers by complicating the issue of steel & GP sheets for their personal interest and decisions are made at the sweet will of the concerned officials.

8. That a just & prudent approach is inevitably required in the larger interest of the nation & country and it is also required that importers should have been encouraged for their lawful business instead of encouraging the ill character of the society, who is engaged in smuggling and consequently to hamper the national interest. The businessmen/importers are generation funds for the national exchequer and colorful exercise by the officials is straightway an attempt to discourage them.

Prayer

9. In view of the above facts and grounds, it is earnestly prayed that this reputed authority may kindly be pleased to set-aside/cancel the Valuation Ruling No.864 dated 03.06.2016 passed by learned respondent in the larger interest of justice.

10. 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:

11. It was brought to the notice of this Directorate General of Customs Valuation that the values of Vacuum Flasks have increased in the international market as compared to the determined

Customs values of Vacuum Flasks vide Valuation Ruling No.473/2012, dated 27-09-2012. The impugned Valuation Ruling being very old required revision in line with the prevailing prices in the international market, therefore, this Directorate General initiated an exercise for determination of customs values of Vacuum Flasks. Accordingly, meeting with stakeholders were held on 16-05-2016. The stakeholders were requested to bring following documents to make the meeting fruitful:-

- a) Invoices of imports during last three months showing factual value.
- b) Websites, names and E-mail addresses of known foreign manufacturers of the item in question through which the actual current value can be ascertained.
- c) Copies of Contracts made / LCs opened during the last three months showing the value of item in question.
- d) Copies of Sales Tax Invoices issued during last four months showing the difference in price (excluding duty and taxes) to substantiate that the benefit of difference in price is passed on to the local buyers.

12. However, neither any importer submitted the above mentioned documents before the meeting nor anyone brought the same in the meeting. During the meeting, the importers took the stance that the prices of vacuum flasks of almost all types have slightly decreased in the international market. They however, could not submit any corroboratory evidence/documents in support of their contentions.

13. Valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at fair value of vacuum flasks. Transaction value method provided in Section 25 (1) was found inapplicable due to declarations at suppressed values. Identical/similar goods value methods provided in Section 25 (5) & (6) were examined for applicability to the valuation issue in the instant case which provided some reference values of the subject goods but the same could not exclusively relied on due to wide variation and suppressed in declaration regarding values. Thereafter, market enquiries as envisaged under Section 25 (7) of the Customs Act, 1969, were conducted. As the stakeholders were not forthcoming with the values of the items as being traded in the international market, therefore different markets were surveyed repeatedly for this purpose. Computed Value Method as provided in Section 25 (8) could not be applied for valuation of the aforementioned goods as the cost of raw material and fabrication charges under clause (a) and amount of profit and general expenses under clause (b) of Section 25 (8) of the Act, in the country of export, could not be ascertained. All the information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the Customs values of vacuum flasks have been determined under Section 25 (9) of the Customs Act, 1969.

14. Denied. Since, previous Valuation Ruling No.473/2012, was an old one so, keeping in view the price increase in the international market of vacuum flasks, an exercise was initiated to determine the customs value afresh. It is reiterated that notice for meeting to all stakeholders were issued. Some of them appeared but they however, could not submit any corroboratory evidence/documents in support of their contention. Moreover, the requisite documents have not been furnished by any one.

15. Denied. Paragraph-5, of the impugned Valuation Ruling is itself a speaking one clearly reveals that all Valuation Methods from 25 (1) to 25 (8) of the Customs Act, 1969, were exhausted in sequential Manner and finally customs values were determined under Section 25 (9) of the Customs Act, 1969.

16. Contested. The customs values of the subject goods were determined under Section 25 (9) of the Customs Act, 1969, which also includes, the local market inquiry findings under Section 25 (7) of the Customs Act, 1969.

17. 5 & 6. Contested as the request of the petitioner is basically to add 30% manufacturing cost for determination of Customs values through Computed value Method. It is has aptly been explained in paragraph-5 of the Valuation Ruling Computed Value Method as provided in Section 25 (8) could not be applied for valuation of the aforementioned goods as the cost of raw material and fabrication charges under clause (a) and amount of profit and general expenses under clause (b) of Section 25 (8) of the Act, in the country of export, could not be ascertained.

18. Contested. The customs values are determined to reach out at fair prices and whether or not the same is smuggled is out purview and mandated of this directorate General.

Prayer

19. It is respectfully prayed that since the customs values have been determined strictly in compliance of Valuation Methods as laid down in Section 25 of the Customs Act, 1969 and the applicant have not disclosed/furnished their transaction value/suggested value through any corroboratory documents, so the appeal cannot be taken into account and is liable to be rejected.

ORDER

20. I have examined the record of the case, written and verbal submission of the petitioners as well as respondent department.

21. The petitioners mainly contended that there is no justification to increase the values of Vacuum Flasks as the values of steel, plastic and other material used for manufacturing of the Vacuum Flasks have been determined at very low values. If the price of the raw material for the last three months is summed up with 30% manufacturing cost the value of the Vacuum Flasks can be determined.

22. Contrary to the above view of the petitioners, the respondent department in their written & verbal submissions stated that the stakeholders were requested to furnish invoices of imports, copies of contracts/LCs & copies sales tax invoices for the last three / four months but none of the importer submitted the documents before and after the meetings although the importers pleaded that the prices of Vacuum Flasks slightly decreased in the international market.

23. There is complete mechanism for the determination of customs values under section 25 read with Customs Rules, 2001. Without disclosing full and accurate details relating to the value of imported goods for determination even at the time of filing of Revision Petition in absence of documents is not justified. International prices were checked. Market inquiry also revealed that these are average values and fair. Assessment of all types of flasks cannot be made on the lower value and on lower quality. Hence the petition merits no consideration and is accordingly rejected.

24. Being identical on facts and law points, this order shall apply mutatis & mutandis to the following (12) petitions.

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| 1) M/s. Moon Light Enterprises | File No:DG(V)Val.Rev/627/2016) |
| 2) M/s. Sultan International Trading Co. | File No:DG(V)Val.Rev/621/2016) |
| 3) M/s. Rahim & Sons | File No.DG(V)Val.Rev/622/2016) |
| 4) M/s. Abid Trading Co. | File No:DG(V)Val.Rev/624/2016) |

5) M/s. S.Ejaz & Brothers	File No:DG(V)Val.Rev/625/2016)
6) M/s. Al-Marium International	File No:DG(V)Val.Rev/686/2016)
7) M/s. Anwar Traders	File No:DG(V)Val.Rev/626/2016)
8) M/s. Qadeem International Trading Co.	File No:DG(V)Val.Rev/623/2016)
9) M/s. Abdullah Enterprises	File No:DG(V)Val.Rev/618/2016)
10) M/s. Younus Traders	File No:DG(V)Val.Rev/708/2016)
11) M/s. New Paradise International	File No:DG(V)Val.Rev/620/2016)
12) M/s. S.A.K Enterprises	File No:DG(V)Val.Rev/687/2016)

sd/-

(Syed Tanvir Ahmad)
Director General

Registered copy to:

M/s. NFS Traders,
Opp: Street No. 22, Near M S Building, Habib Gung, Lahore.
Through Mr. Ghulam Ali Advocate
Sunny Plaza, Hasrat Mohani Road, Karachi

M/s. Moon Light Enterprises,
Room No. 439-445, 4th Floor, Sunny Plaza, Hasrat Mohani Road, Karachi.

M/s. Madni Traders,
Shop No.24, Mezzanine Floor, Gul Plaza, M.A.Jinnah Road, Karachi.

M/s. S.A.K. Enterprises,
Shop No. S-86, Mateen Plaza, Tariq Road, Karachi.

M/s. Anwar Traders,
Shop No. 23-A, Basement, Shah Alam Market, Lahore.

M/s. Rahim & Sons Traders,
National Bara Market, S-31 St, 4th Floor, Shahalam, Lahore.

M/s. Abdullah Enterprises,
Suit No.21, Mezzanine Floor, Gul Plaza, M.A. Jinnah Road, Saddar, Karachi.

M/s. S.Ejaz & Brothers,
Suit No.7, 2nd Floor, Waqar Centre, Jodia Bazar, Karachi-74000.

M/s. Younas Traders,
Gali No.7/8, Montgomery Bazar, Faisalabad.

M/s. New Paradise International,
H.17, Main Road, Sham Nagar, Chouburji, Lahore.

M/s. Sultan International Trading Co,
Shop No.65, Block-B, Khyber Market, Industrial Area, Jamrod Road, Peshawar.

M/s. Abid Trading Co,
Shop No.2, 1st Floor, National Bara Market, Shah Alam Market, Lahore.