

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/741/2016

Dated: 15th December, 2016

Order in Revision No. 272 /2016 under section 25-D of the Customs Act, 1969
against Valuation Ruling No. 865/2016 dated 06-06-2016

- 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 PASPIDA & Others

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing

20-07-2016, 17-08-2016, 07-09-2016 & 17-09-2016

For the Petitioners

Mr. Sohail Firpo
Mr. Khalil
Sh. M. Naeem
Mr. Majeed
Mr. S. A. Vohra



For the Respondent

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.865/2016 dated 06-06-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds as reproduced below:

2. Being aggrieved and dis-satisfied with the Valuation Ruling No. 865/2016 dated 06.06.2016 issued by the Director of Customs Valuation, Karachi, we hereby prefer this petition in terms of section 25D of the Customs Act, 1969 on the following facts and grounds:-

3. FACTS

- i) That the petitioner is a recognized legal trade body (herein referred as "PASPIDA") consisting of importers & dealers of replacement automotive spare parts and contributing a lot towards national exchequer by paying huge amounts of duties and taxes through lawful imports of the aforesaid goods into Pakistan.
- ii) That Chinese origin Automotive & Motor Cycle Bulbs are manufactured by Chinese small home industry from very cheap raw material without involvement of any computerized machinery, hence, these are not durable. A number of imported bulbs are found fused and/or damaged which certainly adds to their cost to the importer who had already paid for the same. Drastic decline in petroleum prices in the recent era has also caused substantial decrease in the transaction value of all the importable items from the whole world.
- iii) That valuation issue of Chinese origin Automotive & Motor Cycle Bulbs, previously decided vide Valuation Ruling No.661/2014 dated 29.03.2014, was disputed and questioned by various petitioners i.e. PASPIDA, PAMA, PAPAAM and local manufactures/assemblers through different revision petitions.
- iv) That consequent upon receipt of the aforesaid petitions, the Directorate General of Customs Valuation involved all the stakeholders and arranged extensive study of import values, market inquiries, proposals from different forums (including manufactures/assemblers). As a result of their hectic exercise and thorough group discussions/analysis spread over five months' considerable time period, the valuation issue of Automotive & Motor Cycle Bulbs was finalized through an Amendment dated 29.08.2014 made to the aforesaid Valuation Ruling No.661/2014. Through this arrangement, assessable values of imported Automotive & Motorcycle Bulbs were fixed category-wise & specification-wise which remained in the field without any remarkable dispute.
- v) That recent decline in the international market prices required downward revision of the aforesaid assessable prices of the impugned bulbs. However on contrary and reportedly on the demand of clearing Customs Collectorate, the respondent (Director of Customs Valuation, Karachi) again called meetings of the stakeholders for group discussions/analysis for upward revision, inter alia, of assessable import values of Chinese origin Automotive & Motor Cycle Bulbs. Besides others, we also had submitted our detailed proposals explaining that the values of raw material and finished goods have considerably been decreased in the international market due to drastic decline in the petroleum prices and, hence, any upward revision in the assessable values would not be justified rather it would encourage smuggling and mis-declaration of these frequently consumable items. We had also submitted that clearing Customs Collectorates are regularly clearing consignments of raw material of Automotive & Motorcycle Bulbs/semi finished bulbs and, hence, they are in possession of their actual assessable values. We



accordingly requested the respondent to arrange re-determination of fair values of these finished bulbs, if needed, through Computed Value Method in terms of Section 25(8) of the Customs Act, 1969, by taking into consideration prevailing assessable values of raw material/components thereof. We had also explained that re-determination of assessable values should not be made in a manner which may open the doors of corruption and malpractice by any quarter.

- vi) That the learned respondent did not take into consideration our logical arguments rather revised the assessable values of Chinese origin Automotive & Motorcycle Bulbs in a quite unscientific and illogical manner with an increase of about more than 300% to 400% without considering the ground realities. As evident from past experience, this valuation would result in heavy smuggling and mis-declaration of these items discouraging lawful import as the newly determined values are quite irrational and no one can compete in the local market by paying duties and taxes on these harshly aggravated assessable values. Moreover, the given valuation criterion is so complex that it would waste time and energy on part of Customs examination & Assessment besides importers. Proper declaration of all categories (grammage-wise) of these bulbs will be a great deal causing wastage of considerable time and energy besides causing unnecessary load on the already over-loaded WeBOC system. Moreover, it will also open the doors of corruption and malpractice by all the quarters (i.e. Customs as well as the trade).

4. GROUND

- i) That the respondent in paragraph-2 of the impugned ruling has stated that an exercise for the determination of customs values of Chinese origin imported Automotive & Motor cycle Bulbs was undertaken in consequence of a representation received from clearance Collectorate indicating that the values of Chinese origin auto bulbs seem to be on much lower side as reflected in the market survey. However, the respondent did neither disclose the complaining Collectorate's name nor supply a copy of its any representation so made and/or disclose details/outcome of the purported market survey/inquiry claimed to have been conducted for the purpose of impugned re-determination of values. Hence, the impugned Valuation Ruling proves to be void, baseless and illegal having been issued in violation of the mandatory provisions of Section 25A of the Customs Act, 1969.
- ii) That the impugned ruling does not refer to any standardized operative calculation method to show the application of actual costing or incurred expenses taken into consideration on account of duty/taxes, clearing / handling charges, profit ratio margin of importers @20%, distributors @10%, wholesalers @10% and retailers @20% in the process of sale or purchase of impugned goods. These essential elements which were required to be taken into account in the basic calculation working are evidently missing from the impugned ruling. The respondent has also claimed to find the Transaction Value Method under section 25(1) as inapplicable. On contrary, ample evidence of past import (transaction values) of the Automotive and Motor Cycle Bulbs is available on record which is sufficient to serve the purpose. Hence, the impugned Valuation Ruling proves to

be void and illegal on this point as well, having been issued in violation of the mandatory provisions of Section 25A of the Customs Act, 1969.

- iii) That the impugned Valuation Ruling has been issued grammage-wise which is no criterion for fixation of value of automotive and motorcycle parts. In China, a number of small home industries are engaged in manufacturing of auto bulbs of different types. Since they do not use computerized machinery for manufacturing, they have no control over/knowledge of actual grammage of the finished bulbs which vary from piece to piece. Practically too, it is quite difficult for the importer to properly declare and for the Customs examination staff to properly check and confirm actual grammage of each imported bulb. Adopting a scientific approach in this era of modernization, valuation of the bulbs should essentially be made category-wise and specification-wise which will certainly ease the Customs as well as the trade besides causing better collection of legitimate Government revenue.
- iv) That no entity in Pakistan is actually manufacturing Automotive and Motor Cycle Bulbs rather they are assembling the same by importing them in SKD condition. M/s Firpo Private Limited, Karachi are also assemblers as they also do not have any factory registration with the Excise Department for the purpose of manufacturing. Moreover, copies of some of M/s Firpo's GDs are also enclosed herewith which confirm import of the under reference bulbs by them in SKD condition. As evident from the GDs, they import "Sealed Glass Bulbs" and their "Base Caps" separately and then assemble them into complete bulbs without involvement of any remarkable machinery/process, hence, assembling of these bulbs does not require remarkable process/machinery and/or potential cost. This fact is very much evident from M/s Firpo's own letter dated 27.05.2016 submitted by them with the respondent.
- v) That the respondent at paragraph-6 of the impugned Ruling has stated that Computed Value Method under Section 25(8) of the Customs Act, 1969 could not be applied as the cost of raw material, fabrication charges, profit margins etc; are not available. However as explained in the preceding sub-para, clearing Collectorates are regularly clearing consignments of raw material of / semi finished Automotive and Motor Cycle Bulbs and, hence, have sufficient material evidence about assessable/assessed values of their raw material/components. Moreover, office of the Pakistani commercial counselor is also there in China which can easily arrange verification of actual transaction values of raw material of impugned bulbs besides fabrication charges, profit margins etc. Furthermore, local assemblers M/s Firpo had already provided detailed assembling process/requirements for manufacturing of the impugned bulbs through their letter dated 27.05.2016 to the respondent. Therefore legally & truly speaking, sufficient material is available with the respondent to determine fair assessable values of the impugned bulbs through Computed Value Method prescribed under Section 25(8) of the Customs Act, 1969 but this was deliberately avoided by the respondent, thus, making the impugned Ruling as void and illegal.



- vi) That as evident from the enclosed GDs, the local manufacturers/assemblers are importing all kinds of bulbs without caps @ US\$0.45 per kg under PCT heading 8539.9090 (attracting custom duty @ 5% adval) and their caps @ US\$1.35 per kg under PCT heading 8539.9020 (attracting customs duty @ 3% adval). By this way, they get clearance of complete bulb (in SKD condition) @US\$0.80 per kg. After aggregate payment of duty/taxes and adding assembling cost, their cost for these bulbs comes about US\$1.25 per kg. On the other hand if converted into weight basis, the value fixed vide impugned Ruling comes to US\$4.50 to 5.50 per kg besides duty/taxes being paid at about 73% of the assessed value as against 27% being paid by the assemblers.
- vii) That as a matter of fact, about 70 to 80% Chinese origin auto parts are being cleared @US\$ 2.17 to 2.32/kg vide Valuation Ruling No. 661/2014 dated 16.03.2014 read with its Amendment dated 29.08.2014. On the other hand, the impugned ruling has determined value of the impugned bulbs as US\$ 4.50 to 5.50/kg which is beyond understanding. This will serve not to the exchequer but to the smugglers as the legitimate importers will also be compelled to buy smuggled bulbs instead of importing the same on harshly aggravated values.

5. From the aforesaid submissions, it is crystal clear that the impugned Ruling has been issued in serious violation of the mandatory provisions of Section 25A of the Customs Act, 1969 and the values of impugned bulbs so determined are abnormally high and irrational to the existing market trend. Logical inputs made by the stakeholders (including ourselves) have not been considered while determining the impugned values. Hence, the Ruling needs to be set aside / revised appropriately to support genuine trade and curb the menace of smuggling, mis-declaration and corruption.

6. Under the aforesaid facts and circumstances, it is humbly prayed that the impugned Valuation Ruling No. 865/2016 dated 06.06.2016 may kindly be set aside / revised appropriately in respect of Chinese origin Automotive & Motor Cycle Bulbs, keeping in view the prevailing assessable values/database of their raw material/components. Moreover, the values may kindly be fixed category-wise, specification-wise and on per kg basis to avoid unnecessary conflicts and chances of mis-declaration and/or corruption. Meanwhile, operation of the impugned Ruling to the extent of impugned Bulbs may also be suspended to facilitate genuine trade. We also wish to be heard in person and pray for advancing additional arguments / material during personal hearings/proceedings.

7. 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 DEPARTMENT

Para-(i) : No comments (introduction)

Para-(ii) : It is submitted that it is a fact that there is drastic decline in Petroleum prices but

it is also fact that the prices of the imported goods are not reflected in the local market indicating declining trend.

Para-(iii&iv) It is submitted that issuing Valuation Ruling is ongoing exercise made by the answering respondent. Hence, on receipt of information by the Respondent or Collector of Customs or on a reference made to him by any person may determine the customs value of any goods or category of goods imported into or exported out of Pakistan. Collector of Customs, Appraisement, Karachi made a reference on the determined values of Automotive & Motorcycle Bulbs suggesting different specifications of Automotive Bulbs other than specified in the Valuation Ruling No. 661/14 dated 29-08-2014.

Para-(v) : It is submitted that under Section under Section 25 of the Customs Act, 1969, read with Section 25A of the Customs Act, 1969, there is complete mechanism for the determination of Customs values. In terms of section 25(8), the customs values are to be determined through computed value method on the basis of cost of value of raw materials and fabrication or other processing employed in producing the imported goods made by producers in the country of export which are not available.

Para-(vi) : It is submitted that merely on presumption basis the determined Value of Automotive and Motorcycle Bulbs could not be discarded. The petitioner did not disclose the actual value of the subject goods with any tangible documents relating to the imported goods as per Para-109 of the Customs Rules, 2001. Therefore, there is no sufficient proof to substantiate to doubt accuracy of the determined customs values as claimed by the petitioner.



Para-(i) : It is submitted that the answering respondent on his own motion or the Collector of Customs on a reference made to him or by any person or an officer of Customs may determine the customs value of any goods or category of goods imported into or out of Pakistan after following the valuation methods as laid down in Section 25A, whichever is applicable of the Customs Act, 1969. It was in the knowledge of the petitioner that a reference was made by the Collector of Customs (Appraisement), Karachi for the re-determination of customs values of Automotive and Motorcycle Bulbs. In this connection meeting was held with the petitioners and all facts & figures were discussed during the meeting before the determination of customs values.

Para-(ii) : It is submitted that while determining the customs values, local market enquiry of imported Automotive & Motorcycle Bulbs was conducted after deducting all the expenses in terms of sub-section (7) of Section 25 of the Customs Act, 1969, according to the specifications.

Para-(iii) : It is submitted that during the local market enquiry of imported Automotive & Motorcycle Bulbs, the prices available in the market were according to the specifications depending upon grammage which have been categorized as per market report of the subject goods.

Para-(iv) It is submitted that M/s Firpo (Pvt) Ltd, Karachi is the local to (vi) manufacturer of Automotive and Motorcycle Bulbs. Any comments in the absence of manufacturer are legally not correct. The fact is that the local manufacturer M/s. Firpo (Pvt) Ltd., Karachi also attended the meeting held on the subject issue. Hence, no comments offered on these paras.

Para-(vii) It is submitted that there is no hard & fast rules to cover all the items of Auto Parts on specific values. The prices depend on item to item and customs values of Automotive and Motorcycle Bulbs were determined according to the prices prevailing in the local market of subject imported goods category-wise. It is further submitted that smuggling is not the jurisdiction of answering respondent.



ORDER

8. The case record and written as well as verbal submission of the petitioner's were examined. The petitioner stated that the prices have been determined on higher side whereas import prices of the subject item are available on lesser side on international market as well as in the local market.

9. Accordingly, a market survey was conducted. The survey revealed that some values are correct but majority is at higher level. The prices were checked from Chinese websites and found on lower side. Keeping in view of the above facts I have inferred that the contention of the importer is valid and valuation ruling needs revision. Moreover the contention of the importers is that value of parts for assembling also needs to be fixed as some people are bringing complete bulbs in the garb of assembling parts. The Director Valuation is directed to fix value of the parts for assemblers through a new Valuation Ruling in 20 days. Some values of auto bulbs reduced are as under:-

S.No.	Description of goods	PCT Code	Propose PCT for WeBOC	Customs Value (C&F) in US\$/Pc				
				China	Malaysia /Indonesia /Thailand Korea	Japan	Europe	Others
1	Head Light Bulbs (Halogen)	8539.2110	8539.2110.1000					
	Weighing 07 -12 gms			0.060	0.09	0.150	0.18	0.12
	Weighing 13 -18gms			0.090	0.135	0.2241	0.269	0.18
	Weighing 19 -25gms			0.13	0.195	0.323	0.388	0.26

2	Head Light Bulbs (Incandescent)							
	Weighing 9- 15 gms	8539.2110	8539.2110.1100	0.031	0.0465	0.0771	0.093	0.062
	Weighing 16 -25gms			0.060	0.90	1.494	1.793	0.12
3	Miniature Bulbs (Halogen) Weighing Upto 06 gms	8539.2110	8539.2110.1200	0.020	0.027	0.0448	0.054	0.036
4	Miniature Bulbs (Incandescent) 5 to 8 gms	8539.2110	8539.2110.1300	0.0130	0.0195	0.032	0.038	0.026
5	LED Bulbs							
	Weighing Upto 07 gms	8539.2110	8539.2110.1400	0.043	0.065	0.108	0.129	0.086
	Weighing 08-15 gms			0.141	0.212	0.353	0.423	0.282
	Weighing 16 -25gms			0.251	0.377	0.628	0.753	0.502
6	HID Bulbs							
	Weighing 30 - 45gms	8539.2110	8539.2110.1500	0.46	0.69	1.15	1.38	0.92
	Weighing 46 -60 gms			0.65	0.975	1.625	1.95	1.3
7	Wedge Bulbs							
	Weighing Upto 2gms	8539.2110	8539.2110.1600	0.0040	0.0060	0.0099	0.0119	0.0080
	Weighing Above 02 -04 gms			0.0075	0.0112	0.0186	0.0224	0.015
	Weighing Above 04-08 gms			0.0170	0.0255	0.0423	0.050	0.034
8	Festoon Bulbs Up to 03 gms	8539.2110	8539.2110.1700	0.0050	0.075	0.0124	0.0149	0.010



10. Being identical on facts and law points, this order shall also apply mutatis mutandis to the following (05) petitions.

S #	Petitioners' Name	File No.
1)	M/s Naeem International	DG(V)Val.Rev/688 /2016
2)	M/s Dynamic Int. Trade	DG(V)Val.Rev/742/2016
3)	M/s Firpo Pvt. Ltd.	DG(V)Val.Rev/743/2016
4)	M/s Shakil Traders	DG(V)Val.Rev/744/2016
5)	M/s Zahid Majid Corp.	DG(V)Val.Rev/745/2016

(Syed Tawvir Ahmad)
Director General

Registered copy to:

M/s The Pakistan Automobile Spare Parts Importers & Dealers Association,
Head Office: 5/18, Rimpa Plaza, M. A. Jinnah Road, Karachi

M/s Naeem International, Karachi C/O Sardar M. Ishaque Advocate

M/s Zahid Majeed Corp., Karachi

M/s Firpo Pvt. Ltd., Karachi

M/s Shakil Traders, Karachi

M/s Dynamic International, Karachi

M/s Universal Trading Company,
60, Al-Noor Chambers, Preedy Street, Plaza Square, M.A.Jinnah Road, Karachi.

M/s Aarsal Traders,
04-D, Ground Floor, National Auto Plaza, Marston Road, Karachi.



M/s Qaral Traders,
G-42, Rimpa Plaza, M. A. Jinnah Road, Karachi.

M/s Auto Zone,

- i) 1, National Building, Advani Street, Plaza Square, M.A.Jinnah Road, Karachi.
- ii) 146, General Bus Stand, Badami Bagh, Lahore.

M/s Sohaib Automobiles,

- a) Mclean Street, Plaza Square, M.A.Jinnah Road, Karachi.
- b) 146, 2nd Floor, General Bus Stand, Badami Bagh, Lahore.

M/s Asif International,

- a) Shop No.14, Mohammad Ali Centre, Plaza Square, M.A.Jinnah Road, Karachi.
- b) 146, 1st Floor, General Bus Stand, Badami Bagh, Lahore.

M/s Al-Inam Autos,

21-LMC Market, Badami Bagh, Lahore.

M/s M.A. Traders (Mr.Abdul Malik),
59, Badami Bagh Centre, Badami Bagh, Lahore.

Copy to:

- 1. Member (Customs), FBR, Islamabad.
- 2. Chief Collectors Customs Appraisalment (South)/Enforcement, Karachi/
(North) Islamabad/(Central) Lahore.
- 3. Collector, MCC Appraisalment (East)/ Appraisalment (West)/Port M. Bin Qasim/
Preventive, Karachi.
- 4. Collector, MCC, Appraisalment/Preventive, Lahore/Quetta/Peshawar/Faisalabad/
Sambrial/Multan/Hyderabad/Islamabad/Gilgit-Baltistan/Gawadar.