

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/800/2016

Dated: 18/ August, 2016

Order in Revision No. 237 /2016 under section 25-D of the Customs Act, 1969
against Valuation Ruling No.881/2016 dated 29-06-2016

- 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 A.S & Company & Others

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing

14-08-2016

For the Petitioners

Syed Zargham
Mr. M.Sajid

For the Respondent

Mr. Safdar Abbas, Principal Appraiser
Mr. H. M. Jokhio, Valuation Officer



This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.881/2016 dated 29-06-2016 issued under section 25-A of the Customs Act, 1969, inter alia on the following grounds:

2. Being highly aggrieved by and dissatisfied with the Valuation Ruling No. 881/2016 Dated: 29.06.2016, issued by the Respondent, the appellant above named file this review application with the submission that the Respondent has issued the subject Valuation Ruling for different kinds of fabric from China, UAE and Europe origin nullity to the provisions of section 25 of the Custom Act, 1969, read with Chapter IX of Custom Rules, 2001 and without evaluating the nature of the goods in question and the dictum laid down by Superior Courts of Pakistan, hence this review before the Honorable Review Authority for decision after consideration of the facts and grounds enumerated herein below:-

Facts

3. That the appellant is a commercial importer of different kind of Fabric which he imports from different countries including China, UAE and Europe and operates under the name and style of "A. S & Company".... Karachi.

4. That the applicant desires to import the said product from different countries and when the Respondent was determining the value, the applicant attended different meetings with the suppliers and local buyers and the suppliers have agreed to supply the product at different values very less than the value as determined in the Valuation Rulings and referred above.

5. That the Respondent have bluntly refused to accept the transaction value other than the above referred Valuation Rulings despite of the fact that there are substantiate evidences of the value of the goods which act on the part of the Respondent is absolutely against the norms of natural justice and so also against the true spirit of provision of Section 25(1) of the Custom Act, 1969 and Rules 13 of the Customs Rule, 2001. That the transaction values of the applicant are absolutely in accordance with law, fair, just, proper and covering the all aspects of the goods and even the same cannot effect the government revenue.

6. That it is pertinent to mention here that the Valuation Rulings as referred above have determined without consideration of present market situation and without giving any opportunity of meeting of stakeholders and as such the same have been determined on the back of the importers and the same are liable to be reviews forthwith in the great interest of justice and particularly keeping in view the legitimate revenue of national exchequer, hence this review application, inter-alia on the following grounds:



That the Valuation Rulings as referred above does not cover the present fluctuations of oil prices of international markets which have been reduce to about half of the prices and the product of the applicant completely based on the prices of the oil.

8. That in support of his stance it is appropriate for the applicant to add further that the provisions of Section 25 of the Custom Act, 1969, are to be followed in sequential manner barring certain exceptional cases where massive group under invoices is rampant. It is not possible without exhausting and un fettered indicated in section 25(13)(a) does not give unbridles and un fettered authority to customs administration to play havoc with redundant. Discretions has to be exercised within limits based on reason, rationale and fair play which is specifically provided by the legislature in sub-section (1) of section 25 of the Custom Act, 1969 sub-section (1)(5)(6)(7)(8) at the importers request if so agreed by the Collector of Customs, as held in Judgment PTCL 2008, CL 409 M/s Toy International Motorcycle Versus Federation of Pakistan and 3 other CP No. 2673 of 2009 of Sadia Trader V/s. FOP the Honorable High Court of Sindh WP No. 756/2010 M/s. Facio Trading & 45 other Versus Member of Customs FBR etc.

9. That for the sake of arguments without conceding that the determination made in the ruling is legal, the applicant state that it is nullity to the fact and expression and procedure given in the relevant provisions of Custom Act, 1969 and this validated from the working of valuation for determination of applicant to import the different kind of Fabric by deducting the different margins of respective heads which the applicant has to bear prior to selling the goods rendering the contracted price as transaction value within the meaning of section 25(1) of the Custom Act, 1969.

10. The applicant sells the entire goods prior to clearance and at many times the prices of the goods have been increased prior to clearance and the importer has to bear the different of prices from his own.

11. The applicant crave to leave further grounds at the time of hearing besides placing valid incriminating evidences/documents with the permission of your goods forum.

Prayers

12. It is therefore humbly prayed that this Revisional Authority may be pleased to allow the review application by declaring / ordering that:-

- (i) That Valuation Ruling No. 881 dated 29.06.2016, have been issued on force construction of Section 25 of the Custom Act, 1969, hence ab-initio, null and void and is liable to be withdrawn forthwith.
- (ii) The Transaction / declared Value of the applicant to the' imported goods is deemed to be fair and answer to the expression of Section 25(1) of the Custom Act, 1969, in Rule 113 of Chapter of the Custom Rules, 2001.
- (iii) Any other relief(s) which this Honorable Revisional Authority may deem fit and proper in the circumstances of the case may also be granted.



13. 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

14. Being dissatisfied with the Valuation Ruling No.881/2016 dated 29-06-2016 applicant file a review petition before the Director General. Parawise comments are below for the perusal of the Director General:

Facts

- i. About the business of the importer.
- ii. About links of importers of different supplier and local buyers.
- iii. The importers desire that their transactional value under section 25(1) be accepted in accordance with the Customs Act, 1969, it is sole powers of the customs authorities to accept transaction value under section 25(1) or reject it.

- iv. PRAL database, market information and international prices through web were examined thoroughly. All the information so gathered was analyzed for determination of customs value of the subject goods. So the Fallback Method as provided under section 25(9) of the Customs Act, 1969 was applied to arrive assessable customs values of the goods in question.

Grounds

- a) The customs values were fixed after taking thorough aspect i.e. international oil prices through different web sites, Pral database etc.
- b) The valuation ruling was issued after application of sequentially manner.
- c) The valuation methods provided in section 25 of the Customs Act, 1969 were duly followed and applied sequentially to address the valuation issue at hand. Transaction value method provided in sub-section (1) of section 25 was found inapplicable because it is generally known to all that majority of invoices produced at import stage are manipulated / fabricated and hence the requisite information required under the law was not available to arrive at the correct transaction value. Identical / similar goods value method provided in sub Section (5) & (6) of Section 25 ibid were examined for applicability to determine customs value of subject goods, this data provided some references, however, it was found that the same cannot be solely relied upon due to the absence of absolute demonstrable evidences of qualities, and quantities of commercial level etc., and also it was observed that importers usually provided misleading description while declaring goods, as other types and varieties of similar goods to avoid the application of valuation ruling. Information available was hence, found inappropriate. This office then conducted a market inquiry using Deductive Value Method under sub-section (7) of the section 25 of the Customs Act, 1969, however, it was found that the determination of customs value could not be based solely upon this method either. Therefore valuation method provided vide Section 25(8) of Customs Act, 1969, could not be applied as the conversion cost from constituent material and allied expenses, at country of export were are not available. Finally, Pral database, market information and international prices through web were examined thoroughly. All the information so gathered was analyzed for determination of customs value of the subject goods. So the Fallback Method as provided under section 25(9) of the Customs Act, 1969 was applied to arrive assessable customs values of the goods in question.



ORDER

15. The main contention of the petitioner is that values of all sofa/curtain cloth has been fixed on US\$ 6.80/kg. As per their claim 1.75 to 2.00 meter cloth is equal to 01 (one) kg. This means all types of cloth mentioned in the subject valuation ruling are fixed @ Rs.700/meter after paying duty and taxes, which is not the fair valuation for different types of woven furnishing fabric for sofa and curtain. According to them the value of polyester yarn is around US\$ 1.50 to US\$ 1.75/kg and polyester cloth is not more than US\$ 3.5/kg. The cloth which includes viscose, silk, cotton and linen are much expensive. The cloth used in sofa and curtain sets of low category used by lower and middle class of society is found to be around Rs.250 to Rs.400 per meter in the market.

16. In the light of above mentioned facts and the case record, the plea of the importer is found genuine. All types of sofa cloth cannot be uniformly assessed at Rs.700/meter. The polyester cloth should be assessed at lower rate whereas the cloth which includes or blended with

cotton, silk, viscose and linen are much higher and ranges from Rs.1000/- to Rs.2500/meter and should accordingly be assessed. It is therefore ordered to assess sofa/curtain cloth as per the existing valuation ruling No.881/2016 dated 29-06-2016 after replacing serial No.1 of the subject Valuation Ruling with the following new entries/serials:

TABLE

Sr. No.	Description	PCT	Proposed PCT for WEOC	Origin	Proposed Values
(1)	(2)	(3)	(4)	(5)	(6)
1(a)	Woven Furnishing Fabric for Sofa and Curtains (Polyester Blended) (Catalogues of samples made of Woven Furnishing Fabric for Sofa & Curtains)	5514.2100	5514.2100.1000	China/Bangladesh	\$ 5.60
		5514.2200	5514.2200.1000		
		5514.2300	5514.2300.1000		
		5514.2900	5514.2900.1000		
		5514.3010	5514.3010.1000		
		5514.3090	5514.3090.1000		
		5514.4100	5514.4100.1000		
		5514.4200	5514.4200.1000		
		5514.4300	5514.4300.1000		
		5514.4900	5514.4900.1000		
		5515.1190	5515.1190.1000	UAE/Indonesia/Malaysia/Thailand/Vietnam/Korea & Turkey	\$ 6.32
		5515.1290	5515.1290.1000		
		5515.1900	5515.1900.1000		
		5515.2190	5515.2190.1000		
		5515.2990	5515.2990.1000		
		5515.9190	5515.9190.1000		
		5515.9990	5515.9990.1000		
		5516.2200	5516.2200.1000		
		5516.2300	5516.2300.1000		
		5516.2400	5516.2400.1000		
		5516.4100	5516.4100.1000	Europe/USA/Canada	\$ 7.72
		5516.4200	5516.4200.1000		
		5516.4300	5516.4300.1000		
		5516.4400	5516.4400.1000		
		5516.9100	5516.9100.1000		
		5516.9200	5516.9200.1000		
		5516.9300	5516.9300.1000		
		5516.9400	5516.9400.1000		
1(b)	Woven Furnishing Fabric for Sofa and Curtains (Cotton Blended) (Catalogues of samples made of Woven Furnishing Fabric for Sofa & Curtains)	5211.1100	5211.1100.1000	China/Bangladesh	\$ 7.00
		5211.1200	5211.1200.1000	UAE/Indonesia/Malaysia/Thailand/Vietnam/Korea & Turkey	\$ 8.00
		5211.1900	5211.1900.1000		
		5211.2000	5211.2000.1000		
		5211.3100	5211.3100.1000	Europe/USA/Canada	\$ 13.00
		5211.3900	5211.3900.1000		
		5211.4900	5211.4900.1000		
		5211.5100	5211.5100.1000		
1(c)	Woven Furnishing Fabric for Sofa and Curtains (Silk Blended) (Catalogues of samples made of Woven Furnishing Fabric for Sofa & Curtains)	5007.1000	5007.1000.1000	China/Bangladesh	\$ 38.00
		5007.2000	5007.2000.1000	UAE/Indonesia/Malaysia/Thailand/Vietnam/Korea & Turkey	\$ 43.70
		5007.9000	5007.9000.1000		
				Europe/USA/Canada	\$ 53.20
1(d)	Woven Furnishing Fabric for Sofa and Curtains (Linen Blended) (Catalogues of samples made of	5309.1100	5309.1100.1000	China/Bangladesh	\$ 7.50
		5309.1900	5309.1900.1000	UAE/Indonesia/Malaysia/Thailand/Vietnam/	\$ 8.62
		5309.2100	5309.2100.1000		

	Woven Furnishing Fabric for Sofa & Curtains)	5309.2900	5309.2900.1000	Korea & Turkey	
				Europe/USA/Canada	\$ 10.50
1(d)	Woven Furnishing Fabric for Sofa and Curtains (Viscose Blended) (Catalogues of samples made of Woven Furnishing Fabric for Sofa & Curtains)	5408.1000	5408.1000	China/Bangladesh	\$ 12.00
		5408.2200	5408.2200		
		5408.2400	5408.2400	UAE/Indonesia/Malay	\$ 15.35
		5516.1100	5516.1100	sia/Thailand/Vietnam/	
		5516.1200	5516.1200	Korea & Turkey	
		5516.1300	5516.1300		
		5516.1400	5516.1400	Europe/USA/Canada	\$ 18.60

17. Being identical on facts and law points, this order shall also apply mutatis & mutandis to the following (20) petitions.

S#	Name of Petitioners	File No.
1.	M/s. A.S & Company	DG(V)Val.Rev/800/2016
2.	M/s. J K International	DG(V)Val.Rev/838/2016
3.	M/s. Imperial Furnishers	DG(V)Val.Rev/832/2016
4.	M/s. Decotex	DG(V)Val.Rev/801 /2016
5.	M/s. M.F & Company	DG(V)Val.Rev/827/2016
6.	M/s. Real Enterprises	DG(V)Val.Rev/798/2016
7.	M/s. Al-Muqtadir Services	DG(V)Val.Rev/829/2016
8.	M/s. Universal Logistics System	DG(V)Val.Rev/830/2016
9.	M/s. Sea Pearl International	DG(V)Val.Rev/831/2016
10.	M/s. S.R International	DG(V)Val.Rev/749/2016
11.	M/s. ABN Industries	DG(V)Val.Rev/788/2016
12.	M/s. Chenal Impex	DG(V)Val.Rev/787/2016
13.	M/s. Int'l Trade Impex	DG(V)Val.Rev/786/2016
14.	M/s. Rafiq Commercial Co	DG(V)Val.Rev/785/2016
15.	M/s. Imperial Furnishers	DG(V)Val.Rev/784/2016
16.	M/s. Imperial Furnishers	DG(V)Val.Rev/828/2016
17.	M/s. A.S & Company	DG(V)Val.Rev/825/2016
18.	M/s. M.F & Company	DG(V)Val.Rev/799/2016
19.	M/s. A.S & Company	DG(V)Val.Rev/797/2016
20.	M/s. Decotex	DG(V)Val.Rev/826/2016
21.	M/s Rabia Impex	DG(V)Val.Rev/783/2016



Registered copy to:

- 1) M/s A.S & Company,
2nd Floor, Plot No. RC-12/62, Ranchore Quarters, Karachi.
- 2) M/s. J.K International,
4/8 Arkay Square Extension, Shahrah-e-Liaquat, Karachi.
- 3) M/s. Imperial Furnishers,
House No. 241/1-A, Block-2, P.E.C.H.S., Karachi.

(Syed Tanvir Ahmad)
Director General

DESPATCHED BY

22-08-2016

- 4) M/s. DECOTEX,
Office No. 190/A, PECHS, Nursery Market, Karachi.
- 5) M/s. M.F & Company,
191-H, Block-2, PECHS, Karachi.
- 6) M/s. Real Enterprises,
Plot NO.93, Garden East, PECHS, Karachi.
- 7) M/s. Al-Muqtadir Services,
Office No.14, Aasma Blessing,
Kharadar, Opp: New Custom House, Karachi.
- 8) M/s. Universal Logistics System,
Suit NO.611, Falak Naaz Heights, Main Shahrah-e-Faisal, Karachi.
- 9) M/s. Sea Pearl International,
Office No.1, Suite No.303, 3rd Floor,
Almas Heights, B-12, PECHS, Karachi.
- 10) M/s. S.R International,
S-33, Block-8, Azizabad, Federal B. Area, Karachi.
- 11) M/s. ABN Industries,
Plot NO. 431, Block-A, Ittehad Town,
Near Eidgah Chowk, Muhammad Colony,
Opp Firdous Masjid, Baldia Town, Karachi.
- 12) M/s. Chenal Impex,
Shop No.32, Wonder & Shopping Mall,
Block-11, Near Nipa Chowrangi,
Gulshan-e-Iqbal, Gulshan Town, Karachi.
- 13) M/s. Int'l Trade Impex,
Shop No. M-65, Mezzanine Floor,
Harmain Towers & Shopping Mall, Block-9,
Plot No. 293-294, Gulistan-e-Jauhar,
Gulshan Town, Karachi East.
- 14) M/s. Rabia Impex,
Flat No.A-3, 1st Floor Suleman Lodge, Block 13-B,
Main University Road, Gulshan-e-Iqbal, Karachi.
- 15) M/s. Rafiq Commercial Co,
38 New Cloth Market, M.A. Jinnah Road, Karachi-74000.

Copy to:

1. Member (Customs), FBR, Islamabad.