

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/835/2016

19622

Dated: 13th October, 2016

**Order in Revision No. 254 /2016 under section 25-D of the Customs Act, 1969
against Valuation Ruling No.882/2016 dated 01-07-2016**

- 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 Synthetic Product Ent. Ltd.

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PETITIONER

VERSUS

Director, Customs Valuation, Karachi

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RESPONDENT

Date (s) of hearing

02-09-2016, 15-08-2016 & 26-09-2016

For the Petitioners

Mr. Akhter Ali Naeem Adv.
Mr. Irgan
Mr. Hassan
Mr. A. Hannan Arshad Adv.
Mr. Usman Uzair



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.882/2016 dated 01-07-2016 issued under section 25-A of the Customs Act, 1969 inter alia, on the following grounds:

2. That this Revision Petition is being filed against Valuation Ruling No.882/2016 dated 01.07.2016 issued by Director of Customs Valuation in terms of section 25A of the Customs Act, 1969.
3. That this Revision Petition is specifically directed against the valuation determined against disposable PP Jelly Cups / Plastic packing articles falling under HS Code 39.23.
4. That facts of the case in brief are that the Petitioner is a public limited company

engaged in business of manufacturing, local supply and export of plastic cups / food containers / disposal food packaging.

5. That the petitioner made a representation vide letter dated 14.06.2016 to the Director Valuation, Directorate General of Customs Valuation, Karachi wherein it was contended that earlier on, vide valuation ruling No. 597/2013 dated 24.10.2013 the value has been fixed @ US\$ 2.35 per kg. Since fixation of value, almost three years have gone and there was significant increase in cost of raw materials and other allied expenses, therefore, the value fixed three years back was at ver^y lower side.

6. The calculation of cost of production in respect of disposable plastic products was also provided in order to substantiate the veracity of assertion made by the Petitioner. It is worth mentioning that the value has been fixed even below the prevailing manufacturing cost as indicated in the attached calculation sheet.

7. That it was also pointed out that the Petitioner is also exporting the said goods at a price varying between US\$ 5.01 to 5.14 per kg. Copy of export GDs were also appended with the said representation and the same are enclosed again as with the instant revision petition. Further, export prices quoted by a Chinese exporter i.e. M/s. Rui'an Polyprint Import & Export Co., Ltd is also enclosed. The said Chinese exporter has quoted price varying between US\$ 3.75 to 4.97 per kg.

8. That perusal of the valuation ruling revealed that though the impugned valuation ruling has been issued under section 25(9) of the Customs Act, 1969 i.e. on the basis of fall-back method, however, the customs value of PP Jelly Cups and Plastic Food Container have been determined on very lower side without considering the contention raised by the Petitioner. This is not only creating uncompetitive environment for local manufacturers, but is also causing huge revenue loss to the government by less collection of customs duty and other leviable taxes on said items in case of import.

9. That the valuation ruling is not supported by actual calculation or the prevailing international prices.

10. That the valuation ruling is, therefore, improper, incorrect and illegal.

That the valuation ruling is prayed to be set aside and fresh value be determined in the light of actual prevailing international prices.



GROUNDS

12. That the export price of the petitioner in the subject case are the correct prevailing international price and the same should be adopted for assessment of duty and taxes under the Customs Act, 1969.

13. That the perusal of the Valuation Ruling makes it abundantly clear that the value determined for assessment of PP Jelly Cups and Plastic Food Container is on very lower side.

14. That the values declared by the petitioner against its expos as well as the rates quoted by a Chinese manufacturer are correct prevailing international prices.

15. That there is no justification or rationale for not accepting the values indicated by the petitioner through documentary evidences.

16. That an incorrect and non-specific decision was arrived at in the impugned ruling due to the fact that the contention of the petitioner have not been addressed while issuing the valuation ruling by the Director Valuation.

17. That the valuation ruling is non speaking and in violation of Section 24 of the General Clauses Act, 1897, as the said ruling does not disclose any reason for rejecting the contention raised by the petitioner.

Prayer

18. In view of the foregoing, it is prayed that:-

- i) the impugned Valuation Ruling may kindly be held to be illegal, void ab-initio and may be immediately suspended;
- ii) the prevailing international prices indicated by the applicant may graciously be accepted / adopted;
- iii) a fresh determination of valuation may kindly be made in consultation with the petitioner and all other stake-holders; and
- iv) any other relief deemed appropriate in the facts and circumstances of the case may also be considered and allowed.

ORDER

19. In this case the petitioners are local manufacturers and in their review application dated 18-08-2016 under section 25-D of the Customs Act, 1969 they stated that they are aggrieved with the customs values determined vide Valuation Ruling No.882/2016 dated 01-07-2016. They contended that customs value determined for Plastic Disposable items in the said Valuation Ruling is on lower side. The commercial importers have not filed review application, however they were called to present their view point.

20. Hearing date in this case was fixed on 9-08-2016 but nobody appeared. The case was heard again on 15-08-2016 and 26-09-2016, on these dates manufacturers appeared but importers requested for adjournment uptill 3rd October 2016. In this case the commercial importer did not file review application. This Directorate General called them just to know their view point on the issue and furnish there comments.

21. The case was heard in detail on 26-09-2016. Mr. Usman Uzair appeared and represented M/s. Bio-Care Company (importer). Mr. Akhtar Ali Naeem appeared on behalf of M/s. Synthetic Products Interpriceses Ltd., Mr. Abdul Hanan Arshad Chaudhary Advocate appeared on behalf of KM Food Industries Pvt. Ltd and Mr. Hassan on behalf of M/s. Lucky plastic, Industries Pvt. Ltd. The representative of the importer "Cottage Foods" appeared, attended hearing, gave arguments but sought adjournment upto 7th October, 2016 to furnish written reply. No reply was



received even upto 10th October, 2016.

22. The petitioners, local manufacturers stated that some companies are importing plastic disposable cups, plates, glasses on much higher prices. The import data shows that declared price of Blue Band Margerine cup is at US\$ 4.70/Kg, M/s. Uni-Lever is importing at US\$ 3.10/Kg, M/s. Pepsi imported plastic ice cream cups at US\$ 5.00/Kg. Similarly there are other companies also who are importing same products on higher side than value determined at US\$ 2.00/kg fixed vide Valuation Ruling No.822/2016 dated 21-07-2016. They further requested to re-determine the customs value of Plastic disposable item US\$ 4.50/kg keeping in view the data. However the importers failed to counter the local manufacturers arguments and stick to prices determined in the valuation ruling and contended that same are correct and fair. The importer appeared informally and stated that local industry is not producing quality stuff so they are importing from China. The local manufacturers stated that they are exporting their products thereby means producing quality products and exporting around US\$ 5/kg. They produced export documents also.

23. I have gone through the case record as well as verbal and written submission by the petitioner. The arguments of the petitioners are considered. The customs value of the disposable plastic hold of the boxes, cases, containers, bowls, jelly cups and similar articles including disposable plastic house hold articles as mentioned in the valuation Ruling No.882/2016 are determined as under:

S.No.	Description	PCT	Proposed PCT for WeBOC	Origin	Customs values (C&F) US\$/kg
1	2	3	4	5	6
01	Disposable plastic boxes, Case conters, bowls, Poly propylene jelly cups and similar articles including plastic disposable household articles	3923.1000 3923.3010 3923.3090 3923.5000 3923.9090 3924.1000 3924.9000	3923.1000.1000 3923.3010.1000 3923.3090.1000 3923.5000.1000 3923.9090.1000 3924.1000.1000 3924.9000.1000	All origins	3.00/kg

(Syed Tanvir Ahmad)
Director General

Registered copy to:

M/s Synthetic Product Ent. Ltd.
C/O Akhter Ali & Associates
3rd floor, LCCI Building, near China Chowk, Lahore

Copy to:

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