

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/848/2016

Dated: 21st October, 2016

**Order in Revision No.260/2016 under section 25-D of the Customs Act, 1969
against Valuation Ruling No.883/2016 dated 21-07-2016**

- 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 Khalid Ilyas

PETITIONERs

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date (s) of hearing

24-08-2016, 07-09-2016, 28-09-2016

For the Petitioners

None

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.883/2016 dated 21-07-2016 issued under section 25-A of the Customs Act, 1969 inter alia, on the following grounds:

2. We are the regular importer of empty hard gelatin capsules and mostly importing from China/Bangladesh.

3. Previously the concern group assessing our GD in accordance of the valuation ruling 368/2011 dated 15.08.2011 but now they have issued the above mentioned valuation ruling 883/2016 dated 21-07-2016 by fixing the prices on too much higher side and the Bangladesh prices are not mentioned in the ruling.

4. Now we are not in a position to accept the said valuation ruling and we are also submitting the review application.

5. We request your kind honor, please allow for revision of the valuation ruling under

section 25-D of Custom Act, 1969.

6. 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:

7. Brief of the case is that it was brought to the notice of this Directorate General of Customs Valuation that the values of various sizes of empty hard gelatin capsules have considerably increased in the International Market as compared to the determined customs values of empty hard gelatin capsules of China, France and Canada origins vide Valuation Ruling No. 368/2011, dated 15-08-2011. The previous valuation ruling requires revision existing valuation ruling in line with the prevailing prices in the International Market. Therefore, this Directorate General initiated an exercise for determination of customs values for Empty Hard Gelatin Capsules.

8. Meeting with stakeholders was held on 23-06-2016 and importers were also requested to furnish the following documents:-

- 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 difference in price (excluding duty and taxes) to substantiate that the benefit of difference in price is passed on to the local buyers.

9. The meeting was attended by different importers and officers from field formations. The importers during the meeting were of the view that the prices of subject commodity have not been increased in the international market. They, however, could not submit any corroboratory evidence/documents in support of their contention. They requested some time to furnish evidences and other documents support of their contention but later abstained from submitting any such documents.

10. The representatives of the field formation were of the opinion that the values of empty hard gelatin capsules as mentioned in the existing valuation ruling are on the lower side.



11. Valuation methods given in section 25 of the Customs Act, 1969 were followed to arrive at fair value of empty hard gelatin capsules. Transaction value method provided in section 25(1) was found inapplicable due to wide variation in the values being declared to the customs and incomplete descriptions. Identical/similar goods value methods provided in section 25(5) & (6) the same could not be exclusively relied on due to wide variation in declared values of subject goods. Thereafter, market enquiry, as envisaged under section 25(7) of the Customs Act, 1969, was conducted. As the stakeholders were not forthcoming with values of the empty hard gelatin capsules as being traded in the international market, therefore, different were surveyed repeatedly for the purpose. Online prices were also obtained to corroborate the findings of the market surveys. 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 Customs 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 empty hard gelatin capsules have been determined under section 25(9) of the Customs Act, 1969.

ORDER

12. I have gone through the factual and legal position. The customs values have been determined after following the valuation methods as envisaged under section 25 read with section 25A of the Customs Act, 1969. 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 24-08-2016, 07-09-2016 and 28-09-2016 along-with relevant documents. They neither appeared for hearing on the dates nor submitted any required 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 documents clearly manifests that the petitioner has failed to substantiate his case with any conclusive evidence. Moreover, non appearance in hearings is tantamount to non prosecution at the end of the petitioner.

13. Moreover, the market inquiry has again conducted which shows that values have been higher in the market. Therefore, the customs values in the impugned valuation ruling are revised as under:



S #	Description of Goods	PCT	Proposed PCT for WeBOC	Origin	Revised customs value (C&F) USS/kg
(1)	(2)	(3)	(4)	(5)	(7)
1	Empty Hard Gelatin Capsules Size No. "00"	9602.0010	9602.0010.1000	China	8.75
			9602.0010.1100	USA/Canada	12.80
			9602.0010.1200	Far East	10.10
			9602.0010.1300	France	11.37
			9602.0010.1400	Germany/Belgium	11.05
2	Empty Hard Gelatin Capsules Size No. "0"	9602.0010	9602.0010.1500	China	9.14
			9602.0010.1600	USA/Canada	14.02
			9602.0010.1700	Far East	10.91
			9602.0010.1800	France	12.13
			9602.0010.1900	Germany/Belgium	11.72
3	Empty Hard Gelatin Capsules Size No. "1"	9602.0010	9602.0010.2000	China	9.29
			9602.0010.2100	USA/Canada	14.83
			9602.0010.2200	Far East	12.80
			9602.0010.2300	France	13.61
			9602.0010.2400	Germany/Belgium	13.14
4	Empty Hard Gelatin Capsules Size No. "2"	9602.0010	9602.0010.2500	China	11.25
			9602.0010.2600	USA/Canada	15.50

			9602.0010.2700	Far East	13.21
			9602.0010.2800	France	14.15
			9602.0010.2900	Germany/Belgium	13.88
5	Empty Hard Gelatin Capsules Size No. "3"	9602.0010	9602.0010.3000	China	12.65
			9602.0010.3100	USA/Canada	18.20
			9602.0010.3200	Far East	14.83
			9602.0010.3300	France	17.93
			9602.0010.3400	Germany/Belgium	16.85
6	Empty Hard Gelatin Capsules Size No. "4"	9602.0010	9602.0010.3500	China	13.93
			9602.0010.3600	USA/Canada	20.90
			9602.0010.3700	Far East	16.31
			9602.0010.3800	France	18.20
			9602.0010.3900	Germany/Belgium	17.53

14. Being identical on facts and law point, this order shall apply mutatis mutandis to the following (01) petition.

1) M/s A. R. Associates, Karachi File No.DG(V)Val.Rev/852/2016

(Syed Tanvir Ahmad)
Director General

Registered copy to:

M/s Khalid Ilyas
Head Office: C-197, Block-2, Opp. Usman Public School Campus IV,
P.E.C.H.S., Karachi.

M/s. A.R. Associates,
1st Floor, Riaz Mansion, Aiwan-e-Tijarat Road, Karachi.

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisalment (South)/Enforcement, Karachi/
(North) Islamabad/ (Central) Lahore.
3. Collector, MCC Appraisalment (East/West)/Port M. Bin Qasim/ Preventive, Karachi.
4. Collector, MCC, Appraisalment/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)
9. Guard File.

DESPATCHED BY

21-10-2016