

**GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI**

File No. DG (V)/Val.Rev/895/2016

Dated: October, 2016

**Order in Revision No. /2016 under section 25-D of the Customs Act, 1969
against Valuation Ruling No.910/2016 dated 15-08-2016**

- 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 Midas International

PETITIONER

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date (s) of hearing

28-09-2016 & 17-10-2016

For the Petitioners

None

For the Respondent

Mr. Safdar Abbas, Principal Appraiser
Mr. Altaf Hussain Mangi, Valuation Officer

This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.910/2016 dated 15-08-2016 issued under section 25-A of the Customs Act, 1969 inter alia, on the following grounds:

2. That this revision petition is being directed against valuation ruling 910/2016 dated 15.08.2016 issued by the respondent No.1 where-under he has determined and fixed the customs value of Water Dispenser (Hot & Cold) of China origin with mini refrigerator at US\$ 60.00 per piece under section 25A by adopting method prescribed under section 25(9) of the Customs Act, 1969.

3. That briefly stated the facts giving rise to this petition are that the petitioner entered into contract dated 10.01.2016 of China based company for import of 3720 pcs of water dispenser at unit price FOB US\$ 48.00 per pc. The consignments earlier imported parts of the said contract were supplied by the export at final destination Lahore at unit value C&F US\$ 50.00 per pc and were being released by applying valuation ruling 282/2010 dated 08.12.2010 at unit value US\$

50.00 per pc. The respondent issued impugned valuation ruling dated 15.08.2016 under which the value of water dispenser was fixed at US\$ 60.00 per pc. A consignment of water dispenser containing 372 pcs part of contract recently imported at C&F value US\$ 50.00 per pc vide commercial invoice and packing list both dated 26.07.2016. The consignment of the petitioner was shipped reached at dry port Lahore and it was informed by staff of respondent No.1 that the value of water dispensers has been determined at US\$ 60.00 per pc as per valuation ruling dated 15.08.2016.

4. That while determining the value under the impugned valuation ruling, the respondent No.1 never invite to participate the importers based at Lahore and the value was determined only on the asking of M/s Fluid Technology which is based at Karachi. It has wrongly been mentioned at para-4 however, importers did not submit sales tax invoice, literature and other relevant import documents in support of their contention whereas, only the stakeholders based at Karachi were invited to attend the meeting only.

5. That according to para-5 of the valuation ruling, the method adopted for determination of the customs value clearly reflect that the procedure provided under section 25-A of the Customs Act 1969 has not been followed and the value was determined without giving cogent reason. The respondent No.1 was under legal obligation to follow the method prescribed under there-under. While determining the value of imported goods in question the respondent No.1 did not resort section 25(1), 25(5) & (6), 25(7) and 25(8) according to law and determined the value by applying method provided under Section 25(9) of the Customs Act, 1969 but that too without following the Rule-121 of the Customs Rules, 2001 according to which determination of value under sub-section (9) of section 25, the value of imported goods shall be determined on the basis of customs value determined of identical goods within 90 days. Perusal of valuation ruling clearly shows that the fall back method provided under section 25 (9) of the Customs Act 1969 has not been followed properly because the identical goods has been assessed and released at US\$ 50.00 per pc by the all Customs Collectorate of Pakistan but the import data of 90 days as required under Rule-121 of the Customs Rules, 2001 was not consulted. Rule 121 of Customs Rules 2001 reads as under:-

121. Fall back method.

(i) Value of imported goods determined under sub-section (9) of section 25 of the Act, shall, to the greatest extent possible be based on previously determined customs values of identical goods assessed within, ninety days.

(ii) The methods of valuation, to be employed under sub-section (9) of section 25 of the Act may be inclusive of those laid down in sub-sections (1), (5), (6), (7) and (8) of the said section, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of sub-section (9) of that section.

6. That perusal of para-5 of the valuation ruling clearly reflect that neither the value determined within 90 days of imported goods was incorporated nor the detail of GDs on the basis of which the value was determined by the customs officials within 90 days from the issuance of

valuation ruling was mentioned and as such the valuation ruling dated 09.06.2016 was issued in violation of provision of Section 25 of the Customs Act 1969 read with Chapter-IX of Customs Rules 2001.

7. That it is humbly pointed out that value of water dispenser has not been increased in China or international market. At present the value of water dispenser at China ranging between US\$ 45.00 to US\$ 50.00 per pc but depend on quantity purchased by the importer. it is further added that the present price can be confirmed from supplier or as the case may be through Embassy of Pakistan in China.

8. That the petitioner is regular importer of the items mentioned in the valuation ruling but the value was determined merely on the instance of one stakeholder of Karachi for vested interest in order to provide to the said stakeholder for maintaining monopoly in the market.

9. That the impugned valuation ruling has been prepared by the respondent No. 1 by sitting in his office only at the instance of the complainant who is stakeholder of Karachi and the petitioner can prove this fact before this august forum. It is further added that neither any notice was issued to the petitioner nor his view-point was incorporated while issuing impugned valuation ruling. Thus, the impugned valuation ruling having been issued on the back of the petitioner ex-parte is void and illegal in the eyes of law.

10. Under the circumstances, it is respectfully prayed that by accepting this revision petition, the impugned valuation ruling 910/2016 dated 15.08.2016 may very kindly be set aside and the respondent may kindly be directed to call for the meetings of all the stake-holders including the petitioner and fix the prices of the goods in question strictly in accordance with provisions contained in Section 25 of the Customs Act, 1969 and Chapter IX of the Customs Rules, 2001.

11. It is further humbly prayed that the petitioner as well as other importer be allowed to get his goods assessed and cleared as per practice in vogue before issuance of the impugned valuation ruling pending decision of this petition. Any other relief which this Hon'able forum may deem appropriate and proper in the circumstances of the case may also kindly be awarded.

12. 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:

13. The customs values of hot & cold water dispensers were determined under section 25-A of the Customs Act, 1969 vides Valuation Ruling No. 282/2010 dated 08-12-2010. A number of representations were received to re-determine the customs value afresh in the light of existing international market prices, according to the different sizes. Therefore, an exercise to determine customs values of hot & cold water dispensers afresh in terms of Section 25A of the Customs Act, 1969 was initiated. A meeting was held on 25-07-2016 with request to submit the requisite documents i.e. invoices, copy of contract, sales tax etc.. No documents were submitted on or even after the said scheduled meeting. The meeting was attended by the importers and representative of M/s. Fluid Technology International Pvt Ltd., and the officers from field formations. M/s. Fluid Technology International Pvt Ltd was of the view that the value of hot &

cold water dispensers have slightly increased in the international market as compared to the values determined in the existing valuation ruling and this mainly depends upon order of huge quantity and discount of any sort offered by Chinese suppliers. They further explained that the subject goods are imported in different brands names as per requirement of importers as they import in the name of brand "VEY". However, importers did not submit import invoices, sales tax invoices, literature, evidences and other relevant requisite import documents in support of their contentions. For the purpose of determination of customs values valuation methods given in Section 25 of the Customs Act, 1969 were followed sequentially. Consequently, the customs values of different types of hot & cold water dispensers were determined under Section 25(9) of the Customs Act, 1969 vide Valuation Ruling No. 910/2016 dated 15-08-2016.

14. PARAWISE COMMENTS

- 1) Needs no comments being related to filing of Revision Petition against valuation ruling.
- 2) No comments being relates to agreement between consignee and consignor and details of filing of GD before the clearance Collectorate.
- 3) Not admitted. The meeting with the stakeholders, who imports during the relevant period of ninety days and above seven stakeholders of other than Karachi, different respective associations including President, Lahore Chamber of Commerce & Industry, Lahore, were invited who is the representing authority of Lahore based importers. M/s. Fluid Technology was only attended the scheduled meeting on 25th July 2016. However, importers did not submit import invoices, sales tax invoices, literature, evidences and other relevant requisite import documents in support of their contentions.
- 4) Denied. For the purpose of determination of customs value of water dispenser's valuation method under section 25 were followed in sequentially manner. Under the law transaction value method provided in Section 25(1) was found inapplicable because the requisite information was not available. 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 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 of the Customs Act, 1969, was conducted. The computed value method as provided in Section 25 (8) of the Customs Act, 1969, could not be applied as the conversion costs from constituent material at the country of export were not available. Online values of subject goods were also obtained. All the information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the customs values of different types of hot & cold water dispensers were determined under Section 25(9) of the Customs Act, 1969.
- 5) Denied. The customs value vide valuation ruling shall be the applicable for assessment of imported goods until and unless it is rescinded or revised by the competent authority in terms of sub-section (1) or (3) of Section 25-A of the Customs Act, 1969.
- 6) Not admitted. The meeting with the stakeholders, who imports during the relevant period of ninety days and above seven stakeholders of other than Karachi, different respective associations including President, Lahore Chamber of Commerce& Industry,

Lahore, were invited who is the representing authority of Lahore based importers. M/s. Fluid Technology was only attended the scheduled meeting on 25th July 2016. However, importers did not submit import invoices, sales tax invoices, literature, evidences and other relevant requisite import documents in support of their contentions.

7. Not admitted. President, Lahore Chamber of Commerce & Industry, Lahore were invited who is the representing authority of Lahore based importers and respective association.

PRAYER

15. It is respectfully prayed that petitioner failed to furnish the corroboratory documents to justify their point of view and the existing valuation ruling No. 910/2016 dated 15-08-2016 was issued in the light current price trend. Section 25 (1), (4), (5), (6) & (7) were exhausted and finally section 25 (9) was found applicable for determination of customs value of water dispensers. Accordingly, Honorable Director General may graciously be pleased to set aside the petition and maintained the valuation ruling No. 910/2016 dated 15-08-2016 issued under section 25A of the Customs Act. 1969.

ORDER

16. No one appeared in last two hearings. Ample time was given. The record shows that the market inquiry reveals prices of dispenser & refrigerator between Rs.14000-17500, whereas the prices of dispenser range between Rs.11000 to 14000. The work back sheet shows that margin of 15% was given to retailer instead of routine 10% margin done in all calculations. The miscellaneous charges were also calculated on higher side.

17. In view of above, the calculations were again done and following values are fixed:

S #	Description	HS Code	Proposed PCT for WeBOC	Origin	Customs values (C&F) US\$/PC
1	2	3	4	5	6
1	Water Dispenser (Hot & Cold) with Mini Refrigerator	8418.6990	8418.6990.1000	China	70.00
2	Water Dispenser (Hot & Cold) without Mini Refrigerator	8418.6990	8418.6990.1100	China	62.00

(Syed Tanvir Ahmad)
Director General

Registered copy to:

M/s Midas International,
8-A, Lawrence Road, 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/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.

CUSTOMNEWS.PK