

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/908/2016

Dated: 21<sup>st</sup> October, 2016

**Order in Revision No. /2016 under section 25-D of the Customs Act, 1969**  
**against Valuation Ruling No.916/2016 dated 26-08-2016**

- 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. Bilal Brothers & Others

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date (s) of hearing

27-09-2016

For the Petitioners

Shaikh Nusrat Hussain, M/s United Trading Co.  
Mr. M. Nabeel Hussain, M/s United Trading Co.  
Mr. M. Munawar Ali, M/s Bilal Brothers  
Mr. Faizan Ali, M/s Bilal Brothers  
Mr. Saud Sarwar, M/s Zam Zam International

For the Respondent

Mr. Safdar Abbas, Principal Appraiser  
Mr. Iqbal Kalyar, Appraising Officer

This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.916/2016 dated 26-08-2016 issued under section 25-A of the Customs Act, 1969 inter alia, on the following grounds:

2. As we are aggrieved and dissatisfied by above said harsh and unrealistic valuation ruling so we request you to kindly suspend it till its revision on current international market prices basis. If this ruling is enforced then this will mean that you want to close this health awareness trade.
3. We have compiled the following details for you to see firsthand, how the new prices look like for various products after issuance of new unfair ruling. You decide yourself if these look

realistic and whether the products would be purchasable by the customers.

S. #.	Description	Origin	Value As Per New VR	Net Weight in Kg
1	Motorized Treadmill (1 HP Motor)	China Taiwan Other Origin	US\$ 370 US\$ 525 US\$ 765	50
2	Motorized Treadmill (2 HP Motor)	China Taiwan Other Origin	US\$ 738 US\$ 1071 US\$ 1530	90
3	Motorized Treadmill (3 HP Motor)	China Taiwan Other Origin	US\$ 1525 US\$ 2125 US\$ 2656	125
4	Exercise Bike	China Taiwan Other Origin	US\$ 370 US\$ 525 US\$ 765	50
5	Elliptical Trainer	China Taiwan Other Origin	US\$ 410 US\$ 595 US\$ 765	50
6	Home Gym	China Taiwan Other Origin	US\$ 570 US\$ 848 US\$ 1200	150
7	Multi-function Gym	China Taiwan Other Origin	US\$ 2000 US\$ 3000 US\$ 4100	500



4. It is needless to mention that exercise fitness machines are mostly used by doctors' recommended users from all walks of life who are suffering from diseases such as hypertension, diabetes, orthopedic related issues and obesity (overweight). If these machines become too expensive due to abnormal and unfair government taxes then this group will stiffer enormously.

5. The most important facts which we like to bring into your kind notice that:

(i) Presently two types of products being imported in Pakistan by different traders one type is based on home use and another type is for commercial use, the prices of home use products start from US\$ 50 and go up to US\$ 350 while commercial products start from \$ 500 and go up to US\$ 2000 or more but valuation ruling does not define these categories and apply same rates for commercial and non-commercial (household) products. Anyway all commercial products have heavy net weights and similarly are expensive. Majority of the products imported in our country are home use.

(ii) In July 2013 when previous valuation ruling 563/2013, was issued, the total import taxes on Exercise machines were 11%, as Custom Duty 10% and Income Tax 1%, while the current import taxes are about more than 50% as Custom duty 11%, Sales Tax 17, AST 3%, RD 10%, Income Tax 6% so at the moment we are already paying about 53% inclusive insurance and landed charging (ad volrem) compare to last valuation ruling so there was no need to issue this new and harsh valuation ruling.



(iii) Prices of every items and commodities in international market like fuel, iron, gold, plastics or agriculture inputs all have been drastically reduced for example steel in 2013 was \$ 140/t today it is \$ 60/t, petroleum from \$ 110 to \$ 40 same has happened to plastic resins and other inputs being used at manufacture levels.

(iv) In view of considerable reduction of prices in international markets and remarkable increase of custom taxes (from 11% to 50%) on exercise machines during 2013 -2016. We earnestly request you to please issue necessary instruction to concerned department to revise the valuation ruling as suggested below:

S#	Description	Origin	US\$ Value as per kg
1	Motorized Treadmills (1 HP)	Taiwan/China/Middle/Far East	4.50
2	Motorized Treadmills (2.1HP to 3HP)	Taiwan/China/Middle/Far East	5.00
3	Elliptical Trainers (This is a Non Motorized Products)	Taiwan/China/Middle/Far East	4.50
4	Exercise Bikes (This is a Non Motorized Products)	Taiwan/China/Middle/Far East	3.75
5	Home Gym (Single Function)	Taiwan/China/Middle/Far East	1.50
6	Gymnasium Machine Multi-function (As these Machines are expensive and are heavier in weights while mechanism and material of this product is same as used in Home Gym)	Taiwan/China/Middle/Far East	2.0



6. There is no need to add up one extra column for "other origin" in valuation ruling because prices of other origins are already at higher side as in most cases these products are handled and exported by world famous branded companies.

7. We think fresh ruling is issued without collecting any data either from the local or international market and without consultation of stakeholders. If you are not satisfied with our contentions and statement, you may also please ask Embassies and consulates in the relevant countries to furnish you the prevailing prices from the makers of the items mention in the valuation ruling. If the embassies or consulates do not cooperate with you then, you may also conduct international market survey through websites of the different Chinese and Taiwanese manufacturers and exporters of these products, the makers will give you all the information you required by you for all categories of treadmills, exercise bikes, elliptical trainers, gymnasiums.

8. In view of the above facts, it is once again earnestly requested you to please suspend the current valuation ruling till it's fair revision on the basis of transactional values / methods envisaged in the Custom Act, 1969 by applying sequential manner and necessary instruction may kindly be passed to WEBOC to release all consignments under previous valuation ruling No. 563/2013 because the current enhancement of the values to this high extent will be compelling to close of this health maintaining product and as well as fair business practices and will also cause

to considerable unemployment of lot of sale workers, accounts, import staff, clearing staff, technicians, labors and transporters and consequently, loss of national exchequer by depriving normal duty/taxes caused by obstruction of Exercise/Fitness equipment import business.

9. 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:

10. Brief of the case is that it was brought to the notice of this Directorate General of Customs Valuation that the values of Exercise Machines have considerably increased in the international market as compared to the determined Customs values of Exercise Machines vide Valuation Ruling No.563/2013, dated 02-07-2013. The aforementioned Valuation Ruling required revision in line with the prevailing prices in the international market. Therefore, this Directorate General initiated an exercise for determination of customs values of different types of Exercise Machines.

11. Meeting with stakeholders was held on 21-06-2016, 28-06-2016 and 26-07-2016. The importers were also requested to furnish the following documents:-

- a) Invoices of imports during last three months showing factual value.
- b) Websites, names and email 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 value of item in question.
- d) Copies of sales tax invoices issued during last four 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.

12. No one turned up for the scheduled meetings. Neither anyone furnished the requisite documents. One importer, M/s Bilal Brothers sought adjournments on all three occasions by submitting one excuse or another. He however did not submit any supporting documents. The importers were given sufficient time to submit their contentions, but they could not submit any. No other importer approached this Directorate General.

13. Valuation methods given in section 25 of the Customs Act, 1969 were followed to arrive at fair value of Exercise Machines. Transaction value method provided in section 25(1) was found inapplicable owing 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) 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 Act, 1969, was conducted. As the stakeholders were not forthcoming with the values of the exercise machines as being traded in the international market, therefore different markets 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 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 of exercise machines. Consequently, the customs values of exercise machines have been determined under section 25(9) of the Customs Act, 1969.

14. Parawise Comments

Para (1) Need no comments being related to customs values determined of different types of exercise machine vide Valuation Ruling No.916/2016, dated 26-08-2016.

Para (2) Need no comments being related to its uses by different patients.

Para (3) Denied. It is to be submitted that the subject goods are being used for home use as well as for commercial use.

Para (4) It is to be submitted that the rate of import taxes are not concerned with this Directorate and it have no relevancy with the customs values determined vide valuation ruling 916/2016, dated 26-08-2016.

Para (5) The petitioner have not furnished any documentary evidence in support of their contention

Para (6) The petitioners have not furnished any documentary evidence in support of their suggested customs values.

Para (7) It is to be mentioned that the other origins has been added for the conveyance of customs staff as well as for the importers who may import the subject goods other than China.

Para (8) Denied. It is to be mentioned that while exercising the determination of customs value of the subject goods relevant stakeholders including the petitioner were invited for meeting on 21-06-2016, 28-06-2016 and 26-07-2016, along with some requisite documents. But no one turned up for the scheduled meeting. Neither any one including the petitioner who sought adjournments on all three meetings have failed the requisite documents particularly copies of sales tax invoices issued during last four 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.

PRAYER

15. It is respectfully prayed that the petition being without corroboratory document is liable to rejected as they have neither furnished the same at the time exercising the determination customs value under Section 25A of the Customs Act, 1969, as well as with this petition under Section 25A of the Customs Act, 1969.

ORDER

16. The case record and written as well as verbal submission of the petitioners were examined in detail. The petitioners filed review application under section 25-D of the Customs



Act, 1969. Mr. Munawar import Manager of M/s Bilal Brothers, M/s United Trading Co., and others appeared and stated that customs values of the impugned valuation ruling have been increased by 100% to 150%. This item attracts custom duty @ 10%, sales tax @ 17% & 3% income tax, @ 6% and RD @ 10%. The petitioners stated that Treadmills 2-HP motor is available from supplier at US\$ 180/unit having 41-50 kg weight whereas customs values have been determined at US\$ 336/unit and local market prices of Tread mills, 02-HP are available ranging from Rs.55,000 to Rs.135,000/unit of 405 kg of different origins. Minimum price in local market is at Rs.42000/unit. They further emphasis that market survey may be conducted from Hyperstar, Metro, M/s Bilal & M/s Zam Zam's websites. Manufacturers in China/Taiwan may also be approached through e-mail and price of each item may be confirmed. The department has conducted market survey on much higher side which is arbitrary and with malafide intention.

17. The staff was directed to conduct fresh market survey. Two valuation officers were deputed who conducted market survey and reported. Abnormal difference in prices/ values was found between initial and subsequent survey. To confirm another officer was also deputed for market survey knowing actual veracity about its normal values. From third market survey difference in prices was confirmed which was in some item about 28% to 100% and in some items, difference was 100% to 220%.

18. Next meeting was fixed on 14-10-2016. Representatives of M/s Bilal Brothers, M/s Zam Zam and M/s United Trading appeared and stated that the prices were fixed on the basis of machines used commercially and not for home use. When they were asked about difference between both categories, they stated that the difference is that of weight. As the weight goes on higher side, the power also increases. M/s Zam Zam told that machine of 2 HP of 50 Kg is around Rs.50,000/unit. It cannot be sold beyond Rs.60,000/unit on retail basis. Whereas on current value, the price has gone up to Rs.80,000/unit.

19. M/s Bilal Brothers further stated that Treadmills (machines) of 2 HP having 88 kg is sold at Rs.60,000/unit. M/s United Trading Co., stated that Treadmill of their brands i.e. Slim Line, American Fitness, Sprit Fitness, Royal Fitness Canada, Body Strong and Xterra (machine) of 2 HP, 55 kg weight is sold upto Rs.55,000/unit. Whereas the other items i.e. Electrical Trainer, Bike, Multi Station gymnasium etc. are sold on very competitive market prices. The petitioners further emphasized that these prices may be verified from Hyperstar for taking into consideration. Most of these machines are used at home. The point is that difference is that of 30% - 40% between China, Taiwan and USA. Moreover, maximum variety of machines has been mentioned in valuation ruling, so difference in categories may be reduced.

20. On the other hand, departmental representative submitted his arguments that meetings with stakeholders were fixed on 21-06-2016, 28-06-2016 and 26-07-2016 and they were requested to come up with import documents including sales tax invoices but no one turned up on the scheduled meetings and nor submitted any supporting documents or their contentions. Market survey was conducted from different places under section 25(7) of the Customs Act, 1969. Consequently, customs values of exercise machines were determined under section 25(9)





of the Customs Act, 1969.

21. Keeping in view of the above, I have inferred that customs values already determined vide Valuation Ruling No. 916/2016 dated 26-08-2016 were determined on higher side. The values were determined on market survey basis which was subsequently conducted twice to check the authenticity and genuineness of the market prices revealed that exists between values fixed and existed in market difference. Therefore, the customs values are revised under section 25-A(3) of the Customs Act, 1969 as mentioned in the Annexure to this order.

22. Being identical and similar on facts and law points, this order shall also apply mutatis mutandis to the following (04) petitions.

S #	Petitioners' Name	File No.
1	M/s S.K. Business Corporation	DG(V)Val.Rev/927/2016
2	M/s Hadayat Sons	DG(V)Val.Rev/927/2016
3	M/s ZamZam International	DG(V)Val.Rev/904/2016
4	M/s United Trading Company	DG(V)Val.Rev/915/2016

(Syed Tanvir Ahmad  
Director General

Registered copy to:

M/s Bilal Brothers,  
1-3, Mustafa Arcade, 119-A, Opposite Biryani Center,  
Sindhi Muslim Society,  
Karachi-74400.

M/s S.K. Business Corporation  
Near Muzang Chowk, 18-Jail Road, Lahore.

M/s Hadayat Sons  
Jan Muhammad Arcade, 93-Ferozepur Road, Lahore

M/s ZamZam International,  
860-A, Block-B, Faisal Town, Lahore.

M/s United Trading Company,  
G1, Ground Floor, Sumaya Appartment, Plot No.45/3,  
C.P. Berar Co-operative Housing Society, Sharfabad,  
B.M.C.H.S., 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.