

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/907/2016

Dated: 31st January, 2017

**Order in Revision No. 298/2017 under section 25-D of the Customs Act, 1969
against Valuation Ruling No.923/2016 dated 02-09-2016**

- 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 Kasheef Corporation
M/s Japan Belt House, Karachi

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing 30-09-2016

For the Petitioners Mr. Kashif Riaz and Mr.Ijaz Qureshi Advocate

For the Respondent Mr. Abdul Majeed, Assistant Director

This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.923/2016 dated 02-09-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

Being aggrieved and dissatisfied with the Valuation Ruling No.923 of 2016 dated 3rd September, 2016, we beg to file this review application under Section 25D of the Custom's Act, 1969 (IV of 1969) on the following cogent fact and grounds whereby this Honorable Directorate of General of Valuation, Custom House, Karachi is requested to ponder into the matter and a revised Valuation Ruling may please be issued in terms of the Section 25D of the Customs Act, 1969 (IV of 1969).

3. That the applicant has a Proprietorship business in the name and style of Kasheef Corporation Shop No.26-27, Badar Centre, 86- Railway Road, Lahore. The Applicant having NTN No 0275909-3 and STRN 12-20-999 196-28 is Importer of Industrial Rubber V-Belts.

4. That through this application the applicant prays, that this Honorable Directorate General of Customs Valuation may be graciously pleased to revise, inter-alia, on the following grievances arising out of the impugned valuation ruling 923/2016 dated 03.9.2016 issued vide C.No Misc/54/2011-III/9380 by the Director of Customs Valuation, Customs House, Karachi.

5. Brief facts of the review application are the applicant is one of the biggest importers of Industrial Rubber V-Belts in Pakistan for the last 20 years. That the impugned Valuation Ruling No. 923 of 2016 dated 03.9.2016 issued by the Director Valuation, Customs House, Karachi is repugnant to the Values of natural justice without taking into account the consideration of the market value and input of the pioneers importers of the country which is beyond the scope of section 25A of the Customs Act, 1969 (IV of 1969) hence denied and it is prayed that the impugned Valuation Ruling may please be revised at earliest to help meet the values of natural justice and requirement of the statutes mentioned hereinabove. That vide valuation ruling No. 359 of 2011 dated 26.7.2011 the values of the Industrial Rubber V-Belts were fixed as under:

Customs Valuation Ruling No. 359 of 2011 dated 26.7.2011

S.No	HS Code	Description	Origin	Customs Value (C & F)
(1)	(2)	(3)	(4)	(5)
1	4010.3190 4010.3290 4010.1200	Industrial Rubber V-Belts	China Other Origins	US Dollar 1.80/Kg US Dollars 1.98/Kg
2	4010.1900 4010.1100	Industrial Rubber Conveyor-Belts	China Other Origins	US Dollars 1.42/Kg US Dollars 1.56/Kg
3	4010/1190	Industrial Rubber Hose Pipe	China Other Origins	US Dollars 1.00/Kg US Dollars 1.11/Kg

6. That after an elapse of almost 05 years the values are re determined under section 25A of the Customs Act, 1969 (IV of 1969) by the Director Valuation, Custom House, Karachi redetermined vide impugned valuation ruling No.923 of 2016 dated 03.9.2016 without taking market values consideration and consultation with the major importers which is not in consonance with the provisions of the law as enunciated in the section 25A of the Customs Act, 1969 (IV of 1969) and values of the natural justice. Hence, the said re determination is causing great discomfort and increased the cost of doing business to the Importers of the Industrial Rubber V- Belts for which redressal of the above is sought to revise the same under section 25D of the Customs Act, 1969.

Customs valuation ruling 923 of 2016 dated 03.9.20 16.

S.No	Description of Goods	PCT Heading	Proposed PCT for WeBOC	Origin	Customs Value (C&F) USD/Kg
(1)	(2)	(3)	(4)	(5)	(6)
1	Industrial Rubber V-Belts	4010.3190 4010.3290	4010.3190.1100 4010.3290.1000	China Others	2.05 2.30
2	Industrial Rubber Conveyor Belts	4010.1100 4010.1200 4010.1900	4010.1100.1000 4010.1200.1000 4010.1900.1000	China Others	1.70 1.87
3	Industrial Rubber Hose Pipe	4009.1190	4009.1190.1000	China Others	1.20 1.35

7. That the above increase in the valuation of Industrial Rubber V-Belts is without any cogent justification hence may please be revised on the following grounds mentioned hereunder:

Grounds

8. That we are a leading importer of industrial rubber V-belts and unfortunately we feel regretted that we the most relevant and pioneer importer of this commodity were not invited in the meeting. Reference to the letter Misc./54/2011-111/9285, we are pleased to provide few justifications below to highlight that the process of Rubber V-belts in international market are much lower than the ruling fixed by Pakistan customs , and revision of the ruling on the basis of evidences attached herewith.

- (i) Copy of our sales agreement attached showing our purchasing price of Doncila V-Belt
- (ii) Copies of our previous released letter of credits (L/C's) attached to check our original buying prices as well as the payment swift copies made by IFDBC enclosed to amount \$1300/ton
- (iii) That the Complete literature and composition of raw material attached.
- (iv) Elementary raw material of Doncila V-belt includes recycle rubber, polyester cord, carbon black etc. prices of these materials are reduced in international market and it automatically reduced the manufacturing cost. (Samples of raw material and belt also submitted for their verification).
- (v) By different demand and composition of above raw materials. The selling price of V-Belt raves between \$900/ton \$1300/ton and so on as per their composition. A V-belt price also varies with their origins like Europe, USA, Korea, Thailand, Taiwan and China. Our attached bank documents also verified the same.
- (vi) Attached Purchase and registered sales invoices can also give you an authentic source of our buying and selling prices and to prove high competition for importer in local market.
- (vii) As we always declare that our buying of Doncila V-belt is not more than \$1300/ton FOB, we are always ready to offer these goods to sell 10% loading. And not only for current shipment but we can contract this price on yearly basis.
- (viii) That China export declaration and customs data can also be provided on request and providing time frame by your good self. China exporters achieve 9-13 % rebate on exports so they always show their actual prices in export declaration.
- (ix) That we will be pleased to provide china export declaration for our every shipment in future consignments if required.
- (x) The new valuation ruling is devoid of material fact, that the A,B,C & D qualities of the V-Belts were ignored hence the valuation ruling need to be modified keeping in view of the actual state of affairs (Sample Attached).
- (xi) That our V-Belt is manufactured from recycle materials and the qualities of the recycles V Belts (Doncila) are ignored in this valuation ruling.



(xii) The determination under section 25A is subject to revision by the Director-General Valuation under section 25D, and the latter's decision is now appealable to the Appellate Tribunal (PTCL 2014 CL 537).

9. It is for the preparation of valuation advice that the provisions of section 25 have been made mandatory--Section 25A is a non obstante clause and it supersedes the procedure provided in section 25 so far as the formation of an advice is concerned. This Court also does not have any hesitation in agreeing with the learned Legal Advisor that it is for the preparation of the said valuation advice that the provisions of section 25 have been made mandatory (PTCL 2008 CL 409).

10. Language of section 25 is mandatory and it requires the department to follow step by step for the purpose of determining value and if there is no, result coming out then they may avail the remedy under section 25-A (PTCL 2008 CL 457).

11. Valuation Ruling without reasoning.- Where the customs authorities have given valuation ruling without reasoning, without mentioning as to how they reached that conclusion and without giving opportunity of being heard, the ruling cannot be sustained (PTCL 2008 CL 457).

12. Valuation advices issued before insertion of section 25A and after its repeal.-Valuation advices issued before insertion of section 25A and after its repeal without such power being available are without any sanctity and strength and have no legal basis (PTCL 2008 CL 409).

13. Classification of provisions of Section 25A (1). The provisions of section 25A (1) can be classified in the following manner:-

(i) That it is a non obstante clause, hence it supersedes section 25, "Person" mentioned in Section 25-A.-Person mentioned in Section 25A does not mean only the concerned importer. It includes even a third person it can even be a person who is otherwise aggrieved for the reason of inaction of department in such cases. (PTCL 2008 CL 409).

(ii) "Person" mentioned in Section 25-A.-Person mentioned in Section 25A does not mean only the concerned importer. It includes even a third person it can even be a person who is otherwise aggrieved for the reason of inaction of department in such cases. (PTCL 2008 CL 409).

"Person" mentioned in Section 25-A. Person mentioned in Section 25A does not mean only the concerned importer. It includes even a third person it can even be a person who is otherwise aggrieved for the reason of inaction of department in such cases. (PTCL 2008 CL 409).

Valuation Ruling without reasoning. Where the customs authorities.

(iii) That the Director of Customs Valuation can prepare the same on request of a person.

(iv) That while preparing such advices, the sequential order provided under section 25 shall be followed (PTCL 2008 CL.409).

14. That the release of the above goods on valuation ruling 359/2011, dated 26.07.2011 are being allowed for the last several years without any hindrance by the Customs Authorities. We may add that the Islamic Republic has long accepted the grand norms that it will allow its own Importers to survive,



by cascading effect. The non-issuance of the revised valuation ruling in question is wholly destructive of the said solemn promise of the state it is submitted with great respect.

Prayers

15. In the light of the above mentioned cogent facts and grounds it is prayed:
- That the impugned valuation ruling No 923 of 2016 may please be revised in terms of Section 25D of the Customs Act, 1969 (IV of 1969).
 - That a revised valuation ruling may please be issued to safeguard the interest of the importers of Industrial Rubber V-Belts.
 - Any other better relief which this Honorable Directorate General of Valuation may deem fit in the matter.
 - Prayer is made in the interest of natural justice.

ORDER

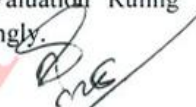
16. Hearings in this case were fixed on 30-09-2016 and 13-10-2016. The commercial importer Mr. Kashif Riaz and an Advocate Mr. Aijaz Qureshi appeared on 30-09-2016 and stated that last Valuation Ruling No.923/2016 was issued on 02-09-2016. The importer (Mr. Kashif Riaz) stated that they were not invited during the processing and meetings of Valuation Ruling and increased the customs values illogically instead of decreasing. The petitioner suggested that for determination of its value at US\$ 1.30/kg is more appropriate. The importer offered that they are ready to supply at US\$ 1.30/kg + 10% profit for next one year. They stated that different grades / quantities are being imported, how can highest the lowest quality be equated. The importer provided sales tax paid invoices which work out at US\$ 1.65/kg C&F and they are selling at Rs.295/kg another importer gave its local sales tax invoice showing Rs.3 06/kg which was worked out at US\$ 1.70/kg after excluding duty / taxes. Respondent Department submitted that values of the subject item based on market survey and Zaubha data which revealed at US\$ 2.72/kg to \$ 2.73/kg market survey was conducted from opposite Sindh Madressa, from whole sale/retail market and obtained one piece at Rs.65/piece (weighing 140 grams) and Rs.50/piece (weighing 105 grams).

17. The value of BNR (Acrylonitrile butadiene) is US\$ 1.75/kg. The importer also produced copy of GD of Chinese customs. Principal Appraiser of the group said that 26 parties were invited but only one party came in appeal and rest 25 importers did not file appeal. He said that more weight will produce more low quality product. The importer produced prime quality belt of NBR is elastic and come to its original place after pressing. On the other hand, low quality V-Belt remains at its same place after pressing. He said that different qualities can be differentiated. This aspect was checked from market survey and observed that there are more than 15 brands available in market which may change time to time and no exact description is available in respect of re-cycled material or fresh material. The rubber V-Belt is however, sold in market as per size and end use and not according to material.



18. The petitioner's main contention is that they are importing low quality "Rubber V Belt" (Industrial) but they could not produce any corroboratory evidential documents in support of their claim. Moreover, industrial V Belts should meet the standards and same could not be treated as sub-standard for valuation purpose without any substantive documents.

19. In view of the foregoing facts, I have concluded that the customs values were determined by the respondent department after examining the import data, online prices from international websites and by analyzing all other information. The customs values have been determined on factual genuine basis after producing ample opportunity to all stakeholders. Therefore, the Valuation Ruling No.923/2016 dated 03-09-2016 is maintained and revision petition is rejected accordingly.


(Syed Tanvir Ahmad)
Director General

Registered copy to:

M/s Kasheef Corporation,
Shop No. 26-27, Badar Centre 86, Railway Road, Lahore.

M/s Japan Belt House
20-Munir Centre, near Karachi Chamber of Commerce & Industry, 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)/ Appraisalment (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.