

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/920/2016

Dated: 11/11 November, 2016

**Order in Revision No. 264/2016 under section 25-D of the Customs Act, 1969
against Valuation Ruling No.926/2016 dated 08-09-2016**

- 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. Carewell Traders & Others

PETITIONER

Director, Customs Valuation, Karachi

RESPONDENT

Date (s) of hearing

05-10-2016

For the Petitioners

Mr. Adeel Awan Advocate
Mr. Zia ur Rehman M/s Mass Textile
Mr. Arshad Gulzar M/s Waris Sharif & Co.

For the Respondent

Mr. Abdul Majeed, Assistant Director
Mr. Allison Stephen, Principal Appraiser

This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.926/2016 dated 08-09-2016 issued under section 25-A of the Customs Act, 1969 inter alia, on the following grounds:

2. That earlier, valuation ruling bearing No.428/2012 dated 13.02.2012 was in vogue, whereas the respondent above named, in absence of lawful justification, frustrated the Customs value structure of the "Woven Interlining Buckram" under the false and frivolous complaint of a local manufacturer.

3. That the customs values of woven interlining buckram material (classifiable under HS Code 5901) was enhanced arbitrarily by the respondent, in absence of lawful justification, legal basis, facts and laws of the case under apparent non-bonafides for undue enrichment. The detail read (per kg in US\$) as under:

- i. China Origin (Black) enhanced from US\$ 3.12 to US\$ 5.14
- ii. Korea Origin (Black) enhanced from US\$ 3.62 to US\$ 5.65
- iii. Other Origins (Black) enhanced from US\$ 3.21 to US\$ 5.75

- i. China Origin (White) enhanced from US\$ 2.96 to US\$ 4.90
- ii. Korea Origin (White) enhanced from US\$ 3.51 to US\$ 5.39
- iii. Other Origins (White) enhanced from US\$ 3.12 to US\$ 5.49

4. That the major component raw materials of the woven interlining buckram are (a) cotton fabric and (b) glue coating. The prices of both the components have been going downwards internationally. The respondent not only avoided norms of transparency, but also norms of natural justice and passed the impugned valuation ruling, behind back of the applicant.

5. That, on the other hand, the respondent first time included non-woven interlining buckram material in the impugned valuation ruling. The component raw material is polyester fibre (constituent materials PTA AMD MEG). At the crucial period, as defined under Rule 107(a) of the Customs Rules (when the impugned valuation ruling was framed), the international

6. That the customs values of non-woven interlining buckram material (classifiable under HS Code 5603) was framed arbitrarily by the respondent, in absence of lawful justification, legal basis, facts and laws of the case under apparent non-bonafides for undue enrichment. The detail of the same reads (per Kg in US\$) as under:

- i) China Origin (Black) at US\$ 3.63
- ii) Korea Origin (Black) at US\$ 5.09
- iii) Other Origins (Black) at US\$ 5.19
- i) China Origin (White) at US\$ 4.41
- ii) Korea Origin (White) at US\$ 4.84
- iii) Other Origins (Black) at US\$ 4.94



7. That the impugned valuation ruling has been framed in clear disregard to the legal dictates on various counts and dis-obedience to the sequential method as provided under the law. No documentary evidences have been provided to the stakeholders/importers in support of the contentions raised therein, neither any calculations of Fall Back Method, as contended in para 5 of the impugned valuation ruling, has been provided by the respondent above-named.

8. That the respondent above-named failed to abide by the norm of 'audi alteram partem' and 'natural justice' as no opportunity of being heard in person was provided to the applicant above-named at the time of framing impugned valuation ruling, which warrants to be annulled and remanded back for fresh investigation and determination of customs values on this count alone, as per transaction values.

9. That the said valuation ruling is nothing but bad, void, arbitrary attempt and deception with the facts and law of the case, which is in clear disregard to the mandates of section 25, 25-A of the Customs Act, 1969, as well as enunciated principles of law under the mandate of Article 189, 201 and 10-A of the constitution of Islamic Republic of Pakistan. It is, therefore, humbly prayed that kindly pass an order as to annul the impugned valuation ruling and directions may please be passed for redetermination of the customs values as per transaction values thereof after giving proper and fair opportunity of being heard to all the stakeholders on the basis of

evidences/contentions by the applicants above-named. The prayer is being made in the interest of justice.

10. 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:

Parawise Comments.

1. Interlining fusible woven (buckram) falls under H.S. Code No. 5901.1000, 5901.9010 and 5901.9090, attracting custom duty @ 20%, S/tax @ 1% and I/Tax @ 6%, there are two types of Buckram (i) Woven and (ii) Non-Woven. Non-Woven falls under H.S. code 5603.1100 and 5903.1200 Customs duty @ 16%, S/Tax @ 1% and I/Tax @ 6%.
 - (i) Woven Buckram is based on 80% cotton and 20% polyester + H.D.P.E. for which ruling was issued in 2012 @ U.S\$ 2.96/Kg for white and U.S\$ 3.51/Kg Korea and for (black Color) China @ U.S\$ 3.12/Kg and Korea (Black) U.S\$ 3.62/Kg. (covering 5 meters = 1Kg).
 - (ii) Non-Woven Buckram is based on polyester staple Fiber & Plastic + LDPE. No ruling was issued for this item and importers for last 10 years were succeeded in clearance of their consignments from U.S\$ 0.80/Kg to U.S\$ 1.2/Kg and now the same are assessed on US\$ 2/KG till the issuance of existing Valuation Ruling. (Covering average 22 meter in 1Kg. 1 Meter = 45 grams).
2. Five different methods were used for determination of values of said item of woven type (Buckram) i.e.
 - (i) Value worked out from Grey fabric of Un-Finished / Un-dyed / Un-Blended.
 - (ii) Prices from Zauba Import Data.
 - (iii) Prices received from different suppliers of China.
 - (iv) Prices / Working by local manufacturer.
 - (v) Market selling prices and work out prices by V.O.
3. Two different methods were taken for determination of prices for Non-Woven (Buckram).
 - (i) Working from Raw Material.
 - (ii) Zauba Data.
4. After Detailed working / calculations, the said values were determined (Copies of the working sheets are enclosed).

FACT

1. Needs no comments being introduction of the importer.

2. Denied: Earlier Valuation Ruling No. 428/12 Dated 13-2-2012, was more than four years old and need was felt to revise the said values, as per International prevailing prices. Moreover a local manufacturer M/s. Aruj Industries has also lodged a complaint of under invoicing subject item fully, supported by evidential documents on records. These two basis prompted an exercise for revision of earlier Valuation Ruling by this office.
3. Denied: Subject valuation ruling of woven interlining buckram material is not issued arbitrarily by the department but the said values were determined after discussion / proposal by different importers and local manufacturers vide meeting held on 12-8-2016, 19-8-2016 and 29-8-2016 wherein both the local manufacturer as well as the importers participated. After taking in to consideration the stakeholders contention and data available on records the values were determined which are well within the parameters of law and legal frame work as provided under section 25(9) of the Custom Act, 1969.
4. Needs no comments as related to Clearance Collectorate.
5. Denied: Beside raw material i.e. Cotton Fabric and Glue Coating, these also include polyester and High density poly ethylene and thereafter there are 10 stages till packing of goods. This factor has also been considered while determining the values of said product.
6. Needs no comments as relates to clearance Collectorate.
7. Denied: Allow to release the goods on provisional basis is domain of clearance Collectorate and not Valuation Directorate.
8. Denied: Allow to release the goods on provisional basis is domain of clearance Collectorate and not Valuation Directorate.
9. Needs no comments release to order by the Hon'able High Court.
10. Denied: No Ruling for Non-Woven Interlining Buckram was in field and for the last 10 years the subject goods were assessed @ U.S\$ 0.80/ KG to US\$ 1.20/Kg and now the same are assessed on U.S\$ 2/Kg against D.Vs of U.S\$ 0.80/Kg to U.S\$ 1.20/Kg. Because of heavily under invoiced values it was necessary to safe guard the government exchequer by determining fair values for this item. Moreover, the raw material of said item is polyester staple fiber with addition of Plastic and low density Poly ethylene with the same 10 process stages till packing of these goods. International price available over internet data, market prices etc. were studied and thereafter the values for this new item which also belongs to same family of interlining material was determined in accordance to the statutory promised as envisaged under section 25-A of the Custom Act 1969. .
11. Denied: Decision of the review filed by the importers is still awaited no order has been passed as yet by worthy Director General. The importer shall wait for the decision.



GROUNDS

- A. Denied: The said valuation ruling is issued well within the legal frame work and within the jurisdiction laid down in Custom's Act, 1969 in sequential method laid down in section 25 of the Custom Act, 1969. On the basis of documentary evidences available on records.
- B. Denied: Three meetings were held in the chamber of Director Valuation wherein the Local manufacturer as well Importers participated and put-forth their point of view. Director Valuation after considering their point of view and keeping in view the evidences placed on records values were determined.
- C. Denied: The said ruling is well within the parameters of law as per section 25 and 25A of the Custom Act, 1969.
- D. Denied: The said ruling is well within the parameters of law as per section 25 and 25A of the Custom Act, 1969.
- E. Denied: The said valuation ruling No. 926/2016. Dated 8-9-2016 is self speaking and para (5) of the valuation ruling describe the method adopted to determine the customs value.
- F. Denied: The values were determined keeping in view the raw material working, international prices over internet and data. Prices received from different Chinese supplies of said goods prices forwarded by local manufacturer etc. and therefore reliance was placed on fall back method as provided U/S 25 (9) of the Customs Act 1969.
- G. The said case is lying for decision with worthy Director General Valuation Karachi and orders for fresh market enquiry for both type of i.e. woven + non-woven has been ordered moreover ordered has been given for fresh international prices keeping in view quantity factor.

PRAYER

11. It is therefore, respectfully prayed on behalf of the respondents that this Honorable Court may allow the said ruling to hold the field tell decision by the worthy Director General Valuation orders on this issue.

ORDER

12. The case record and return as well as verbal submission of the petitioners were examined in detail. The main contention of the petitioners was that the customs values of woven and non-woven interlining buckram material was enhanced arbitrarily by the respondent in absence of lawful justification, legal base, facts gross of the base under apparent non-bonafides for undue enrichment. They demanded for fresh market inquiry from neutral person. The request of the petitioners was acceded to and orders for fresh market inquiry was conducted, which showed downward prices then the values determined in the valuation ruling. It was discussed that a local manufacturer M/s Mundia Exports, Karachi is manufacturing this item. His costing of the prices

of the items i.e. non-woven interlining buckram material may be considered. The said local manufacturer was called upon on 25.10.2016 to discuss material and expenses on manufacturing of said goods. The local manufacturer also brought a new item Polypropylene Spun Bond Fabric imported from China/India Non-woven and stated that this item is assessed at a lower rate US\$ 2.00/kg under the garb of guideline issued by the clearance Collectorate. They requested to determine the values of said item immediately to save the government revenue and industry.

13. In view of the contention and submissions of local manufacturers M/s Aruj Industries Ltd. Lahore for Woven and M/s Mundia Exports, Karachi for Non-woven fabric and the working of the department following values are re-determined of the following goods:-

| S.No. | Description of Goods | PCT | Proposed PCT for WeBOC | Origin | Customs Values (C&F) US\$ / Kg |
|-------|--|-----------|------------------------|------------------------------|--------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 01 | Woven Interlining Buckram Material (Black) | 5901.1000 | 5901.1000.1000 | China | 4.90 |
| | | 5901.9010 | 5901.9010.1000 | Korea | 5.40 |
| | | 5901.9090 | 5901.9090.1000 | Others | 5.50 |
| 02 | Woven Interlining Buckram Material (White) | 5901.1000 | 5901.1000.1100 | China | 4.65 |
| | | 5901.9010 | 5901.9010.1100 | Korea | 5.10 |
| | | 5901.9090 | 5901.9090.1100 | Others | 5.20 |
| 03 | Non-Woven Interlining Buckram Material (Black) | 5603.1100 | 5603.1100.1000 | China | 4.17 |
| | | 5603.1200 | 5603.1200.1000 | Korea | 4.63 |
| | | | | Others | 4.73 |
| 04 | Non-Woven Interlining Buckram Material (White) | 5603.1100 | 5603.1100.1100 | China | 3.95 |
| | | 5603.1200 | 5603.1200.1100 | Korea | 4.38 |
| | | | | Others | 4.48 |
| 05 | Non-Woven Polypropylene Spun Bond Fabric | 5603.1100 | 5603.1100.1200 | China/India/Vietnam/Far East | 4.10 |
| | | 5603.1200 | 5603.1200.1200 | Others | 4.53 |

14. Being identical on facts and law point, this order shall also apply mutatis mutandis to the following (31) petitions.

| S # | Petitioners' Name | File No. |
|-----|--------------------------------------|-----------------------|
| 1. | M/s Recycle Corporation | DG(V)Val.Rev/919/2016 |
| 2. | M/s Kheewa & Sons | DG(V)Val.Rev/919/2016 |
| 3. | M/s Dawn Trading Company | DG(V)Val.Rev/919/2016 |
| 4. | M/s Fine Traders | DG(V)Val.Rev/919/2016 |
| 5. | M/s MH Lace works | DG(V)Val.Rev/919/2016 |
| 6. | M/s Waris Sharif & Co. | DG(V)Val.Rev/919/2016 |
| 7. | M/s Diamond Home Textile (Pvt.) Ltd. | DG(V)Val.Rev/919/2016 |
| 8. | M/s Farhat Corporation | DG(V)Val.Rev/919/2016 |
| 9. | M/s Paragon Enterprises | DG(V)Val.Rev/919/2016 |
| 10. | M/s Horizon Enterprises | DG(V)Val.Rev/920/2016 |

| | | |
|-----|---------------------------------------|-----------------------|
| 11. | M/s Dawn Trading Company | DG(V)Val.Rev/920/2016 |
| 12. | M/s A.A Interlining | DG(V)Val.Rev/920/2016 |
| 13. | M/s Garment Accessories Importer/Exp. | DG(V)Val.Rev/920/2016 |
| 14. | M/s Royal Business International | DG(V)Val.Rev/920/2016 |
| 15. | M/s Pakistan Fabric | DG(V)Val.Rev/920/2016 |
| 16. | M/s Latif Buckram Store | DG(V)Val.Rev/920/2016 |
| 17. | M/s Amir Brothers | DG(V)Val.Rev/920/2016 |
| 18. | M/s Qadri Trading Company | DG(V)Val.Rev/920/2016 |
| 19. | M/s Fine Traders | DG(V)Val.Rev/920/2016 |
| 20. | M/s Ihsan & Sons | DG(V)Val.Rev/920/2016 |
| 21. | M/s Modern Machinery Corporation | DG(V)Val.Rev/920/2016 |
| 22. | M/s Al-Samad Traders | DG(V)Val.Rev/929/2016 |
| 23. | M/s Abdul Slam Traders | |
| 24. | M/s Abdul Ahad Traders | |
| 25. | M/s Hasan Enterprises | DG(V)Val.Rev/930/2016 |
| 26. | M/s Paramount Lace | |
| 27. | M/s Fine Industries Pvt. Ltd | |
| 28. | M/s I.T. Impex | DG(V)Val.Rev/920/2016 |
| 29. | M/s Alpha Trading Co. | DG(V)Val.Rev/920/2016 |
| 30. | M/s Mas Textiles | DG(V)Val.Rev/920/2016 |
| 31. | M/s S.S. International | DG(V)Val.Rev/920/2016 |



(Syed Tanvir Ahmad)
Director General

Registered copy to:

M/s. Al-Samad Traders
M/s. I.T. Impex
M/s. Fine Traders
M/s. Alpha Trading Co.
M/s Pak Fabrics
M/s Latif Bukram Store
M/s Amir Brother
M/s Qadri Trading Co.
M/s Ihsan & Sons
M/s Modern Machinery Corp.
M/s Royal Business International
M/s Carewell Traders
M/s Horizon Enterprises
M/s Dawn Trading Co.
M/s A.A. Interlining
M/s. Mas Textiles
M/s. S. S. International
M/s Garments Accessories Importers/Exporters Mfg. Association
Through M/s Awan Law Associates
Office # 411, 4th floor, Commerce Center, Hasrat Mohani Road,
Off: I.I.Chundrigar Road, Karachi

M/s. Abdul Salam Traders,
13-H, Afghani Road, Saman Abad, Lahore.

M/s. Abdul Ahad Traders,
29/E, Pir Bakhsh Plaza, Near Plastic Market,
Shahalam, Lahore.

M/s. Hassan Enterprises,
51-B, Lalazar Colony, D.C. Road, Gujranwala.

M/s. Recycle Corporation
506-A, Peoples Colony No.2, Faisalabad.

M/s. Kheewa & Sons,
1st Floor, Room No.2, Bahadur Shah Market,
M.A. Jinnah Road, Karachi.

M/s. M.H Lace Works,
D-177, SITE, Karachi.

M/s Aruj Industries Ltd.
2-KM Office Raiwind, Manga Road, Raiwind, Lahore

M/s Fine Industries (Pvt.) Ltd.
71/A- Industrial Estate, Sargodha Road, Faisalabad.

M/s. Paramount Lace,
Off No.104, Adamjee Dawood Road, Karachi-74000.

M/s Waris Sharif & Co.
Bantwa Centre, Bombay Bazar, Karachi.

M/s Paragon Enterprises
Khurshid Bai Building, Mansfield Street,
Saddar, Karachi

M/s Farhat Corporation
Through Expert Law Associate
Office No.4, Ground floor, Golden Heights,
Opp: Custom House, Karachi

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisement (South)/Enforcement, Karachi/
(North) Islamabad/ (Central) Lahore.
3. Collector, MCC Appraisement (East/West)/Port M. Bin Qasim/ Preventive, Karachi.
4. Collector, MCC, Appraisement/Preventive, Lahore/Quetta/Peshawar/Faisalabad/
Sambrial/Multan/Hyderabad/Islamabad/Gilgit-Baltistan/Gawadar.
5. Director, Customs Valuation, Karachi/Lahore.