

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/926/2016

Dated:10<sup>th</sup> October, 2016

**Order in Revision No. 251 /2016 under section 25-D of the Customs Act, 1969**  
**against Valuation Ruling No.930/2016 dated 20-09-2016**

- 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 Dhanani Enterprises & Others

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date (s) of hearing

02-09-2016, 15-08-2016 & 26-09-2016

For the Petitioners

Mr. Shahbaz Hussain

Mr. Tariq Mahmood

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.930/2016 dated 20-09-2016 issued under section 25-A of the Customs Act, 1969 inter alia, on the following grounds:

2. Being arrived by and dissatisfied with the impugned Valuation Ruling No. 930/2016 dated 20-09-016 (Annexed-A) issued by the Director of Customs Valuation, the Directorate General of Customs Valuation, Karachi is being issued arbitrary, incorrect, injustice and illegal, the Petitioner being affected person who is the importer of the goods Abrasive Grinding Wheel, Abrasive Cutting Disc. This revision petition and prayed that this Hon'able authority would be pleased exercise of power envisaged under section 25-D of the Customs Act, 1969, your honor may set aside the impugned valuation ruling, wherein determination of customs value without following the spirit of law as having no legality. It is also requested your honor of revision of correct valuation ruling on the following grounds as well as grant of interim relief for provisional

release under Section 81 of the Customs Act, 1969, in the light of Honorable High Court's judgment order dated 10-11-2015 vide CP No. D-6918/2015:-

3. That the Petitioner is a registered person and importer of " Abrasive Grinding Wheel, Abrasive Cutting Disc" who is an affected and aggrieved person from impugned Valuation Ruling No. 930/2016 dated 20-09-2016 wherein customs value of subject goods has been determined for assessment vide Valuation Ruling No. 930/2016 dated 20-09-2016 are as, Abrasive Grinding Wheel value fixed at US\$ 2.05 for China origin and US\$ 2.25 for other origin, secondly Abrasive Grinding Cutting Disc value fixed at US\$ 1.70 China origin and US\$ 2.20 for other than China origin which much on higher side in the light of prices prevailing in the International market. Hence, this revision petition is being filed in exercise of Petitioner's right to challenge the Ruling, determined under section 25-A of the Customs Act, 1969.

4. That in consequences of the impugned valuation ruling the actual declared transactional value is ranging from US\$ 0.55/Kg to US\$ 0.90/Kg. It is pertinent to mention here that previous valuation ruling No. 401/2011 dated 25-11-2011 were "Abrasive Grinding Wheel , US\$ 1.50/kg China origin and US\$ 1.80/kg other origin, and "Abrasive Grinding Cutting Disc vt US\$ 1.27/kg China origin and US\$ 1.53 for other than China origin which were also on higher side when we compare with the current international prices.

5. As your honor previous valuation ruling as mentioned in above para was already on higher than actual prevailing prices in the international market, we have suppressed/curbed with more burden of loading by issuing impugned valuation ruling No. 930/2016 dated 20-09-2016. Moreover, impugned valuation ruling is arbitrary and unacceptable to the importer's association of Pakistan Hardware Merchants Association, (Northern Zone) sir, now importers are not able to import and get cleared their consignments on the basis of said impugned valuation ruling.

6. That the values have been determined without examining the facts and import data as huge decline and downward trend in the prices of International market. It is pertinent to mention here that the Association of Hardware Merchants were not called for meeting and not a single letter for meeting is being received. The valuation ruling is being issued in very hurriedly, hitching and rapidly without and contention of the stakeholders.

7. That it is apparently on record that the prices of raw material of subject goods has been reduced in the international market by about 20 to 30% while value of subjected goods has been determined exactly contrary to the actual facts, by increasing impugned custom values more or less 35% to 45% which is arbitrary and unjustified.

8. That the above contentions as submitted by the importer's associations, Respondent No.2 may be directed to release the consignments provisionally under section 81 of the Customs Act, 1969 till the decision/ review order of the impugned Valuation Ruling in the light of Hon'able High Court of Sindh judgments order in Sadia Jabbar case v/s Federation of Pakistan (PTCL 2014 CL 537) and Rehan Umer v/s Collector of Customers (2006 PTD 909).





GROUNDS

9. That the impugned Valuation Ruling has been issued without considering the factual position of the case and scrutinizing the import data available with customs under section 25(i) and 25(5)/(6) of Customs Act, 1969 and also ruling is not a speaking order and is violative of Section 24 A of the General Clauses Act, 1897 which is completely mala fide, arbitrary, void ab-initio, illegal and without jurisdiction and of no legal effect.

10. That the impugned Valuation Ruling has been issued without considering the factual position of the case and scrutinizing the import data available with customs under section 25(i) and 25(5)/(6) of Customs Act, 1969 and also ruling is not a speaking order and is violative of Section 24 A of the General Clauses Act, 1897 which is completely mala fide, arbitrary, void ab-initio, illegal and without jurisdiction and of no legal effect.

11. That the impugned Valuation Ruling has been issued without considering the factual position of the case and scrutinizing the import data available with customs under section 25(i) and 25(5)/(6) of Customs Act, 1969 and also ruling is not a speaking order and is violative of Section 24 A of the General Clauses Act, 1897 which is completely mala fide, arbitrary, void ab-initio, illegal and without jurisdiction and of no legal effect.

12. That methodology adopted in the impugned Valuation Ruling is contrary to the law and provision of Section 25 and against the guidelines given by the Hon'able High Court of Sindh Karachi in its hall mark judgments Sadia Jabbar v/s Federation of Pakistan (PTCL 2014 CL 537) and Rehan Umer v/s Collector of Customs (2006 PTD 909). Therefore, impugned Ruling and determination of value are ab initio arbitrary void, illegal and without jurisdiction and of no legal effect having following defects and legalities:-

13. The Respondent has not disclosed that what resources to verify genuines of invoices were required which were found absent and not available with the respondent and why any effort has not been made to make them available to exercise proper jurisdiction of determination under Section 25 (1) read with section 25(A) of the Act, 1969.

14. That the Respondent has not disclosed the reason of non- determination of value of under method provided under sub-Section (5) of Section 25 when it is apparent on customs record/data that transactional value of identical goods sold for export to Pakistan exported at or about the same time as goods being valued was available with the respondent.

15. The respondent has not disclosed the material or evidences on the basis of which the impugned values have been determined u/s 25A.

16. That it is an admitted fact available on record even in the customs records that value of subject goods in the international markets have huge decline/downward trend, but, the impugned value has been determined much on higher side just on the basis of departmental favoritism preferring maximum revenue collection.



17. Under the spirit of section 25A value must be determine transparently by using all methods in headachy manner step by step. But in the instant matter, the Respondent No.1 determined the values in contrary to the spirit of section 25A. They have relied only market survey, under section 25(7) of the act, even market prices are on lower side if that may be applied rightly and may be worked out after allowing all deduction as per law as envisaged under section 25(7) of Customs Act, 1969 even the prices are less than the impugned valuation ruling. The market survey also proved it that benefit of low prices in the International prices have passed on to the consumer. Moreover, the assessment may please be allowed provisionally under section 81 of the Customs Act, 1969 in the light of Hon'able Sindh High Court's judgment in Sadia Jabar v/s federation of Pakistan (PTCL 2014 CL 537).

18. That it is established principle of interpretation of the tax laws is that the plain language of the law is to be applied, A bare perusal of the section 25 shows that it is specifically provided in sub-section (1) of section 25 that the customs value of the imported goods, subject to the provisions of this section and rules shall be transaction value. Hence, the provisions contained in section 25 (1) to (4) contain primary method of valuation and In the first stance the primary method of valuation is mandatory and required to be adopted in each case of valuation (PTCL 2014 CL 537) (2006 PTD 909). But in the impugned ruling the Respondent No.s admittedly has not applied this transactional value method on the basis of some assumption or presumption by stating that resources to verify geniuses of import data available with the department. Hence, the impugned ruling is arbitrary, illegal void ab-intio and without jurisdiction and authority.

19. That the Respondent No.1 has to show that invoice price of the goods is not genuine and did not state the real price paid or payable by the Petitioner Provision contained in Section 25 of Customs Act, 1969 and rules framed there under are code in themselves, so far, the customs valuation of the imported goods in concerned, which are required to be applied and act upon strictly in the manner and method contained therein and no room exist for any deviation from these rules on the part of Customs Authorities.

20. That the petition is being filed within the prescribed limitation period prescribed U/S 25-D of the Act, 1969.

21. That petitioner reserved the right to submit further ground an any evidence in it's support at the time of hearing.

#### PRAYER

22. It is accordingly prayed that this Authority in exercise of review jurisdiction may kindly be pleased to:-

- i. Set aside or modified the impugned Ruling 930/2016 to the extent of goods (Abrasive Grinding & Cutting Disc/Wheel) and declare the impugned determined value US\$ 2.05, 2.25 & 1.70, 2.20 being illegal, arbitrary, invalid and without jurisdiction and lawful authority.




- ii. The respondent No.I would be directed to revised the determined value US\$ 1.70 to US\$ 1.27, US\$ 2.20 to US\$ 1.53, US\$ 2.05 to US\$ 1.50 & US\$ 2.25 to US\$ 1.80.
- iii. If required, the determination would be ordered to be made under section 25(1) or 25(5) of the Customs Act 1969.
- iv. During the pendency of instant review petition the right of provisional release of goods u/s 81 would be allowed in compliance of High Court order dated 10.11.2015 passed in CP D-6918/2015

#### ORDER

23. I have gone through the case. Mr. Tariq Mahmood, Overseas Corporation appeared and stated that the value of Abrasive grinding wheels have been fixed at US\$ 2.05/kg as against US\$ 1.50/kg previously and for cutting disc at US\$ 1.70/kg as again at US\$ 1.27/kg in old VR. He stated that the raw material in Aluminum oxide which is 90-95% and prices of Al<sub>2</sub>O<sub>3</sub> are now US\$ 650/MT.

24. Market survey was again conducted. These are used in surgical industry. The survey revealed that the prices in whole sale market is 15 – 20% lower than fixed in Valuation Ruling. The values on Zaubas website (Indian imports data) are <sup>much</sup> on lower side. Keeping above in view the prices are fixed as under:



S #	Specification of goods	PCT	Proposed PCT for WeBOC	Origin	Customs values (C&F) US\$ /kg
1	Abrasive Grinding Wheel	6804.1000	6804.1000.1000	China	1.70
		6804.2200	6804.2200.1000	Other origins	1.95
2	Abrasive Grinding Cutting Disc	6804.1000	6804.1000.1100	China	1.36
		6804.2200	6804.2200.1000	Other origins	1.80

25. Being identical on facts and law point, this order shall apply mutatis mutandis to the following (21) petitions.

S #	Petitioner Name
1)	M/s Sabir & Sons
2)	M/s Hisham Overseas Corp.
3)	M/s Makkah Traders
4)	M/s H. Sarfraz Crystal Ind.
5)	M/s Olympia Traders
6)	M/s Muqaddas Tools
7)	M/s Saleem Bros
8)	M/s New Light House
9)	M/s J. Habib Ind.
10)	M/s A. K. Traders

11)	M/s John Palmer Senior & Co.
12)	M/s Data Hajveiry Ent
13)	M/s S. A. Enterprises
14)	M/s Al-Anwar Trading
15)	M/s Waqar Tools Company
16)	M/s Sadiq Jahan Pvt Ltd
17)	M/s Talha Traders
18)	M/s M. S. Mansoor
19)	M/s Tahir International
20)	M/s City Gold Ent
21)	M/s Shanghai Tools Co.

  
(Syed Tanvir Ahmad)  
Director General

Registered copy to:

1)	M/s Sabir & Sons
2)	M/s Hisham Overseas Corp.
3)	M/s Makkah Traders
4)	M/s H. Sarfraz Crystal Ind.
5)	M/s Olympia Traders
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18)	M/s M. S. Mansoor
19)	M/s Tahir International
20)	M/s City Gold Ent
21)	M/s Shanghai Tools Co.
22)	M/s Dhanani Ent.



Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisal (South)/Enforcement, Karachi/ (North) Islamabad/ (Central) Lahore.
3. Collector, MCC Appraisal (East/West)/Port M. Bin Qasim/ Preventive, Karachi.
4. Collector, MCC, Appraisal/Preventive, Lahore/Quetta/Peshawar/Faisalabad/ Smbrial/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.