

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/944/2016

Dated: 29 December, 2016

**Order in Revision No. 282/2016 under section 25-D of the Customs Act, 1969**  
**against Valuation Ruling No.932/2016 dated 22-09-2016**

- 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 Madni Traders & Others..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi ..... RESPONDENT

Date(s) of hearing 15-11-2016

For the Petitioners

Mr. M. Naveed A. Hafeez	M/s. Madni Traders
Mr. Muhammad Raza	M/s. Al-Zarki Int.
Mr. Qazafi Ikram	M/s. Qazafi Enterprises
Mr. Asad Hussain	M/s. A.S. Traders
Mr. Khizar Hayat	M/s. Jawad Traders
Mr. Asim Hafeez	M/s. D.H. Enterprises
Mr. Ali Pai	M/s. New Paradise Impex
Mr. Siddique Zia	Expert Law Associates
Mr. Kesar Naseem	M/s. IMK Traders
Mr. Khurram	M/s. New Paradise
Mr. Allah Wasaya	M/s. Burma Traders.



For the Respondent

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.932/2016 dated 22-09-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds as reproduced below:

2. Being highly aggrieved by and dissatisfied with the valuation ruling issued by the Respondents, the appellant above named file this review application with the submission that the respondent has issued the subject valuation ruling for Hair Brush and Cleaning / Washing /Sweeping /Dusting and similar kind of brush from China etc. (subject to importability conditions as per IPO) Europe, USA and Canada origin nullity to the provision of section 25 of the Custom Act, 1969 read with Chapter IX of Custom Rules, 2001 and without evaluating the nature of the goods in question and the dictum laid down by superior courts of Pakistan, hence this review before the honorable review authority for decision after consideration of the facts and enumerated herein below.

### FACTS

1. That the appellant is a commercial importer of hair brushes and cleaning / washing / sweeping dusting and similar kind of brushes which he imports from different countries including, China.
2. That the applicant desires to import the said product from different countries and when the respondent was determining the value, the applicant attended different meetings with the suppliers and local buyers and suppliers have agreed to supply the product at different values very less than the value as determined in the valuation rulings as referred above.
3. That the respondent have bluntly refused to accept the transaction value other than the above referred valuation ruling despite of the fact that there are substantiate evidences of value of the goods which act on the part of the respondent is absolutely against the norms of natural justice and so also against the true spirit of provision section 25(1) of the Customs Act, 1969 and Rule 13 of the Customs Rule, 2001.
4. That the transaction values of the applicant are absolutely in accordance with law, fair, just, proper and covering the all aspects of the goods and even the same cannot affect the government of revenue.
5. That it is pertinent to mention here that the valuation rulings as referred above have been determined without consideration of present market situation and without giving any opportunity of meeting of stake holders and as such the same have been determined on the back of the Importers and the same are liable to be reviewed forthwith in the great interest of justice and particularly keeping in view the legitimate revenue of national exchequer, hence this review application, inter alia on the following grounds:

### GROUND

1. That the valuation rulings are referred above does not cover the present fluctuation of prices of international market which have been reduce to about half of the prices and the product of the applicant completely based on international prices.





2. That in support of his stance, it is appropriate of the applicant to add further that the provision of section 25 of the Custom Act, 1969 are to be followed in sequential manner barring certain exceptional cases which massive group under invoices is rampant. It is not possible without exhausting and unfettered indicated in section 25(13), (a) does not give unbridled and unfettered authority to customs administration to play havoc with redundant. Discretion has to be exercised within limits based on reason, rationale and fair play which is specifically provided by the legislature in sub section (10) of section 25 of the Customs Act, 1969 sub section (1) (5) (6) (7) (8) at the Importers request if so agreed by the Collector of Customs as held in judgments.

3. That for the sake of arguments without conceding that the determination made in the ruling is legal, the applicant state that is nullity to the fact and expression and procedure given the relevant provisions of the Customs Act, 1969 and this validated from the working of valuation for determination of applicant to import the different kind of hair brushes and cleaning/washing/sweeping/dusting and similar kind of brushes by deducting the different margins of respective heads which the applicant has to bear prior to selling the goods rendering the contracted price as transactional value within the meaning of section 25(1) of the Customs Act, 1969.

4. The applicant sells the entire goods prior to clearance and at many times the prices of the goods have been increased prior to clearance and the importer has to bear the difference of prices his own.

5. The applicant craves to leave further grounds at the time of hearing besides placing valid incriminating evidences / document with the permissions of your good forum.

#### PRAYER

3. It is therefore, humbly prayed that this revisional authority may be placed to allow the review application by declaring / order that:

(i) The valuation ruling 932 & 933, dated 22-09-2016 have been issued on forced construction of section 25 of the Custom Act, 1969. Hence ab-initio, null and void and is liable to be withdraw forthwith.

(ii) The transaction/declared value of the applicant to the imported goods is deemed to be fair and answer to the expressions of section 25 (1) of the Custom Act, 1969, in Rule 113 of Chapter of the Custom Rules, 2001.

(iii) Any other relief (s) which this honorable revisional authority may deem fit and proper in the circumstances of the case may also be granted.

4. 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:



5. The customs values of different types of Brushes were determined under section 25A of the Customs Act, 1969, of brushes vide Valuation Ruling No.665/2014, dated 31-03-2014. The current valuation ruling requires revision in line with the prevailing prices in the international market. Therefore, this Directorate General initiated an exercise for determination of customs values of hair brushes.

6. Meeting with stakeholders was held on 20-09-2016. Importers had been requested to furnish the following documents before or during the course of meeting:-

- a) Invoices of imports during last three months showing factual value.
- b) Websites, names and E-mail 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.

7. During the meeting, the importers of different kind of brushes stressed that owing two differences in nature and basic types the fresh valuation ruling for hair brushes be separately issued as the same were different kinds/shapes/material and prices than general type of cleaning/dusting brushes. Importers of the hair brushes emphasized that the market inquiry conducted by the department and samples presented at the time of meeting should not be relied upon as the department has purchased hair brushes from retail outlets. They requested that market inquiry shall be conducted from Bolton Market/Marriott Road. The request was acceded too. The importer agreed that work back values obtained from a market inquiry from the market where these brushes are traded will actually reflected correct values. Many samples from venders and shops of Bolton Market/Marriott Road were obtained. The prices varied depending on the quality and material used. The values thus determined in view of section 25 (7) of the Customs Act, 1969.

8. Valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at customs value of different types of hair Brushes. Transaction Value Method provided in Section 25 (1) was found inapplicable owing to wide variation in the values being declared to the customs. Identical/Similar goods valuation methods provided in Sections 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. Stakeholders meeting was also scheduled but during the meeting very divergent point of regarding international market prices was presented.. Consequently, this office conducted market inquiry in terms of Sub-section (7) of Section 25 of the Customs Act, 1969. Accordingly, the customs values of Hair Brushes have been determined under Section 25 (7) of Section 25 of the Customs Act, 1969.





9. Parawise Comments

Facts

Para 1&2 Need no comment being related to introduction of the importers

Para 3 to 5 Denied. It is submitted that the meeting with stakeholders on 20-09-2016, wherein the importers had been requested to furnish the import documents including the 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. But no one furnished the same, however, Valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at customs value of different types of hair Brushes. Transaction Value Method provided in Section 25 (1) was found inapplicable owing to wide variation in the values being declared to the customs. Identical/Similar goods valuation methods provided in Sections 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. Stakeholders meeting was also scheduled but during the meeting very divergent point of regarding international market prices was presented.. Consequently, this office conducted market inquiry in terms of Sub-section (7) of Section 25 of the Customs Act, 1969. Accordingly, the customs values of Hair Brushes have been determined under Section 25 (7) of Section 25 of the Customs Act, 1969.

10. Grounds

Para-1 Denied. The appellant have not furnished any corroboratory documents in support of their contention that international prices have been reduced to about half of the prices.

Para-2 & 3 Denied. It is submitted that valuation methods given in section 25 of the Customs Act, 1969 were followed to arrive at customs value of different types of hair brushes. Transaction value method provided in section 25 (1) was found inapplicable owing to wide variation in the values being declared to the customs. Identical/similar goods valuation methods provided in sections 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. Stakeholders meeting was also scheduled but during the meeting very divergent point of regarding international market prices was presented. Consequently, this office conducted market inquiry in terms of sub-section (7) of section 25 of the Customs Act, 1969. Accordingly, the customs values of hair brushes have been determined under section 25 (7) of section 25 of the Customs Act, 1969.

Para-4 Need no comments being related to selling their goods prior to clearance.



Para-5 Need no comments being related to further grounds at the time hearing.

PRAYER

11. It is respectfully prayed that the customs values strictly, keeping in view the Valuation Methods given in Section 25 of the Customs Act, 1969, but on other side the importer have not furnished the requisite documents particularly, the 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. Moreover, the appellant have not furnished any corroboratory documents in support of their contention with this revision application under Section 25D of the Customs Act, 1969. Accordingly, in the absence of the same the revision application cannot be examined and is liable to be rejected.

ORDER

12. Hearing in this case was fixed on 15-11-2016. The commercial importers of assorted brushes appeared and contended that values of Cleaning / Washing /Sweeping / Dusting brushes of Chinese origin were fixed at US\$ 3.85/kg and other origin at US\$ 5.05/kg vide Valuation Ruling No.933/2016 dated 22-09-2016 which is on higher side. They stated that market inquiry was conducted from big stores whereas all importers/petitioners were from Lahore and requested to conduct market inquiry from, Shah Alam Market, Lahore.

13. On the request of petitioners Director Valuation, Lahore was assigned the inquiry for confirmation through market survey regarding all types of brushes of which customs values have been determined vide Valuation Ruling No.933/2016, hair brushes values determined vide Valuation Ruling No.932/2016 and values of Feeder brushes determined vide Valuation Ruling No.934/2016 dated 22-09-2016. The Directorate of Customs Valuation, Lahore conducted the inquiry of all types of brushes and communicated to the Directorate General Customs Valuation Karachi vide letter dated 21-11-2016. The values determined by the Director Customs Valuation Lahore corresponds with the values determined vide aforesaid valuation rulings. There is no significant difference between the values determined in aforesaid valuation rulings and the same now determined by the Director Customs Valuation, Lahore, through market inquiry from Shah Alam Market, Lahore.

14. In view of the above, I have inferred that customs values were correctly determined by the respondent department after examining the import data, on line prices from international websites and by analyzing all information on record. The customs values have been determined on reasonable basis after providing proper opportunity to all stakeholders as per law. Therefore, the Valuation Ruling .933/2016, 932/2016 and 934/2016 all dated 22-09-2016 are maintained and revision petition is rejected accordingly.

15. Being identical on facts and law point, this order shall apply mutatis mutandis to the following (11) petitions.

S#	Petitioner' Name	File No.
1.	M/s. D.H. Enterprises	DG(V)Val.Rev/943 /2016
2.	M/s. Asian Enterprises	DG(V)Val.Rev/936/2016



3.	M/s. New Paradise Impex	DG(V)Val.Rev/943/2016
4.	M/s. Global Traders	DG(V)Val.Rev/943/2016
5.	M/s. Qazafi Enterprises	DG(V)Val.Rev/943/2016
6.	M/s. Al-Zarki International	DG(V)Val.Rev/938/2016
7.	M/s. Jawwad Traders	DG(V)Val.Rev/938/2016
8.	M/s. Clean Max	DG(V)Val.Rev/938/2016
9.	M/s. ITK Traders	DG(V)Val.Rev/938/2016
10.	M/s. AS Traders	DG(V)Val.Rev/938/2016
11.	C/O Ch.Sakhi Muhammad Adv.	DG(V)Val.Rev/936/2016

(Syed Tanvir Ahmad)  
Director General

Registered copy to:

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128/3 Karim Park Ravi Road, Lahore-54000.

M/s. D.H. Enterprises,  
Room No.9, 1<sup>st</sup> Floor, 6-E, Shafi Centre Shahalam Market, Lahore-54000.

M/s. New Paradise Impex,  
E-198, New Alamgir Market, Shah Alam Gate, Lahore.

M/s. Global Traders,  
B-196, St. 03, Naya Mohalla Bazar, Rawalpindi.

M/s. Qazafi Enterprises,  
99-New Alamgir Market, Shahalam Gate, Lahore.

M/s. Al-Zarki International,  
I/438, Basement Madina Center, Noor Gali I/s Mochi Gate, Lahore.

M/s. Jawwad Traders,  
I/33, Moor Gali Basement, Madina Centre, Inside Mochi Gate, Lahore.

M/s. Asian Enterprises,  
Office Address: 05-Khyber Bazar Peshawar.

M/s. Clean Max,  
House No. 14-6, New Inder Nagar, Behind Lyrics Cinema, Multan Road, Lahore.

M/s. ITK Traders,  
23-S-33, Bank Colony, Multan Road, Lahore.

M/s. AS Traders,  
14/6, New Inder Nagar, behind Lyric Cinema, Lahore.

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisement (South)/Enforcement, Karachi/  
(North) Islamabad/(Central) Lahore.
3. Collector, MCC Appraisement (East)/ Appraisement (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.
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.