

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/933/2016

Dated: 25th January, 2017

**Order in Revision No. 294 /2017 under section 25-D of the Customs Act, 1969
against Valuation Ruling No.936/2016 dated 23-09-2016**

- 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 Forte Pakistan Pvt. Ltd.

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing 10-11-2016

For the Petitioners Mr. Qaiser

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.936/2016 dated 23-09-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. Briefly stated that we, M/s Forte Pakistan, are the reputable manufacturer of Rubber Foam Insulation in Pakistan. That in the instant case previously a valuation ruling bearing No.332/2011 dated 04.06.2011 was in field and the goods were being importing in the country. However, recently a new VR bearing No.936/2016 is issued by the Directorate in absence of the respondent above named and without any lawful justification.

3. That the customs values of rubber foam insulation material (Classifiable under HS Code 4009.1190, 4009.1000, 4009.1100, 4009.1200, 4009.1300 and 1400) was undervalued arbitrarily by the respondent in absence of lawful justification, legal basis, facts and laws of the case under apparent non-bonafides for undue benefit to the commercial importers. The detail is mentioned in the impugned VR US\$ 3.15 to 4.15/kg.



4. That the impugned valuation ruling has been framed in clear disregard to the legal dictates on various customs laws and dis-obedience to the sequential methods as provided under the law. No documentary evidences have been provided to the stakeholder / manufacturer in support of the contention raised therein-, neither any calculation of methods, as contended in para 4 to onward. Off the impugned valuation Ruling, has been provided by the respondent above-named.

5. That the respondent above-named failed to abide by the norm of, audi alteram partem 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 and local market values.

6. 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 mandates of section 25, 25-A of the custom act 1969, as well as enunciated principles of law of the constitution of Islamic Republic of Pakistan and to save the local manufacturer industry, it is therefore humbly prayed that kindly pass an order to annul the impugned Valuation ruling and direction may please be passed for re determination of the Custom values as per transaction values thereof after giving proper and fair opportunity of being heard to all stakeholders the basis of contention of the local manufacturer specifically by the applicants above-named. The prayer is being made in the interest of justice.

7. 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

8. It is briefly stated that Val. Ruling No.936/2016 dated 23.09.2016 was issued under Section 25A of the Customs Act, 1969 after a detail meeting with stakeholders was held on 15.06.2016. The importers were requested to submit their supporting documents i.e. sales tax invoices, test report, literature and proposed working. However, no substantial documents were submitted during meeting. Import data was examined, market enquiry under section 25(7) of the C.A. 1969 was conducted which provided some reference values which considered for determination of customs values of Rubber Foam Insulation Pipe. Enquiry through internet (Zauba) was also conducted after gathering all information the values of Natural Rubber was determined under section 25(9) of the Customs Act, 1969 as per law.

9. It is stated that the contention of importer of decline in prices was also considered and prices in Val. Ruling No. 936/2016 dated 23.09.2016 was reduced 7% to 10% as compared the values of previous Valuation Ruling No. 332/2011 dated 04.06.2011 after detailed enquiry from local market and through internet.

10. In the light of above, it is requested that petition may be rejected on the above stated facts and position.



ORDER

11. Hearing in the case was fixed on 22-11-2016. M/s Forte Pakistan (Pvt) Ltd., the manufacturer of Rubber Foam Insulation in Pakistan filed revision petition against the Valuation Ruling No.936/2016, dated 23-09-2016 and stated that the impugned Valuation Ruling was issued in their absence and issued under-valued arbitrarily in absence of lawful justification for undue benefit to the commercial importers. He further stated that the impugned valuation ruling has been framed in clear disregard to the legal dictates on various customs laws and dis-obedience to the sequential methods as provided under the law. He contended that no documentary evidences have been provided to the stakeholders / manufacturers, neither any calculation of methods nor any opportunity provided to the applicant before issuance of Valuation Ruling. They suggested that values of Rubber Foam Pipe should be determined around US\$ 7.00/kg to US\$ 8.00/kg instead of US\$ 3.15/kg to US\$ 4.15/kg notified in the impugned Valuation Ruling No.936/2016, dated 23-09-2016. M/s Qaiser Mukhtar Brothers also submitted a letter dated 07-11-2016 for inclusion of Turkey by name in the impugned Valuation Ruling. However, he has also not filed review petition under Section 25-D of the Customs Act, 1969. The aforesaid letter was also submitted on 07-11-2016 i.e. after 46 days even if treated a review petition.

12. The Respondent Department was asked to conduct fresh market enquiry through impartial team comprising of two officers to know the genuine and factual position. The Team conducted market enquiry and worked out the prices by work-back value method under section 25(7) of the Customs Act, 1969, ranging from US\$ 3.40/kg to US\$ 4.25/kg which is equal to the customs values determined in the impugned Valuation Ruling No.936/2016, dated 23-09-2016. It reflects that at the time of issuance of impugned Valuation Ruling, market enquiry was conducted in fair and transparent manner after conducting market enquiry and analyzing the import data.

13. I have gone through the record of the case, written and verbal submissions by the petitioners and respondent department. I have inferred that customs values have been determined in proper manner after conducting market enquiry and analyzing the import data and all other relevant information. As regards the inclusion of Turkey by name in the impugned Valuation Ruling, the Director of Customs Valuation is directed to consider this while issuing fresh Valuation Ruling after expiry of 90 days period. Therefore, Valuation Ruling No.936/2016, dated 23-09-2016 is, hereby, maintained and revision petition is rejected.


(Syed Tanvir Ahmad)
Director General

Registered copy to:

M/s Forte Pakistan Pvt. Ltd.
9-A, M.A.M.H.S., Main Shahrah-e-Faisal, Karachi-75350

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisement (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.