

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/941/2016 / 338

Dated: 10<sup>th</sup> February, 2017

**Order in Revision No. 304/2017 under section 25-D of the Customs Act, 1969  
against Valuation Ruling No.937/2016 dated 26-09-2016**

- 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. New Light House (Pvt) Ltd

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing 22-12-2016

For the Petitioners Mr. Khurshid Ahmad

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.937/2016 dated 26-09-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds as reproduced below:

2. Being aggrieved and dissatisfied with the impugned valuation ruling 937, dated 26-09-2016 by Director of Customs Valuation, Karachi, the petitioner being an importer of Calcium Carbide, request your honor to call for records and proceedings of Respondent No.1. More over in exercise of powers conferred by Section 25D of Customs Act, 1969, your Lord ship may set aside the impugned ruling which is arbitrary, incorrect, unjust and illegal and against the spirit of law. It is requested to revise the afore said ruling and in the meantime grant interim relief for provisional release of goods U/s 81-A of the Customs Act, 1990 in the light of Honorable Sindh Hight Court's judgement order dated 10-11-2015 vide CP No. D-6918/2015. (Sadia Jabbar vs Federation of Pakistan).

3. That the petitioner is a registered person and importer of Calcium Carbide and is devastatingly hit by the impugned ruling wherein Calcium Carbide form China, Far East & Mid-East has been revised upward from US\$ 0.681/Kg to 0.007/Kg despite the fact that the price of Calcium Carbide in the international Market is declining. Hence this revision petition is being filed in exercise of petitioner's right conferred upon him vide Section 25(A) of the Act.

4. That the consequential effect of ruling 937, dated 26-09-2016 has led to an hike in the valuation of Calcium Carbide to the extent to US\$ 0.019. It is pertinent to place on record that even in pre-ruling era the import price fixed by Custom Authorities were on a higher side when compared with international market prices. So much so, that even the ruling 418 by your honor on 28<sup>th</sup> January, 2012 was on higher side in contrast to international prices prevailing at that time.

5. In the light of para 2 & 3 supra, it is submitted to your honor that impugned ruling 937, dated 26<sup>th</sup> September, 2016 has suppressed the Lawful Importer with a formidable burden, therefore, the aforesaid valuation ruling being arbitrary is not acceptable to the importers.

6. That the valuation in the ruling under consideration has been determined without examining facts, import data & down ward trend of international market. It is placed on record that the petitioner has never been afforded an opportunity of being heard. Thus the valuation ruling has been issued hurriedly & rapidly without complying with legal formalities.

#### Grounds

7. That the impugned valuation ruling has been issued without taking into account actual facts and scrutinizing import data available with Custom Valuation under Section 25(1), 25(5) and 25(6) of the Customs Act, 1990. Moreover the order is non speaking in Toto and is vocative of Section 24 of General Clauses Act, 1897. Thus the order is completely malafide, arbitrary, void ab-initio illegal and is of no legal effect on account of following discrepancies and illegalities.

- (i) That the respondent just failed to explain as to which factors led him to conclude that veracity of invoices submitted at import stage cannot be ascertained.
- (ii) That the respondent just failed to recognize difference between Glycerin, Ammonium Bi Carbonate, Butyl Acrylate, Liquid Paraffin and Calcium Carbide bearing HS Codes 2905, 4500, 2836.9930, 2916.12003824.9090 & 2849.1000. The market value of Calcium Carbide is entirely different from other Chemicals.
- (iii) That the respondent did not place on record any material evidence of his observation that importers usually provide misleading description while declaring goods which led him to reject method provided U/S 25(5) & (6).
- (iv) The respondent did not explain what caused him to believe that market survey / inquiry cannot be relied upon and thus valuation method cannot be applied.
- (v) The information gathered from PRAL data base, market information, international prices which helped him to arrive at valuation ruling 937, dated 26-09-2016 has not been disclosed.





8. That it is an admitted fact available on record even in the Customs records that value of subject goods in international market have huge decline, but the impugned value has been determined much on higher side just on the basis of departments whims for collection of maximum revenue.

9. That it is an established principal of interpretation of tax laws that the plain Language of the law is to be applied. A bare perusal of Section 25(1) shows that Custom value of imported goods, subject to provision of this section and rules, shall be transaction value Hence, the provision contained in Section 25(1) to (4) give primary method of valuation and in the first instance valuation (PTCL 2014 CL 537) (2006 PTD – 909), But in the impugned ruling respondent admittedly has not applied this transactional value method.

10. That the respondent had to prove non genuineness of the invoice price and to state real price paid or payable by the petitioner. Provisions contained in Section 25 of the Act and rules framed there under are code in themselves so far as the Customs Valuation of imported goods is concerned, which are required to be applied and acted upon strictly in the manner and method conducted there in and no room exists for any deviation from these rules on the part of Custom authorities.

11. That the instant petition is being filed within the prescribed limitation period U/S 25-D of the Custom Act, 1969. It is accordingly prayed that this authority in exercise of review jurisdiction vested in it may kindly be pleased to,

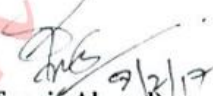
- (a) Set aside or modify the impugned ruling 937, dated 26-09-2016 (Calcium Carbide) and declare the impugned determined value of US\$ 0.700/Kg illegal, arbitrary, invalid and without jurisdiction and lawful authority.
- (b) The respondent No. 1 be directed to revise the determined value of US\$ 0.700/Kg in view of international market.
- (c) If deemed fit order to determine value U/S 25(1) of 25(5) of the Act.
- (d) During the pendency of instant review petition, the right of provisional release of goods U/S 81 be allowed in compliance of High Court order dated 10-11-2015 passed in CPD-6918/2015.
- (e) Any other relief deemed fit in the circumstances.

**ORDER**

12. Hearing in the case was fixed on 16-01-2017. Mr. Imran Iqbal, Advocate, appeared and stated that previous Valuation Ruling No.937/2016, dated 20-09-2016 is on higher side and disagreed being harsh, unlawful and ultra vires to the Customs Act, 1969 on the grounds that the incumbent Director of Customs Valuation has determined the customs values of Calcium Carbide in the impugned Valuation Ruling without following the sequential methods laid down in Section 25 of the Custom Act, 1969. They stated that the price actually paid or payable is the transaction value which is acceptable in terms of Section 25(1) of the Customs Act, 1969, has been altogether ignored by the Director, Customs Valuation. The petitioner contended to accept their transaction value. They gave a chart showing prices of their supplier for last three years which showed a declining trend. They were asked to provide online prices, ICIS prices from chemical Association and Zauba import/export data. However,

this office retrieved prices of the subject item "Calcium Carbide" from international websites which showed prices at US\$ 0.696/Kg in accordance with the prevailing Valuation Ruling.

13. In view of the above position, market survey, prices retrieved from international websites and all information so gathered from different sources were analyzed and found that the customs values were determined in accordance with the prevailing international prices of Calcium Carbide. The Valuation Ruling is upheld and revision petition is rejected accordingly.

  
(Syed Tanvir Ahmad)  
Director General

Registered copy to:

M/s New Light House (Pvt) Ltd,  
Shop No. 1, Zohaib Building, Near Risala Police Station,  
Nishter Road, Karachi.

M/s. Al Majeed Ibrahim Steel Industries (Pvt) Ltd.  
Through Imran Iqbal Law Associates,  
Room # 410,4<sup>th</sup> floor, Commerce Centre, Hasrat Mohani Road, 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)/ 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.