

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/986/2016

Dated: 8th February, 2017

**Order in Revision No. 299 /2017 under section 25-D of the Customs Act, 1969  
against Valuation Ruling No.973/2016 dated 22-11-2016**

- 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 ABB Power & Automation Pvt. Ltd.

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing

16-01-2017

For the Petitioners

Mr. Shoaib Qaiser Abbas

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.973/2016 dated 22-11-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds as reproduced below:

2. That M/s ABB Power & Automation Pvt. Limited [ASEA Brown Boveri] is a multinational corporation having its headquarters located in Zurich, Switzerland operating mainly in robotics and the power & automation technology areas. ABB ranks 158<sup>th</sup> in the Forbes ranking and is one of the largest engineering companies as well as one of the largest conglomerates in the world having its operations in around 100 countries with approximately 15,000 employees with global revenue of over 40 billion dollars a year. The applicant is an associated company of ABB Switzerland.

The applicant company is aggrieved of customs values of frequency inverters as have been determined by the learned Director of Customs Valuation through Valuation Ruling No. 973/2016 issued vide C. No. Misc/09/2015-VII dated 22.11.2016 which has been impugned through the instant Revision Application.

- ii. The brief facts leading to the instant application are that:

- (i) the custom values of frequency inverters had been determined by the learned respondent through Valuation Ruling No.751/2015 dated 22.06.2015 as follows:

S. No.	Description of goods	PCT Code	Proposed PCT for WeBOC	Origin	Customs values (C&F) US\$ per KW
(1)	(2)	(3)	(4)	(5)	(6)
01.	Frequency inverter below 1 KW without battery	8504.4090	8504.4090.1000	China	US\$ 40/KW
02.	Frequency inverter 1 KW and above without battery	8504.4090	8504.4090.1100	China	US\$ 35/KW

- (ii) in the opinion of the learned respondent, the aforesaid ruling No. 751/2015 required revision in line with the prevailing prices in the international market therefore an exercise was conducted for determination of the values afresh leading to issuance of the impugned valuation ruling No. 973/2016 dated 22.11.2016 through which the values of frequency inverters of Chinese origin have not only been increased but values of the products of other origins including those of Far East and Japan have been determined as under:

S. No.	Description of goods	PCT Code	Proposed PCT for WeBOC	Origin	Customs values US\$ per (C&F) KW
(1)	(2)	(3)	(4)	(5)	(6)
1	Frequency inverter below 1 KW without battery	8504.4090	8504.4090.1000	China	48
2			8504.4090.1100	Far East	57
3			8504.4090.1200	Japan	77
4			8504.4090.1300	Other origins	80
5	Frequency inverter 1 KW and above without battery		8504.4090.1100	China	43
6			8504.4090.1500	Far East	52
7			8504.4090.1600	Japan	69
8			8504.4090.1700	Other origins	72

- (iii) it has been recorded by the learned respondent in the impugned ruling that
- the meetings with the stakeholders were held on 16.08.2016 & 01.09.2016 which was attended by the importers and the officers from field formations however the import invoices, sales tax invoices, literature, representative samples, evidences and other relevant requisite import documents were not submitted in the Directorate General on or after the scheduled meetings;
  - during the meeting importers were of the view that the values of frequency inverters have considerably reduced in the international market as compared to the values determined through Valuation Ruling No. 751/2015;
  - the importers requested that market inquiry be conducted from the local market;
  - the market inquiry of different brands, KW and specifications were conducted from different markets in Karachi;
  - during the market survey it was observed that there were insignificant differences in values on account of brand names but prices varied significantly depending on country of manufacture.
- (iv) By applying method of determination of customs values prescribed under sub section (9) of section 25 of the Customs Act, 1969, the learned respondent has been pleased to





determine the custom values of frequency inverters of Chinese, Far East, Japan and other origins through the impugned ruling dated 22.11.2016 as detailed above.

3. The custom values of frequency inverters as had been determined through the impugned ruling No. 973/2016 are required to be revised inter alia on the following grounds:

GROUND:

- I. The applicant has been condemned unheard. The applicant is one of the biggest importers of frequency inverters which are imported from China, Germany and Finland but was not called for meeting by the learned respondent whereas it has been recorded in the impugned ruling that the meetings were held with the stakeholders. The learned respondent was obliged to invite the applicant company, being one of the main stakeholder, to participate in the proceedings. It is a settled principle of law that nobody should be condemned unheard and any order / decision passed without giving an opportunity of hearing is nullity in the eyes of law.
- II. The custom values of frequency inverters of European Origin has not been separately determined by the learned respondent prima facie on account of the reason that the present applicant, being the importer of frequency inverters of European origin, was not invited by the learned respondent in the meetings stated to be held on 16.08.2016 and 01.09.2016. The products of European origin have been categorized under the heading which captions "other origins" which is not fair and legally not sustainable since the present applicant regularly imports frequency inverters from Europe [Germany & Finland] and there are sufficient documentary evidences in the shape of letters of credit, commercial invoices and price list of the suppliers which clearly prove that fair customs values of frequency inverters of European origin can easily be determined. Without giving an opportunity of hearing and without having consultation with the applicant, the learned respondent has preferred to determine the customs values arbitrarily and the applicant has not been given a chance to present its stance duly supported by the documentary evidences.
- III. The source of information regarding values of frequency inverters of "other origins" including "European origin", of US \$ 80/KW for frequency inverters below 1 KW and US\$ 72/KW for frequency inverters above 1 KW, has not been disclosed by the learned respondent therefore the impugned ruling is liable to be set aside particularly when the applicant company was neither called for nor it was given opportunity to submit its point of view duly supported by the documentary evidences that the values at which the subject goods are being imported by the applicant, are true transactional values which are far less than the custom values as have been determined through the impugned ruling.
- IV. The values of "other origins" at US\$ 80 per KW for "frequency inverters below 1 KW without battery" and US\$ 72 per KW for "frequency inverters above 1 KW without battery" do not reflect the true transactional values at which these products are being imported from Europe. The learned respondent is not justified to include the goods imported from all over the world except China, Far East and Japan in the single category of "other origins" which renders the entire exercise nullity in the eyes of law.
- V. The applicant has sufficient documentary evidences in hand in the shape of copies of letter of credits, invoices of import made during the last six months showing true and factual values, copies of sales tax invoices at which the goods were sold to the ultimate consumers which clearly prove that the custom values of the subject goods as has been determined by the learned respondent, are exorbitantly higher than the actual values prevailing in the international market.





- I. The learned Director General will appreciate that on account of fixation of customs value of subject goods at value much higher than the actual value, the applicant has been subjected to heavy disadvantage and it will continue to suffer till the time the values are fairly determined keeping in view the supportive documents which clearly prove the stance of the applicant.
- VII. The so called market survey/inquiry in respect of subject goods said to has been conducted in the local markets of Karachi, is also not sustainable since the subject goods are not sold in the retail outlets local market rather are mostly used by the industries. No inquiry from any of the industrial consumers of such goods, has been conducted which renders the impugned market inquiry nullity in the eyes of law as well as factually and materially incorrect.
- VIII. The veracity of the claim of the applicant can be confirmed from the principal
  - (i) Names of the manufacturing concerns and their addresses:
    - (a) ABB Oy, EIP700-PACKING & FORWARDING Hiomotie 13 00380, Helsinki, FINLAND
    - (b) ABB Logistics Center Europe, Bräukerweg 132, 58708, Menden (Sauerland), NRW, Germany
    - (c) ABB Beijing Drive System Co. Limited, No. 1, Block D,A-10, Jiuxianqiao Beilu, CHAOYANG District 100015, Beijing China
  - (ii) Name of the person concerned: Mr. Sami Hietala, Head of Sales made to ABB Power & Automation Pvt. Limited, Pakistan from any of the associate companies all over the world. His office is located in Duabi.
  - (iii) Telephone number of Mr.Sami Hietala: +971-44241900
  - (iv) email: sami.hietala@ae.abb.com

Prayer

4. It is evident from the submissions contained in the above paragraphs duly supported by the evidences that the customs value of Frequency Inverters determined by the Director Valuation through impugned ruling No. 973/2016, do not reflect true transactional values. Therefore, the learned Director General is very humbly requested that the impugned ruling may kindly be set aside and the learned Director of Customs Valuation may be directed to determine values of frequency inverters afresh.
5. 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:
6. The Valuation Ruling No.973/2016 dated 22-11-2016 has been issued after consultation with stakeholders including Federation of Pakistan Chamber of Commerce and Industry who is main representing body of trade. As far as concern methodology adopted it is stated that "Transaction value method provided in section 25(1) was found inapplicable because the requisite information was not available. Identical / similar goods value methods provided in section 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. Thereafter, market enquiry as envisaged under section 25(7) of the Customs Act, 1969, was conducted. The computed value method as provided in section 25(8) of the Customs Act, 1969, could not be applied as the conversion costs from constituent material at the country of export were not available. On line values of subject goods were also obtained. All information so gathered



as evaluated and analyzed for the purpose of determination of customs values. Consequently, the customs values of different brands of Frequency Inverters have been determined under Section 25(9) of the Customs Act, 1969.

7. Facts of the case

- Para 1 No comments being relates to introduction of importers.
- Para 2 No comments being relates to introduction of importers.
- Para 3 (i) No comments being related to previous Valuation Ruling No.751/2015 dated 22-06-2015
- ii) Admitted: No doubt previous Valuation Ruling No.751/2015 dated 22-06-2015 did not reflect current international price trend however, this Directorate General conduct fresh exercise for determination of customs values of Frequent Inverter.
- (iii) (a) The stakeholders i.e. importers of the subject goods as well as Chamber of Commerce and Industries were invited in the meetings which were scheduled on 16-08-2016 and 01-09-2016.
- (b) On line values of subject goods were also obtained. All information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the customs values of different brands of Frequency Inverters have been determined under Section 25(9) of the Customs Act, 1969
- c) Admitted. The market inquiry under Section 25(7) of the Customs Act, 1969 were conducted from the local market.
- (d) Admitted. The market inquiry under Section 25(7) of the Customs Act, 1969 were conducted from the local market.
- (e) Admitted
- (iv) On line values of subject goods were also obtained. All information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the customs values of different brands of Frequency Inverters have been determined under Section 25(9) of the Customs Act, 1969.

8. REVISION GROUND

- (I) Denied. The Valuation Ruling No.973/2016 dated 22-11-2016 has been issued after consultation with stakeholders including Federation of Pakistan Chamber of Commerce and Industry who is main representing body of trade. As far as concern methodology adopted it is stated that "Transaction value method provided in Section 25(1) was found inapplicable because the requisite information was not available. Identical / similar goods value methods provided in Section 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. Thereafter, market enquiry as envisaged under Section 25(7) of the Customs Act, 1969, was conducted. The computed value method





as provided in section 25(8) of the Customs Act, 1969, could not be applied as the conversion costs from constituent material at the country of export were not available. On line values of subject goods were also obtained. All information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the customs values of different brands of Frequency Inverters have been determined under Section 25(9) of the Customs Act, 1969.

- (II) The Valuation Ruling so issued has been reflected current price trend. The Valuation Ruling No.973/2016 dated 22-11-2016 has been issued after consultation with stakeholders including Federation of Pakistan Chamber of Commerce and Industry who is main representing body of trade. As far as concern methodology adopted it is stated that "Transaction value method provided in Section 25(1) was found inapplicable because the requisite information was not available. Identical / similar goods value methods provided in Section 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. Thereafter, market enquiry as envisaged under Section 25(7) of the Customs Act, 1969, was conducted. The computed value method as provided in section 25(8) of the Customs Act, 1969, could not be applied as the conversion costs from constituent material at the country of export were not available. On line values of subject goods were also obtained. All information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the customs values of different brands of Frequency Inverters have been determined under Section 25(9) of the Customs Act, 1969.
- (III) Denied: All the methods so used in the determined of customs values of Frequency Inverter were incorporated in the Valuation Ruling and are already disclosed.
- (IV) Denied: the word used "other origin" means other than China, Far East, Japan.
- (V) No comments being related to in hand supportive documents of the applicant.
- (VI) The Valuation Ruling so issued has been reflected current price trend. The Valuation Ruling No.973/2016 dated 22-11-2016 has been issued after consultation with stakeholders including Federation of Pakistan Chamber of Commerce and Industry who is main representing body of trade. As far as concern methodology adopted it is stated that "Transaction value method provided in Section 25(1) was found inapplicable because the requisite information was not available. Identical / similar goods value methods provided in Section 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. Thereafter, market enquiry as envisaged under Section 25(7) of the Customs Act, 1969, was conducted. The computed value method as provided in section 25(8) of the Customs Act, 1969, could not be applied as the conversion costs from constituent material at the country of export were not available. On line values of subject goods were also obtained. All information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the customs values of different brands of Frequency Inverters have been determined under Section 25(9) of the Customs Act, 1969.





- (VII) No comments being availability of the goods in question in the local market or industrial zone.
- (VIII) No comments being related to information collection of the applicant from other international sources.

Prayer

9. It is respectfully prayed that the customs values were determined vide Valuation Ruling No. 973/2016 dated 22-11-2016 strictly in accordance with Valuation methods given in section 25 of the Act, 1969. Moreover the Appeal has no merit for consideration and is liable to be rejected.

ORDER

10. Hearing in this case was fixed on 16-01-2017. Mr. Shoaib Qaiser Abbas appeared and stated that their company is aggrieved with the determined customs values of Frequency Inverters vide Valuation Ruling No. 973/2016, dated 22-11-2016. The petitioner added that values of Frequency Inverters have considerably been reduced in the international market as compared to the values determined through previous Valuation Ruling No. 751/2015. They stated that values may be checked through local market inquiry. They added that values of the subject goods vary significantly on account of brand names and country-wise.

11. The Petitioner urged that the source of information regarding values of Frequency Inverters of "Other origins" including "European origin" of US\$ 80/KW of below 1 KW and US\$ 72/KW for Frequency Inverters above 1 KW has not been disclosed by the learned Respondent, therefore, the impugned Valuation Ruling is liable to be set aside. That the values of the subject goods of European origins have not been separately determined and the petitioner was neither called for meetings which were held on 16-08-2016 and 01-09-2016 and the products of European origins have been categorized under the heading "Other origins" which is not legally maintainable.

12. That the applicant being one of the biggest importer of frequency inverters remained unheard as he was not called for meeting and nobody should be condemned unheard as it is nullity in the eyes of law. Market survey was conducted from the local markets of Karachi whereas the goods are not sold in the retail outlets rather they are mostly used by the industries. Therefore, the impugned market enquiry was baseless and bogus and is not sustainable in the eyes of law. The petitioner requested that the impugned Valuation Ruling may be set aside.

13. Respondent Department submitted that previous Valuation Ruling No. 751/2015 dated 22-06-2015 did not reflect prevailing international price trend, therefore, this Directorate General conducted fresh exercise for determination of customs values of frequency inverters. That all the stakeholders / importers, KCC&I and FPCC&I, Trade Bodies were called for meetings held on 16-08-2016 and 01-09-2016. The market enquiry was conducted from different places of local market under Section 25(7) of the Customs Act, 1969.

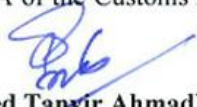
14. Keeping in view the above facts, market survey, online prices retrieved from different international websites and all information gathered from different sources were analyzed and customs



values were determined in accordance with law reflecting the prevailing international prices of Frequency Inverters. The Valuation Ruling is maintained and petition is rejected accordingly.

15. The product is frequency inverters commonly known as stabilizers. Their import is from Finland, Germany & China. They contended that Finland and Germany falls in 'others category' and value is fixed at US\$ 72/KW which is too high whereas they are importing at US\$ 35/KW. He produced L/C contract as they are sole distributor of AB Company. In response to a question he said prices are not available on website. The petitioner is importing inverters from 110/KW to 2600/KW. They are supplying small inverters of 110/KW to sugar mills other small industry. The weight of 2300/KW stabilizer is 2800 kg (net) which attracts Rs. 41,00,000 as duty & taxes. Online prices were checked and found that it ranges from US\$ 597 to US\$ 3000 per inverter.

16. The Indian import data also shows actual import value of the subject item. Similarly same values have been ascertained from other international websites. The values on Zaubas website (Indian imports data) is also taken into consideration. I have led to the conclusion that the customs values fixed in the Valuation Ruling No.973/2016 dated 22-11-2016 under section 25A of the Customs Act, 1969 are correct. The petition is therefore rejected.

  
(Syed Tanvir Ahmad)  
Director General

Registered copy to:

**M/s ABB Power & Automation Pvt. Ltd.**  
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808-Eden Heights, 6 Main Gulberg, Lahore  
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