



GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

The Collectors of Customs, Model Customs Collectorates, Appraisement (East / West) / Port Qasim / Preventive, Karachi / Lahore (Appraisement / Preventive) / Sambrial (Sialkot) / Faisalabad / Multan / Islamabad /Hyderabad/ Quetta / Peshawar/ Gawadar/ Gilgit-Baltistan.

Determination Of Customs Values Of Non-Dairy Topping Cream
Under Section 25-A Of The Customs Act, 1969

(VALUATION RULING NO.801 / 2016)

No.Misc/13/2015-I/7889

Dated: 22-01-2016

In exercise of the powers conferred under Section 25-A of the Customs Act, 1969, Customs values of non dairy topping cream are determined as follows :-

2. **Background of the valuation issue:** A complaint was received regarding under invoicing in the import of Non Dairy Topping Cream of Vietnam Origin. In order to ascertain the veracity of the complaint, a meeting was held with the Vietnam Trade Mission, Karachi on 26-10-2015, besides they were requested vide letters No. Misc/13/2015-I dated 30-10-2015 & 10-11-2015, for providing the authentic import invoices of Non-Dairy Topping Cream cleared by Vietnam Customs of the supplier M/s.Tan Nhat Huong Co, Ltd, Vietnam of the export made by him from Vietnam to Pakistan and Hong Kong or any other country. Vietnam Trade Mission, Karachi, Pakistan replied vide their letter dated 17th November, 2015 by forwarding exporters copies of export documents from Vietnam origin of Non-Dairy Topping Cream to other countries quoting invoice price for Pakistan @ US \$ 0.94/Kg and for Brazil and Hong Kong origins @ US \$ 1.00/Kg but these invoices were not showing Vietnamese Customs clearance proof, hence, they cannot be considered reliable. Therefore, it was decided to hold a meeting with importers of the cream in question.

3. **Stakeholders' participation in determination of Customs values:** Meetings with stakeholders i.e. importers were held on 23-04-2015, 13-05-2015, 02-06-2015, 24-06-2015, 28-10-2015 and finally 05-01-2016 to discuss the current international prices of subject goods. M/s.Pacific Distributors, Karachi, who import Non-Dairy Topping Cream from M/s. Tan Nhat Huong Co, Ltd, Vietnam contended that their value was fair and it has not been suppressed, they were also distributors of M/s. Tan Nhat Huong Co, Ltd, Vietnam and projected their product in Pakistan and due to purely their efforts, the product became popular and came in competition with other known international brand but their declared value was correct and should not be equated with Rich's brand of Non-Dairy Topping Cream imported by M/s.Venus Pakistan (Pvt) Ltd (the complainant). On the other hand M/s.Venus Pakistan (Pvt) Ltd., contended that importers of M/s.Tan Nhat Huong Co, Ltd, Vietnam goods were misdeclaring the price and getting the goods cleared on lower value ; creating unhealthy competition. He made an offer to M/s.Hana Dairies, M/s.Pacific Distributor, Karachi to supply him five (5) containers on the same price as was declaring by them. He also offered



M/s.Hana Dairies, M/s.Pacific Distributor, Karachi to make him buyer of the subject product on the price they were declaring. M/s.Hana Dairies, M/s.Pacific Distributor, Karachi, turned down his offer and flatly refused to supply him the goods on their declared price which led to suspicion on the value declared by them.

In order to resolve the issue, M/s.Hana Dairies, Karachi, M/s.Pacific Distributor, Karachi and M/s.AB Mauri Pakistan (Pvt) Ltd., Lahore were requested to supply sales tax invoices to see on which price they were selling the goods to their buyers. They were also told that providing of invoices will help the Directorate to ascertain C&F value on work-back method in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969, as it would be authentic document to ascertain local market price. M/s.Venus Pakistan (Pvt) Ltd., were also asked to submit some authentic document proving his contention that importers of M/s. Tan Nhat Huong Co, Ltd, Vietnam brand Cream were not declaring the actual value.

After long series of meetings, M/s.Hana Dairies, M/s.Pacific Distributor, Karachi and M/s.AB Mauri Pakistan (Pvt) Ltd., Lahore, submitted their sales tax invoices and M/s.Venus Pakistan (Pvt) Ltd., submitted proof in the form of E-mail showing price on which M/s. Tan Nhat Huong Co, Ltd, Vietnam were exporting Non-Dairy Topping Cream to the buyer in Dubai. The C&F Value worked out on work-back method based on Sales Tax Invoice comes to US\$ 1.40/Kg in case of M/s.Hana Dairies, Karachi and @ US\$ 1.60/Kg in the case of M/s.AB Mauri Pakistan (Pvt) Ltd., Lahore, whereas the evidence provided by M/s.Venus Pakistan (Pvt) Limited showed price ranging from US\$ 1.38/Kg to US\$ 1.50/Kg depending on flavor. These prices were offered by M/s. Tan Nhat Huong Co, Ltd, Vietnam to their buyer in Dubai.

4. **Method adopted to determine Customs values:** After getting the aforementioned information, valuation methods given in Section 25 of the Customs Act, 1969 were applied sequentially to address the valuation issue at hand. Transaction Value Method under Sub-Section (1) of Section 25 of the Act 1969, was found inapplicable because the invoices were not found authentic. Identical and Similar Goods valuation methods provided in Sub-Sections (5) and (6) of Section 25 of the Customs Act, 1969, was also tried for application but due to monopoly of few importers on the item, the same could not be relied upon, especially with reference to their lukewarm response to the offer made by the complainant openly during the meeting. This office then resorted to conduct a market inquiry in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969, but the imported goods were not freely available in the open market, however, prices were obtained from whole sellers. The information so gathered was analyzed and evaluated. It was decided to apply Sub-Section (7) of Section 25 of the Customs Act, 1969, for determination of fair value of the Non-Dairy Topping Cream imported from various countries.

5. **Customs values for Non Dairy Topping Cream:** Non Dairy Topping Cream, *hereinafter specified* shall be assessed to duty / taxes at the following Customs Values :-



S. No.	Description of goods	PCT	Proposed PCT for WEBOC	Origin	Customs Values (C&F) US\$/set
(1)	(2)	(3)	(4)	(5)	(6)
1.	Non Dairy Topping Cream (Rich's Brand)	2106.9090	2106.9090.1000	USA/EU	2.20
			2106.9090.1100	All other Origins	1.85
2.	Non Dairy Topping Cream (All other Brands Excluding Rich's Brand)	2106.9090	2106.9090.1200	USA & EU	1.80
			2106.9090.1300	Malaysia	1.60
			2106.9090.1400	Vietnam	1.40
			2106.9090.1500	All other origins	1.50

6. In cases where declared / transaction values are higher than the Customs values determined in this Ruling, the assessing officers shall apply those values in terms of Sub-Section (1) of Section 25 of the Customs Act, 1969. In case of consignments imported by air, the Assessing Officer shall take into account the differential between air freight and sea freight while applying the Customs values determined in this Ruling.

7. **Validity of this Valuation Ruling:** The values determined vide this Ruling shall be the applicable Customs value for assessment of subject imported goods until and unless it is rescinded or revised by the competent authority in terms of Sub-Sections (4) of Section 25-A or section 25-D of the Customs Act, 1969.

8. **Revision of the value determined vide this Valuation Ruling:** A revision petition may be filed against this Ruling, as provided under Section 25-D of the Customs Act, 1969, within 30 days from the date of issuance of this Ruling, before the Director General, Directorate General of Customs Valuation, 7th Floor, Custom House, Karachi.

9. The Collectors of Customs may kindly ensure that the values given in the Ruling for the given description of goods are applied by the concerned staff without fail. Any anomaly observed may kindly be brought to the notice of this Directorate General immediately for redressal.


(Manzoor Hussain Memon)
Director

Copy for information to :-

1. Member (Customs), F.B.R., Islamabad.
2. Director General, Customs Valuation, Custom House, Karachi.
3. Chief Collector of Customs, South (Appraisement), Custom House, Karachi.
4. Chief Collector of Customs, South (Enforcement), Custom House, Karachi.
5. Chief Collector of Customs (Central), Lahore.
6. Chief Collector of Customs (North), Islamabad.
7. Director General, Intelligence and Investigation-FBR, Islamabad.
8. Director General, Audit (Customs & Petroleum), 1st Floor, PT&T Audit Building, Mauj-e-Darya Road, Lahore.