

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/147/2017

Dt: 11th May, 2018

**Order in Revision No. 14 /2018 under Section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1206/2017 dated 29-08-2017**

- 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. J.K. Enterprises & Others

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

05-12-2017, 28-03-18 & 18-04-2018

For the Petitioners

M. Ismail
Mr.Ameer Mohd
Mr. Imran Khan
Mr. Tariq Hassan
Mr. Zain Sajjad
Mr. Gulzak Bilal
Mr. Zeeshan Gohar
Mr. Zohaib
Mr. Tahir Mumtaz

For the Respondent

Mr. Abdul Hameed, Principal Appraiser

This revision petition was filed under Section 25-D of the Customs Act, 1969 against Customs value determined vide Valuation Ruling No.1206/2017 dated 29-08-2017 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. That the appellant above named file this review application with the submission that the respondent has issued the subject Valuation Ruling of "Knob & Handle Door Locks" and mostly importing from China (subject to importability conditions as per IPO), etc 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 the decision after consideration of the facts and grounds enumerated herein below:

3. **FACTS**

- 1) That the appellant is a commercial importer of Knob & Handle Door Locks and mostly importing from China etc.
- 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 the suppliers have agreed to supply the product at different values very less than the value as determined in the Valuation Ruling 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 Custom Act, 1969 and Rule 13 of the Custom 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 Revenues.
- 5) That the Honorable Custom Appellate Tribunal Special Bench, Jamil Chambers, Saddar, Karachi issued their Judgment in Custom Appeal No.K-645/2017 in which. they set aside old, Valuation Ruling No, 1075/2017, dated 09-03-2017 and they also stated for re issuance of the fresh Valuation Ruling and accordingly your kind honor issued the 'Fresh Valuation Ruling No 1206/2017 Dated 29 08 2017 which is also on higher side and are not in a position to accept the revised Valuation Ruling.
- 6) 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 Exchequers, hence this review application. Interlay on the following grounds:

4. **GROUND**

- A. That the Valuation Rulings as referred above does not cover the present fluctuation of prices or international Market which have been reduce to about half of the prices and the product of the applicant completely based on International Prices.
- B. That in support of this 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 baring 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. Discretions 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 Custom Act, 1969, sub-Section (1) (5) (6) (8) at the importers request if so agreed by the Collector of Customs as held in Judgments.

C. That the shipping freight also decreases accordingly, which directly impact on the product price.

D. 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 in the relevant provisions of the Custom Act, 1969 and this validated from the working of valuation for determination of applicant to import the Knob & Handle Door Locks 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 Custom Act, 1969.

E. That the applicant sells the entire goods prior to clearance and at many times the prices of the goods has been increased prior to clearance and the importer has to bear the different of prices from his own.

F. That the applicant craves to leave further grounds at the time of hearing besides placing valid incriminating evidences / documents with the permission of your good forum.

5. **PRAYER**

It is therefore, humbly prayed that this Revision Authority may be pleased to allow the review application by declaring/ order that:

a. The Valuation Ruling No. 1206/2017, dated 29-08-2017 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 withdrawn forthwith.

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

c. Any other relief(s) which this Honorable Revisional Authority may deem fit and proper in the circumstances of the case may also be granted.

6. We are enclosing herewith the copy of order issued by the Custom Appellate Tribunal Karachi in which their kind honor set aside the previous valuation ruling No. 1075/2017, dated 09-03-2017 and then your kind honor also issued revised Valuation Ruling No. 1206/2017, dated 29-08-2017 which is on too much higher side and we are not in a position to accept such higher



value of the Knob & Handle Door Lock and so that we request you to please issue the order in Revision.

7. The respondent department was asked to furnish comments to the arguments submitted by the petitioners in the case. Comments on the petitions are given as under:-

COMMENTS BY THE DEPARTMENT

Comments on the revision petitions filed by the petitioners against the Valuation Ruling No.1206/2017, dated 29-08-2017 of Knob & Handle Door Lock, Door Thumb Action Lock (Entrance Lock), Night Latch & Rim Lock (Low end / Unpopular Brands), issued under Section 25-A of the Customs Act, 1969, are as under : -

FACTS

Para-(1) : Need no comments being introduction of Applicants.

Para-(2) : Need no comments.

Para-(3) : It is submitted that the Petitioner has simply claimed for the acceptance of their declaration but did not submit any tangible documents in support to justify their declarations disclosing full and accurate details relating to the value of the imported goods as per Para-108 of Customs Rules, 2001. As such the transaction value cannot be accepted in absence of any relevant import evidences and documents etc.

Para-(4) : It is submitted that the transaction value of the Petitioner could not be accepted due to the reason that no any tangible documents in support of their contention was submitted. During the meeting the participants were requested to submit the following documents: -

- (i) Websites, names and E-mail addresses of known foreign manufacturers of the item in question through which the actual Current value can be ascertained.
- (ii) Copies of contracts made / LCs opened during the last three months showing value of item in question and;
- (iii) Copies of Sales Tax paid Invoices issued during last four months showing the difference in price to substantiate that the benefit of difference in price was passed on to the local buyers.

Instead of furnishing any documentary evidence about downfall in prices in international market, they relied upon their rhetoric of decline in international market prices. They were requested to furnish sales tax invoices along with monthly sales tax return filed with Inland Revenue Department as sales tax invoices are authentic document to ascertain local market price and as the Customs has authority in terms of Sub-Section (11) of Section 25 of the Customs Act, 1969, to call any documents to satisfy themselves about the truthfulness or accuracy of any information or declaration made to Customs for valuation purpose. None of them submitted sales tax invoices along with monthly sales tax return,

on one excuse or the other. Since the matter was lingering on, it was decided to proceed on merits in the light of available record.

Para-(5) & (6) : It is submitted that the meeting with the stakeholders was held on 27-07-2017. It was attended by commercial importers as well as local manufacturers and representatives of KCC&I & FPCC&I. The participants as well as the Association were requested to provide documents like copies of contracts made / LCs, sales tax paid invoices to substantiate their contention of decrease in market prices. Yet they did not provide required documents before meeting. Again during the meeting the participants were requested to submit the requisite documents. Instead of furnishing any documentary evidence about downfall in prices in international market, they relied upon their rhetoric of decline in international market prices. They were repeatedly requested to furnish sales tax invoices along with monthly sales tax return filed with Inland Revenue Department as sales tax invoices are authentic document to ascertain local market price and as the Customs has authority in terms of Sub-Section (11) of Section 25 of the Customs Act, 1969, to call any documents to satisfy themselves about the truthfulness or accuracy of any information or declaration made to Customs for valuation purpose. None of them submitted sales tax invoices along with monthly sales tax return, on one excuse or the other. Since the matter was lingering on, it was decided to proceed on merits in the light of available record as well as local market enquiry conducted by the Department.



GROUND

Para-(1) : In this regard it is submitted that the determined customs values are not on higher side as the same have been determined after carefully consulting last 90 days import data of clearances made at the Collectorates. As such the customs values in the said Valuation Ruling have correctly and lawfully been determined in terms of Section 25(9) of the Customs Act, 1969.

Para-(2) : Not Agreed. In this regard it is submitted that the said Valuation Ruling was issued after properly following all the valuation methods as envisaged under Section 25 of the Customs Act, 1969. Para-5 of the said ruling clearly states whole the process adopted for the determination of customs values of under reference goods. However, after exhausting all the valuation methods from Sub-Section (1) to (9) and finally customs values were determined and notified in terms of Sub-Section (9) of Section 25 of the Customs Act, 1969, for uniform assessment all over the country.

Para-(3) : It is submitted that the freight element was duly considered while determining the customs values in under reference Valuation Ruling considering all the factors and elements surrounding the import for uniform assessment all over the country. As such the same is applicable on the relevant imports for assessment purposes.

Para-(4) : It is submitted that it is not correct that the procedure given in Section 25 was not followed while determining the customs values in the impugned Valuation Ruling rather provisions of Section 25 were duly considered and all valuation methods as envisaged in Section 25 of the Customs Act, 1969, were properly and sequentially followed as evident from Para-(5) of the said valuation ruling. As such the same has lawfully and justifiably been issued for uniform assessment all over the country.


Para-(5) : It is submitted that sale of the goods by petitioner does not relate to the process of determination of customs values by the Respondent. It was petitioner's decision to sale out their goods.

Para-(6) : Relates to the time of hearing of under reference petition.

PRAYER

In view of above, it is prayed that the said Valuation Ruling may be allowed to hold field for assessment being lawful and valid. Further, transaction value cannot be accepted in absence of any tangible import documents. As such no relief is warranted to be given to the petitioners and under reference revision application filed being not maintainable may be rejected accordingly.

ORDER



8. Hearings in the subject case were fixed for 05-12-2017, 28-03-18 and 18-04-18. The importers/petitioners and their representatives attended the hearings. The stakeholders from trade were given ample opportunity to present their contentions. The viewpoint of the departmental representative (DR) was also heard. The contentions of the petitioners as stated in their written as well as verbal submissions have been scrutinized in detail. It is observed that the petitioners in their petition have insisted upon accepting their declared values as correct transaction values for assessment purpose; however, they did not produce the requisite documents to substantiate their claim. In the absence of any import documents the correctness and genuineness of the declared value as the true transaction value cannot be verified under Section 25(1) of Custom Act, 1969. Therefore, their insistence to accept their transaction value cannot be ascertained in a vacuum. The onus to prove that they have made correct declaration viz. their transaction value lies with the applicants which they failed to discharge.

9. The importers also agitated that the customs values notified vide the impugned Valuation Ruling are not tantamount with the market prices and are on higher side. However, they did not produce any substantive argument or document in support of their claim. The applicants have failed to prove with conclusive evidence that the values worked out in the impugned ruling were on higher side. On the other hand the DR presented details of valuation exercise conducted to determine the values of door locks. The DR explained that comprehensive market survey was conducted; prices of various locks were obtained from the market and that the working done by the department to arrive at the assessable values were based upon prices of low end locks.

10. Perusal of case record and the defense of the department reveal that the Directorate of Customs Valuation while issuing the impugned valuation ruling associated the importers including the petitioners. Further, the DR underscored the fact that the values of subject goods have already been rationalized by the department while revising the previous Valuation Ruling and notifying the impugned VR. In view of the above stated facts I conclude that the revision petitions are devoid of merit and are rejected accordingly.

11. Being identical on facts and law point, this order shall apply mutatis mutandis to following (24) Petitions:

S#	Petitioners' Name	File No.
1.	M/s. Al-Maalik Trading Company	DG(V)Val. Rev/147/2017
2.	M/s. Imran Hardware Store	DG(V)Val. Rev/147/2017
3.	M/s. Shahid Mehmood & Co	DG(V)Val. Rev/147/2017
4.	M/s. Tariq Hussain	DG(V)Val. Rev/147/2017
5.	M/s. AM Enterprises	DG(V)Val. Rev/147/2017
6.	M/s. Bilal Distributors	DG(V)Val. Rev/147/2017
7.	M/s. Elkoser Hardware Co	DG(V)Val. Rev/147/2017
8.	M/s. Wahid Hardware Store	DG(V)Val. Rev/147/2017
9.	M/s. VIP Traders	DG(V)Val. Rev/147/2017
10.	M/s. Waqas Hardware Traders	DG(V)Val. Rev/147/2017
11.	M/s. Sial Enterprises	DG(V)Val. Rev/147/2017
12.	M/s. Sher-e-Rabbani Hardware Store	DG(V)Val. Rev/147/2017
13.	M/s. Meeran Paints & Hardware Store	DG(V)Val. Rev/147/2017
14.	M/s. Karmanwala Hardware Store	DG(V)Val. Rev/147/2017
15.	M/s. Solox International Co	DG(V)Val. Rev/147/2017
16.	M/s. Mian Trading Co	DG(V)Val. Rev/147/2017
17.	M/s. Hadayat Sons	DG(V)Val. Rev/147/2017
18.	M/s. KAPA Sons	DG(V)Val. Rev/147/2017
19.	M/s. Alpha Hardware	DG(V)Val. Rev/147/2017
20.	M/s. Sohail Hardware Store	DG(V)Val. Rev/147/2017
21.	M/s. Shah Hamdan Hardware Store	DG(V)Val. Rev/147/2017
22.	M/s. Jaffar Hussain & Co	DG(V)Val. Rev/147/2017
23.	M/s. Faisal Traders	DG(V)Val. Rev/147/2017
24.	M/s. Sone Traders	DG(V)Val. Rev/147/2017


(Suraiya Ahmed Butt)
Director General

Registered copy to:

1. M/s J.K. Enterprises,
P.No. SE.II. 12.6, 4th Floor, Rehman Gali No.1, Brandreth Road, Lahore.
2. M/s Imran Hardware Store,
Shop No.1, Ground Floor, Younis Market, Rahman Gali No.13,
Brandreth Road, Lahore.
3. M/s Shahid Mahmood & Co Pvt Ltd,
E-110, Main Boulevard, DHA Lahore.
4. M/s Tariq Hussain,
146-C, DHA Phase-I, DHA, Lahore.

5. M/s AM Enterprises,
1/1, Khalid Street, Rehman Gali No.1, Brandreth Road, Lahore.
6. M/s Bilal Distributors,
13/1, Hyderabad Colony, Jail Road, Karachi.
7. M/s Elkoser Hardware Co.
M/R/1/93, Kutchi Gali No.3, Off Marriot Road, Denso Hall, Karachi
8. M/s Wahid Hardware Store,
Jawahar Street No.13, Rehman Street No.2, Nishtar Road, Lahore.
9. M/s VIP Traders,
Mezzanine Floor, Plot No. 38, Liaquat Colony, Hyderabad.
10. M/s Waqas Hardware Traders,
Rehman Gali No.13, Johar Street Shahzad Centre, Brandreth Road, Lahore.
11. M/s Sial Enterprises,
2nd & 3rd Floor, Salam Chamber, Hall Road, Patiala Ground, Lahore.
12. M/s Sher-e-Rabbani Hardware Store,
3-A, Cooper Road, Lahore.
13. M/s Mehran Paints & Hardware,
Block-45, Shop No.2, I & T, Center, G-9/4, Islamabad.
14. M/s Karmanwala Hardware Store,
3-A, Cooper Road, Lahore.
15. M/s Solox International Co,
Kutchi Gali, Number No.3, Marriot Road, Karachi.
16. M/s Mian Trading Company,
Rehman Gali No.13, Brandreth Road, Data Gunj Baksh, Lahore.
17. M/s Hadayat Sons,
Jan Muhammad Arcade, 93 Ferozepur Road, Lahore.
18. M/ KAPA Enterprises,
64, DMCHS BL 7/8, Tipu Sultan Road, Karachi-75350.
19. M/ Alpha Hardware,
9-Beadon Road, Lahore.
20. M/s Sohail Hardware Store,
Brandreth Road, Rehman Street No.1, Lahore.
21. M/s Shahid Hamdan Hardware Store,

Rehman Street No.13, Brandreth Road, Lahore.

22. M/s Jaffar Hussain & Co,
33-Ravi Park, Ravi Road, Rehman Gali No.13, Brandreth Road, Lahore.
23. M/s Faisal Traders,
Masjid Siddique shop no 3 Ambaji Villa Road Bohrapir Karachi.
24. M/s Sone Traders
House No. 9, Street No.3, Salamat Mohallah, Mohni Road, LahorePakistan
25. M/s Al-Maalik Trading Company
15-Grain market Sargodha.

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. Deputy Director (Review), Karachi.
8. All Deputy/Assistant Directors (Valuation)
9. Guard File