

**GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI**

File No. DG (V)/Val.Rev/88/2017

Dated: 22nd June 2018

**Order in Revision No. 20 /2018 under section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1076/2017 dated 09-03-2017**

- 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. Golden Fuji Traders & Others

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

24-05-2017 and 22-11-2017

For the Petitioners

Shaikh Farukh Saleem Consultant
Mr. Rafiq Shaikh
Mr. Adnan

For the Respondent

Mr. Sohail Ismail, Principal Appraiser
Mr. Nasir Mahmood Valuation Officer

This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.1076/ 2017 dated 09-03-2017 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

FACTS

2. (i) That this appeal is directed against Valuation Ruling No.1076/2017 issued vide No.Misc/43/2017-VII/672 dated 09.03.2017.
- (ii) That vide the said ruling, values of Electric Water Heaters and Gas Water Heaters have been determined.

(iii) That the appellant is an importer of Gas Water Heaters importing the same from M/s.Zhongshan Inse Group Co., Ltd, No.59 Jianye Road, Nantou Town, Zhongshan City, Gaungdong, China.

(iv) That these heaters are being imported at transactional value of US\$ 1/Ltr which were being assessed to duty by Customs @ US\$ I .25/Liters to US\$ 1.50/Liters.

(v) That the said suppliers cannot be considered to have mis-declared/under-declared their export prices. Similarly, no under-declaration is made by the appellant.

(vi) That the values being declared by the appellant are the correct transactional values.

(vii) That the value fixed vide the impugned Valuation Ruling No. 1076/2017 dated 09.03.2017 does not reflect the true Customs value on the following grounds that:

GROUND:

3. (i) The evidential value of US\$ 46 for 15 liters being relied upon by the Directorate General vide their letter No.DG/VDP/REF/79/ 2016/19897 dated 18.11.2016 relates to an isolated import of small quantity of the electric heaters. Hence, it is not a representative value to form the basis for fixing the Customs value of this item under section 25(9) of the Customs Act, 1969 and Rule 121 of Sub-Chapter IV of chapter IX of the Customs Rules, 2001 issued vide SRO 450(I)/2001 dated 18.06.2001.

(ii) The stated market inquiry was conducted in the Karachi market which is not related to this item. In fact, these Gas Water Heaters are traded and used in the upcountry. Hence the report ascertained from the said market is flawed and not representative.

(iii) That the appellants were also not associated during market inquiry. The market inquiry is, therefore, one sided and ex-parte. This Ruling, therefore, has been issued without affording us an opportunity of being heard being the real stakeholders.

(iv) Gas and electric water heaters are generally invoiced on per Liter basis but the impugned Ruling gives value per kg basis which is against the business practice and, therefore, suffers factual infirmity rendering it liable to revision.

(v) That the impugned value determination dated 09.03.2017 is, therefore, incorrect, invalid & unsubstantiated and needs to be immediately revised under section 25D of the Customs Act, 1969.

PRAYER:

4. That Valuation Ruling No. 1076/2017 may kindly be revised under section 25D of the Customs Act, 1969 and correct assessable prices may kindly be worked out which are at present around US\$ 1 per Liter.


5. That pending consideration of this appeal, the operation of the impugned Valuation Ruling may kindly be suspended.

6. Any other relief deemed appropriate in the facts & circumstances of the case may also be considered and allowed.
7. The respondent department was asked to furnish comments to the arguments submitted by the petitioner in the revision petition. Para-wise comments on the petition are given as under:-

Para wise Comments by Department

Directorate of Customs Valuation, Karachi has earlier circulated Valuation Data Base values of Gas/Electric Water Heater vide Valuation Data Base No.85 dated 18-11-2016 and 171 dated 26-01-2017.

Comments



The Valuation Ruling No.1076/2017 dated 09-03-2017 was issued under Section 25-A of the Customs Act, 1969. It is pertinent to mention here that impugned valuation ruling has been issued with the consonance of spirit of justice of superior courts. As far as methodology adopted concern 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 Gas/Electric water Heater have been determined under Section 25(9) of the Customs Act, 1969.

PRAYER

It is respectfully prayed that the customs values were determined vide Valuation Ruling No. 1076/2017 dated 09-03-2017, strictly in accordance with Valuation methods given in Section 25 of the Act, 1969. On the other side the appellant had neither furnish any corroboratory documents in support of their transaction value at the time of determination of customs value under section 25-A of the Customs Act, 1969 nor with this instant review application. Accordingly in the absence of corroboratory documents particularly copies of Sales Tax Invoices, the appeal has no merit for consideration and is liable to be rejected.

ORDER

8. Hearings in the subject case were fixed for 24-05-2017 and 22-11-2017. The petitioners appeared for hearing and reiterated the same arguments as already given in their petition. The main thrust of their arguments was that the Valuation Department did not follow the valuation methods properly and also objected to the market inquiry conducted by the department and stated that the values determined vide impugned valuation ruling in respect of Water Heater do not reflect the prevalent market prices. They insisted on accepting their declared values as correct transaction value;

however, no supportive documentary evidence was produced to substantiate their contention. In their defense, the departmental representatives (DR) explained in detail the valuation methodologies adopted by them to arrive at the Customs values determined vide the impugned Valuation Ruling. In support of department's contention, the DR presented various details of the valuation exercise/working. The DRs stressed the point that the subject item i.e. Water Heaters were being imported and cleared at very low values. Therefore Customs values were determined by the Valuation Department vide Valuation Ruling No.1076/2017 dated 09.03.2017 to safeguard Government revenue. He pointed towards the fact that consignments of Water Heater are regularly being cleared in accordance with the notified values streamlining the import regime and to support this submission, related import clearance data was presented which is also available on record.

9. After listening to the detailed discussions/ arguments of respondents and perusal of the case record; it is evident that the Valuation department had duly taken the stakeholders on board while issuing the impugned Valuation Ruling. They were given sufficient time and opportunity to give their inputs including documentary proof/evidence to substantiate their transaction value but they failed to provide any such proof or fact in support of their declared values which were abysmally low. Scrutiny of the record reveals that the applicants were asked by this office vide letter of even number dated 02-05-2017 to furnish import documents but they did not furnish the requisite documents so as to enable this forum to verify truth and accuracy of his declared value. As per Rule 109 of the Valuation Rules, issued under SRO 450(I)/2001 dated 18th June 2001 (Chapter-X), in the absence of valid import documents, the burden to prove correctness of transaction value shifts to the importers/appellant. The appellant did not furnish import documents; thus failed to substantiate cause of his grievance with conclusive evidence. The DRs, on the other hand presented details of comprehensive market inquiry reports as available on record to support the values determined by the department.

10. In view of aforesaid factual improprieties and legal infirmities, the review application merits no consideration and is accordingly rejected.

11. Being identical on facts and law point, this order shall apply mutatis mutandis to following (04) petitions.

S #	Petitioner Name	File No
1	M/s. National Aviation Services (Pvt.) Ltd.	DG(V)Val.Rev/88/2017
2	M/s. Cannon International.	DG(V)Val. Rev/88/2017
3	M/s. Intec Pakistan.	DG(V)Val. Rev/88/2017
4	M/s. Super Asia Trading Co.	DG(V)Val. Rev/88/2017


(Suraiya Ahmed Butt)
Director General

Registered copy to:

M/s. Golden Fuji Traders,
Shaheenabad, G.T Road, Gujranwala.

M/s. National Aviation Services (pvt) Ltd.
Gala Five Star Fan Wala Near Magna Sanitary,
Kangniwala,G.T Road, Gujranwala.

M/s. Super Asia Trading Company,
G.T Road, Gujranwala.

M/s. Cannon International,
132-Rehaman Chamber,link Temple Road, Lahore.

M/s. Intec Pakistan
1st Floor 55-N, Gulberg Industrial Area
Gurumangat Road, Lahore.

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisalment (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. Deputy Director (Review), Karachi.
8. All Deputy/Assistant Directors (Valuation)
9. Guard File.