

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/141/2017

Dated 22nd June, 2018

Order in Revision No. 16 /2018 under Section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1200/2017 dated 09-08-2017

- 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. Muhammad Yousuf Traders & Others

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

12-10-2017, 28-11-2017 & 29-03-2018

For the Petitioners

Mr. M. Ismail
Mr. Zain Sajjad

For the Respondent

Mr. M. 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 values determined vide Valuation Ruling No. 1200/2017, dated 09-08-2017 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. That aggrieved and dissatisfied with the Valuation Ruling No.1200/2017 dated 09-08-2017, hence this review the Honorable Review Authority for decision after consideration of the facts and grounds enumerated herein below:

3. **FACTS**

1) That the appellant is a commercial importer of Hand Tools (Low End Brands) Made of Iron & Steel and mostly importing from China.

- 2) That the applicant desires to import the said product from China and when the respondent was determining the value, the application 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 as referred above.
- 3) That the respondent have bluntly refused to accept the transaction value against the true spirit of provision Section 25(1) of the Customs Act 1969 and Rule 13 of Customs Rule, 2001.
- 4) That the transaction values of the applicant are absolutely in accordance with law, fair, just proper and covering all the aspects of the goods and even the same cannot affect the Government Revenue.
- 5) That it is pertinent to mention here that the valuation ruling as referred above have been determined without consideration of present market situation and without giving any opportunity of meeting of stakeholders 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 exchequer, hence this review application, inter-alia on the following grounds:

4. **GROUND**S

- a. That the valuation ruling as referred above does not cover the present fluctuation of prices of 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 his stance, it is appropriate of the application to add further that the provision of Section 25 of the Customs 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 Custom 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 Customs Act, 1969 sub-Section (1), (5), (6), (7) & (8) at the importer 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 Customs Act, 1969 and this validated from the working of valuation for determination of applicant to import the different kind of remotes by deducting the different margins of respective heads which the applicant has to bear prior to selling the goods in rendering the contracted price as transactional value within the meaning of Section 25(1) of the Customs Act, 1969.



- e. The applicant sells the entire goods prior to clearance and at many times the prices of the goods have been increased prior to clearance and the importer has to bear the difference of prices from his own.
- f. The applicant craved to leave further grounds at the time of hearing besides placing valid incrimination 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.1200/2017 dated 09/08/2017 have been issued on forced construction of Section 25 of the Customs 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 the Customs Rules 2001.
 - c. Any other relief(s) which is Honorable Revisional Authority may deem fit and proper in the circumstances of the case may also be granted.
6. 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

It was brought to the notice of this Directorate General that selling prices of Hand Tools have escalated internationally and since existing Valuation Ruling Bearing No.367/2011 dated 12-08-2011 was more than five years old, therefore this Directorate General initiated an exercise for redetermination of custom values of subject goods to reflect the current international price in international market.

As far as concern over the methodology it is stated that Section 25(9) was applied after sequential manner i.e. Transaction value method under Sub-Section (1) of Section 25 of the Custom Act, 1969, was found inapplicable because it is generally known to all that most of the invoices are manipulated/fabricated locally, hence, total reliance thereon cannot be made to ascertain the correct transactional value. Identical / similar goods value methods provided in Sub-Sections (5) & (6) of Section 25 ibid were also not found applicable in view of the reason mentioned above in the case of Sub-Section (1). Market enquiry, as envisaged under Section 25(7) of the Customs Act, 1969, was conducted to determine Customs values for Iron & Steel made Hand Tools but could not be solely relied upon owing to variety of market/ location and types of these items. The computed method as provided under 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. Finally, import data obtained from PRAL was analyzed and international prices from various sources on internet were also checked in addition to prices worked back through market inquiry. All the information so gathered was evaluated and analyzed for the purpose of determination of Customs values. Consequently, the Customs values of Iron & Steel made Hand Tools have been determined

under Section 25(9) of the Customs Act, 1969. All the stakeholders including Federation and Karachi Chamber were also invited for detailed discussion.

Para-1 Needs no comments being related to introduction of the petitioner.

Para-2 Needs no comments being related to agreement between buyer/petitioner and seller.

Para-3 It is stated that Valuation Ruling Bearing No.367/2011 dated 12-08-2011 was more than five years old, therefore this Directorate General initiated an exercise for redetermination of custom values of subject goods to reflect the current international price in international market. The impugned Valuation Ruling No.1200/17 dated 09-08-2017 under Section 25(9) of the Customs Act, 1969 after applying sequential manner. The matter of acceptance of transaction value is also under the ambit of clearance Collectorate.

Para-4 It is stated that petitioner contention is that the Valuation Ruling Bearing No.367/2011 dated 12-08-2011 is near their transaction value but due to more than five years it required revision in accordance with the current international price trend. However, this Directorate General issued Valuation Ruling Bearing No. 1200/17 dated 09-08-2017 after detailed discussion with the stakeholders.

Para-5 Denied: It is stated that the impugned valuation Ruling No. 1200/17 dated 09-08-2017 was issued after applying valuation methods on sequential manner. Finally the information so gathered was evaluated and finally Section 25(9) of the Customs Act, 1969 was applied for determination of goods. Meeting of the stakeholders was also convened on 31-10-2016 and 03-08-2017. All the stakeholders including Federation and Karachi Chamber, who are representative trade body, also invited for detailed discussion.



GROUND

Para 1 Denied. It is stated that petitioner contention is that the Valuation Ruling Bearing No.367/2011 dated 12-08-2011 is near their transaction value but due to more than five years it required revision in accordance with the current international price trend. However, this Directorate General issued Valuation Ruling Bearing No. 1200/17 dated 09-08-2017 after detailed discussion with the stakeholders to safeguard the legitimate government revenue.

Para 2 Basically this para related to methodology i.e. it is stated that Section 25(9) was applied finally after sequential manner i.e. Transaction value method under Sub-Section (1) of Section 25 of the Custom Act, 1969, was found inapplicable because it is generally known to all that most of the invoices are manipulated/fabricated locally, hence, total reliance thereon cannot be made to ascertain the correct transactional value. Identical / similar goods value methods provided in Sub-Sections (5) & (6) of Section 25 ibid were also not found applicable in view of the reason mentioned above in the case of Sub-Section (1). Market enquiry, as envisaged under Section 25(7) of the Customs Act, 1969, was conducted to determine Customs values for Iron & Steel made Hand Tools but could not be solely relied upon owing to variety of market/ location and types of these items. The computed method as provided under 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. Finally, import data obtained from PRAL was analyzed and international prices from various sources on internet were also checked in addition to prices worked back

through market inquiry. All the information so gathered was evaluated and analyzed for the purpose of determination of Customs values. Consequently, the Customs values of Iron & Steel made Hand Tools have been determined under Section 25(9) of the Customs Act, 1969.

Para 3 Needs no comments being not related to respondent.

Para 4 It is stated that Director of Valuation issued Valuation Ruling No. 1200/17 dated 09-08-2017 under Section 25A of the Customs Act, 1969. Sub-Section (9) of Section 25A of the Customs Act, 1969 was applied for determination of Customs values of goods in question.


Para 5 Needs no comments being not related to respondent.

Para 6 Needs no comments being related to further arguments at the time of hearing before the Director General.

PRAYER

In view of above, it is prayed that the said Valuation Ruling may be allowed to hold filed 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.

ORDER



Hearings in the case were fixed for 12-10-2017, 28-11-2017 and 29-03-2018. The main contention of the petitioners was that the values determined vide impugned valuation ruling are not reflective of the prevalent market prices and that legal obligations as laid down under Section 25 of the Customs Act, 1969 were not met in the process of determination of these values.

8. The departmental representatives (DRs) explained in detail the valuation methodologies adopted by them to arrive at the Customs values determined vide the impugned valuation ruling. In support of their contention they presented various details of their valuation exercise/ working. The DRs submitted that import consignments of the items under revision, are regularly being got released on Customs values determined vide impugned valuation ruling.

9. I have gone through the case record and heard the verbal as well as the written submissions made by the petitioners and the department. Though the petitioners in their petition have insisted upon accepting their declared values as correct transaction values for assessment purpose; they did not produce the requisite documents to substantiate their claim. The petitioners mentioned in the petitions that further documents to substantiate their claim of acceptance of transaction value would be submitted during the course of the hearings but they failed to submit the same. In the absence of any import related documents the correctness and genuineness of the declared value as the true transaction value cannot be verified under Section 25(1) *ibid*. Non submission of import related to prove the genuineness of the transaction value manifests that the importers/petitioners could not produce any vital piece of evidence to this forum. Therefore their insistence to accept their transaction values cannot be ascertained in a vacuum. The onus to prove that they have made

correct declarations viz. their transaction values lies with the applicants which they failed to discharge. The other major argument of the applicants is that they were not heard properly during the hearing proceedings conducted by the department for determination of Customs values of Hand Tools under Section 25-A. However, the DRs with the support of record has clarified 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. I, therefore, conclude that valuation methodologies adopted for issuance of impugned Valuation Ruling No.1200/2017 dated 09-08-2017 are in accordance with law. I uphold the valuation ruling; the revision petitions are rejected accordingly.

11. Being identical on facts and law point, this order shall apply mutatis mutandis to following (10) petitions.

S #	Petitioner Name	File No
1	M/s. V Belt House	DG(V)Val. Rev/141/2017
2	M/s. Haider International	DG(V)Val. Rev/141/2017
3	M/s. Shahid Trading Co	DG(V)Val. Rev/141/2017
4	M/s. Sameer Traders	DG(V)Val. Rev/141/2017
5	M/s. Shoaib Impex	DG(V)Val. Rev/141/2017
6	M/s. Khurshid International Traders	DG(V)Val. Rev/141/2017
7	M/s Zahid Ali & Bros	DG(V)Val. Rev/141/2017
8	M/s H. Mahmood Corporation	DG(V)Val. Rev/141/2017
9	M/s S. M. Nazir & Co.	DG(V)Val. Rev/141/2017
10	M/s Qasim Trading Co.	DG(V)Val. Rev/141/2017


(Suraiya Ahmed Butt)
Director General

Registered copy to:

- 1) M/s. Muhammad Yousuf Traders,
Office No. 7, 3rd Floor, Al-Falah Plaza, Mansafi Road, Quetta.
- 2) M/s. Haider International,
Office No.5, Ghafoor Chamber, 1st Floor, Rehman Gali, Brandreth Road, Lahore.
- 3) M/s. Shahid Trading Co,
5 Bull Road, Lahore.
- 4) M/s. Sameer Traders,
Shop No.2, Ansari Market, Rehman Gali No.4, Brandreth Road, Lahore.
- 5) M/s. Shoaib Impex,
Block-D-M, 11E-584, Street No.12, Shershah, Karachi.

- 6) M/s. Khurshid International Traders,
3rd Floor, Waheed Naveed Chamber, Marriot Road, Near Denso Hall, Karachi.
- 7) M/s. V Belt House,
40 Nishter Road, Lahore.
- 8) M/s Zahid Ali & Brothers,
Kistan Street, Brandreth Road, Lahore.
- 9) M/s H. Mahmood Corporation,
SE-56, Kisan Street, Chowk Dalgan, Brandreth Road, Lahore.
- 10) M/s S. M. Nazir & Co,
Nawab Tubewell Street, Opp, Masjid Chowk Dalgran, Brandreth Road, Lahore.
- 11) M/s. Malik Qasim Trading Co,
Shop No.4, Rahman Gali No.2, Ijaz MKT, NR, Nishter Road, Lahore.

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.