

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/30/2018

15th August, 2018

Order in Revision No. 27/2018 under Section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1298/2018 dated 25-04-2018
in compliance of the Order dated 23-07-2018 passed in WP No.226604/2018
by the Honourable Lahore High Court, Lahore

- 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 Isuzu Motors, Lahore,
M/s PASPIDA & Others

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

26-07-2018 and 15-08-2018

For the Petitioners

Mr. Abdul Wahab, M/s HMC Hafeez Motors
and M/s Isuzu Motors, Lahore
Mr. Abdul Rahim, M/s Prime Enterprises
Mr. Mushtaq Ahmed, M/s Al-Rehman Ent.
Mr. Ahmed Waqar, M/s Tariq Waqar Autos
Mr. Emran Tahir, M/s Buksh Industries
Sh. Usman M/s Naeem International
Mr. Raza Noman, M/s Universal Auto Engg.
Mr. Adnan Moton, Advocate

For the Respondent

Mr. Muhammad Tahir, Additional Director
Dr. Abdul Qudoos Sheikh, Deputy Director
Mr. Iqbal Hussain, Principal Appraiser

Brief facts of the case are that values of 'Brake Lining and Friction Material (Clutch Facing)' were earlier determined vide Valuation Ruling No.426/2012 dated 08.02.2012. Being more than six years old, the afore-mentioned values were re-examined to streamline the same according to the current market prices. For this purpose exhaustive enquiries were made and meetings were conducted with relevant stakeholders including trade bodies and importers. Consequently, values of afore-mentioned item were determined afresh vide Valuation Ruling No.1298/2018 dated 25-04-

2018. However, M/s Isuzu Motors and ten other commercial importers filed revision petitions under Section 25-D of the Customs Act, 1969 through their Counsel Mr. Adnan Moton, Advocate against Customs values determined vide Valuation Ruling (VR) No.1298/2018 dated 25-04-2018 issued under Section 25-A of the Customs Act, 1969.

2. Meanwhile, a Writ Petition No.226604 of 2018 was also filed by M/s Isuzu Motors, Lahore before the Honorable Lahore High Court, Lahore against the impugned VR # 1298/2018 dated 25-04-2018 on the following grounds:

"That the petitioner imported a consignment of Brake Lining etc from Thailand declaring the total C & F value of USS 28552 and filed G.D. No. LAPR-HC-938, dated 17-07-2018 (copy of the G.D along with copy of invoice, packing list, examination report & bill of lading at Annex-A, B, C, D & E respectively) with respondent No.1 for Custom clearance. After detailed examination, declaration of the petitioner regarding description and quantity was found correct. Instead of assessing the imported goods according to the customs value (transaction value) in terms of Section 25(1) of the Customs Act, 1969, respondent No. 1 enhanced the value of the said consignment by following the Valuation Ruling No. 1298/2017 dated 25-04-2018 (Annex-F). The petitioner filed a review petition dated 25-05-2018 (Annex-G) against the said valuation ruling dated 25-04-2018 before the respondent No. 2. Earlier, the petitioner along with others have filed a Constitutional petition bearing No. 4348/ 2018 before the Hon'ble Sindh High Court, Karachi challenging therein the said valuation ruling dated 25-04-2018. The Hon'ble Sindh High Court vides its orders dated 31-05-2018 (Annex-H) was pleased to provisionally release the consignments of brake lining. In the presence of a valid order of the Hon'ble Sindh High Court, Karachi, respondent No. 1 illegally enhanced the value of the petitioner's consignment and is not releasing provisionally."

That the aforementioned unlawful action of respondent No. 1 resulted in heavy increase in the form of duty and taxes, rendering the petitioner unable to clear his imported goods. The consignments in question are still lying at the customs port and is under heavy demurrage, thus causing the petitioner irreparable loss, and since no efficacious remedy is available, the constitutional jurisdiction of this Hon'ble Court is being invoked through the instant writ for immediate relief. The petitioner is aggrieved on the following.

GROUND

A. *That in terms of Section 25(4) of Customs Act, 1969, respondent No. 1 was required to intimate the petitioner 'of his reservations in writing' if the declared transaction value was not acceptable and to give the petitioner "an opportunity to justify the price difference...". The compliance-of the provisions of sub-Section (4) of Section 25 ibid read with Chapter IX (Valuation) of the Customs Rules is mandatory and the same has not been complied with by the respondent No.1. Therefore, the impugned assessment is not sustainable under law.*



B. That despite enactment of Section 25-A in the Customs Act, 1969 during 2007, under which respondent NO.2 determined Customs values vide his above mentioned memo dated 11-11-2016, Section 25 ibid remains the primary law as to how the Customs value was to be determined and that is why even the respondent No.2 was required under sub-Section (1) of Section 25-A ibid to determine the Customs value of any goods or category of goods imported into.... Pakistan, after following the methods laid down in Section 25, whichever is applicable". The provisions of Section 25 ibid have to remain the governing provisions for the purposes of determination of Custom's value of imported/exported goods and even the Collector of Customs/Director of Customs Valuation, empowered to determine Customs value under Section 25-A, are required to follow "the methods laid down in Section 25....". The phrase... "Notwithstanding the provisions contained in Section 25", appearing in the beginning of sub-Section (1) of Section 25-A does not provide an absolute freedom to Collector of Customs/Director of Customs Valuation not to follow the methods of valuation laid down in Section 25 ibid since later part of sub-Section (1) of Section 25-A ibid made it obligatory on them to 'determine' the customs value of any goods or category of goods imported into.. .Pakistan, after following the methods laid down in Section 25, whichever is applicable". It would mean that appropriate customs officer (respondent No. 1) has first to take into consideration the declared transaction value of the imported/exported goods and in case he is not satisfied with the declared transaction value because of the value determination having taken place under Section 25-A, he is required, in terms of Section 25(4) ibid to "inform the importer of his reservations in writing and give the importer-an opportunity to justify the price difference. If the importer fails to justify the price difference, the customs value cannot be determined under the provisions of sub- Section (1)", only then resort can be made to the value having been determined under Section 25A ibid. The value determined under Section 25A ibid cannot be applied arbitrarily and blindly without the importer having been informed in writing of the reservations in accepting the declared transaction value and providing the importer an opportunity to justify the price difference. Rule 109(3) of the Customs Rules 2001, notified vide SRO 450(1)/2001 dated 18-06-2001 (as amended from time to time) required that "when a final decision is made, the appropriate officer shall communicate to the importer in writing his decision and the grounds therefor". In case, the respondent No. 1 had reservations in accepting the declared transaction value, he was required to follow the mandatory provisions of sub-Section (4) of section 25 ibid read with Rule 109 of the Customs Rules 2001. The respondent No. 1's action of directly applying the value determined by respondent No. 2, in terms of Section 25-A ibid, without following the mandatory provisions of sub-section (4) of section 25 ibid read with Rule 109 of the Customs Rules 2001 was not sustainable in law (2006 PTD 909, 2006 PTD 674). As held by the Hon' able Supreme Court of Pakistan vide its Judgment reported as PTCL 2002 CL L, "It is well settled proposition of law that a thing required to be done in a certain manner must be done in the same manner as prescribed by law or not at all". The whole action against the petitioner is in flagrant violation of the mandatory provisions of Section 25(4) ibid read with Rule 109 [Chapter IX (Valuation)] of the Customs Rules, 2001 and hence is ab-initio illegal.



C. That the provisions of sub-Section (1) of Section 25-A of the Customs Act, 1969 merely empowered the Collector of Customs and the Director of Customs, Valuation to determine the "Customs value" of any imported/exported goods/category of goods but they were made to follow "the methods laid down in Section 25, whichever is applicable". A plain reading of Section 25 *ibid* reveals that if the Customs value cannot be determined in terms of its sub-Section (1) (declared transaction value), then its sub-Section (5) (transaction value of identical goods) is to be followed, and if the Customs value cannot be determined in terms of its sub-Section (5), then sub-Section (6) (transaction value of similar goods) is to be followed, and if Customs value cannot be determined by following the said sub-Sections (1), (5), (7) and (8), then sub-Section (9) (fall back method) is to be followed. Despite amendment in sub-Section (10) of Section 25 *ibid* that observance of sequential order of sub-Sections (1), (5), (7), (8) and (9) was not mandatory, still it has to brought on record in the form of proper exercise that such and such was' done but the customs value could not be determined in terms of sub-Section (1) of Section 25 *ibid* and hence resort has been made to sub-Section (5) but after doing so and so, customs value could not be determined and hence resort has to be made to sub-Section (6) and by following this method to reach the final method for determination of customs value. Each sub-Section like (5), (6), (7), (8) and (9) started with the phrase... 'if the Customs value of the imported goods cannot be determined under sub-Section...', then the method given in the subsequently following sub-Section was to be applied. The respondent no. 2 has issued the subject memo dated 25-04-2018 without following the provisions of Section 25 *ibid*, as aforesaid. Therefore, the said determination of values by respondent No. 2 was an arbitrary exercise of authority, being in violation of the aforementioned provisions of Section 25 and merit to be declared unlawful.

D. That no direct evidence of actual import of identical goods at the higher value of the level at which the petitioner's goods have been assessed has been confronted to the petitioner. It is a settled law that the Customs authorities cannot arbitrarily enhance the value of imported goods without direct evidence to substantiate the enhancement.

E. That the contents of the impugned valuation ruling dated 25-04-2018 failed to establish the actual local market enquiry being carried out by respondent No. 2. No calculation methods were incorporated in the said valuation ruling in order to show that cost profit / ratio of sale / purchase by importers / whole sellers / dealers / retailers after proper application by work back method right from point of sale at the retailers end up to the point of purchase at the importers end.

PRAYER

In view of the above, it is prayed that:

a. The assessment order of respondent No. 1 on G.D Nos. LAPR-HC298 & LAPR-HC-299, both dated 06-07-2018 by way of enhancement in value through application of titled valuation ruling No. 1298/2017 dated 25-04-2018 may be set aside. Since, the petitioners consignment is already under heavy demurrage and further delay in the clearance of the imported goods from the port area is not only going add up demurrage

charges but would also lead to further deterioration and pilferage, causing irreparable loss. Therefore, respondent No. 1 may be directed to allow provisional release of the petitioner's imported consignment on payment of duty/taxes on the declared transactional value and the difference in duty/taxes on account of enhanced value may be obtained in the form of bond/postdated cheque.

b. Respondent No.2 may be directed to decide the petitioner's review application pending before him at the earliest.

c. Any other relief by this Hon'ble Court.

3. The Honorable Lahore High Court, Lahore passed an Order dated 23-07-2018 in WP No.226604/2018 filed by the petitioner i.e. M/s Isuzu Motors, Lahore. The operative para of the said order is as under:

".....this petition is disposed of with direction to the Respondent No.2 to decide the aforementioned review application of the Petitioner (if pending) after providing proper hearing to all the concerned including the Petitioner within two (02) weeks and application for grant of interim relief within a period of four (04) days strictly in accordance with law from the date of receipt of certified copy of this order."

4. M/s PASPIDA and Others were filed revision petitions through their Counsel, inter alia on the following grounds:

"1). That the applicants being aggrieved and dissatisfied with the impugned Valuation Ruling No. 1298/2018 received on 25.04.2018 issued by the respondent namely Director Customs Valuation, Custom House, Karachi in respect of determination of Customs values of Brake Lining and Friction Material (Clutch Facing) under Section 25A of the Customs Act, 1969 issued in unlawful and malafide manner the applicant above named prefer to file review petition on the following terms inter-alia given below:-

2). That the impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 has been issued without granting an opportunity of hearing to the applicant, thereby depriving the applicant of a fair trial, as envisaged under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973. Further, such callous handling by the respondent namely Director Customs Valuation has also resulted in the effective denial of the right of the applicant under Section 25A of the Customs Act, 1969.

3). That the said impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 the respondent acted in non-bonafide manner in violation to the Article 10-A, 189, 201 of the Constitution of Islamic Republic of Pakistan 1973 as to cause injury to the applicant. That the impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 with respect to determination of Customs values of Brake Lining And Friction Material (Clutch Facing) under section 25-A of the Customs Act, 1969 of origins namely China, Japan & other origins namely Malaysia, Thailand, Indonesia, Korea, Taiwan, Europe which is in absence of material evidence and in defiance to the provisions of Section 25 of the Customs Act, 1969 and passed behind back of the applicant, stakeholders in violation to



internationally accepted principle of law "Audi Altenn Partem" by playing fraud with the facts and law of the cause.

4). Scrutiny of the case record reveals that the applicant was not heard by the respondent while issuing impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 in exercise of the powers conferred under Section 25-A of the Customs Act, 1969. This fact can be substantiated from the fact that no dates were mentioned with respect to the meeting notices issued to all stake holders / association which can be seen in Para-(3) of the impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018, in the impugned Valuation Ruling the Para-(3) with respect to stakeholders participation in determination of Customs values which indicates that numerous meetings with stakeholders, including representatives of clearance Collectorates were held in this Directorate General. Hence they have not mentioned the particular dates on which numerous meetings were held with the stakeholders participation in determination of Customs values of Brake Lining and Friction Material (Clutch Facing) under Section 25-A of the Customs Act, 1969.

5). This clearly shows that an ex-party impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 has been issued by the Director Customs Valuation without giving a proper opportunity to the stakeholders participating in determination of Customs values of Brake Lining And Friction Material (Clutch Facing) under Section 25-A, of the Customs Act, 1969, including Chairman and members of the Association based in Karachi and Punjab. It is now well-settle principle of law that a subject whose rights are being affected must be given an adequate opportunity to defend his case.

6). The Federal Board of Revenue vide letter C. No. e-dox 118215 dated 11.09.2013 informed the Directorate General to conduct public hearing for issuance of all Valuation Ruling and to properly record the proceedings. But these instructions of the board have not been followed while issuing impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 issued by the respondent namely Director Customs Valuation Custom House Karachi in respect of determination of Customs values of Brake Lining And Friction Material (Clutch Facing) under Section 25-A of the Customs Act, 1969.

7). There are various judgments of the Superior Courts of the country whereas it has been specifically directed that no adverse order shall be passed against any person unless he is provided with an opportunity to defend himself.

8). That respondent in paragraph-(2) of the Impugned Valuation Ruling stated that earlier the Customs values of the Brake Lining and Friction Material (Clutch Facing) were determined vide Valuation Ruling No.426/2012 dated 08.02.2012. As the existing Valuation Ruling was more than six year old therefore, required to be revised in line with the prevailing prices in the international market. Keeping in view the prevailing prices in the international markets this Directorate General initiated an exercise for determination of the Customs Valuation of the Brake Lining and Friction Material (Clutch Facing) in terms of Section 25A of the Customs Act, 1969.



9). That the above stated applicants namely Pakistan Auto Spare Parts Importers and Dealers Association (PASPIDA) contended that the Customs values of clutch facing may not be increased because the item is based on asbestos material which is much cheaper item. The applicants further stated that the clutch facing is mainly imported from China which is not in ready form. The applicants further contended that it is furnished on old clutch disc and generate employment. The view point of the representatives of clearance Collectorate was diagonally opposed to the contention of importers. The applicants further contended that values of the subject items is very low and even lower than the raw material prices and also contended that the Pakistan Auto Spare Parts Importers and Dealers Association (PASPIDA) have not substantiated their contentions with any corroborative. The applicant further contended that the subject item is made from phenolic resin, friction dust, copper dust, magnesium oxide etc., which shall be considered to arrive at Customs values. The applicant further produced the clearance data of relevant period indicating that the Customs value in the existing Valuation Ruling are much on lower side and required to be rationalized upward in accordance with prices in international markets. That the view point of all participants was heard in detail and considered to arrive at Customs value for subject goods.



10). That the subject method adopted to determined Customs values in the subject impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 issued by the respondent namely Director Customs Valuation Custom House Karachi in respect of determination of Customs values of Brake Lining And Friction Material (Clutch Facing) under section 25-A of the Customs Act, 1969 is reproduced as under for ease of reference and better understanding of the learned Director General of Customs Valuation while deciding the subject Review Petition pending before her:-

“Valuation Methods provided in Section 25 of the Customs Act, 1969 were duly applied in their regular sequential order to arrive all Customs values of subject godos. The transaction values method as provided in sub-Section (1) of Section 25 of the Customs Act, 1969 was found inapplicable due to wide variation of values displayed in the import data. Hence requisite information required under law as not available to arrive at the correct transaction value. Therefore, identical / similar goods value method as provided in sub-Section (5) & (6) of Section 25 ibid were examined for applicability to the valuation issue in the Instant case but due to wide variations in declarations this method could not be relied upon exclusively. In line with the statutory sequential order of Section 25, this office conducted market inquiries under sub-Section (7) of Section 25 of the Customs Act, 1969. As there was certain difference in prices in different markets therefore, a number of surveys were conducted to arrive at Customs values. Finally reliance had to be made on sub-Section (7) of Section 25 of the Customs Act, 1969 to determine Customs values of Brake Lining & Friction Material (Clutch Facing).

11). That the respondent No.1 vide Para-(5) of the impugned Valuation Ruling No.1298/2018 dated 25.04.2018 observed that valuation methods given in Section-25 of the Customs Act, 1969 were applied sequentially to address the valuation issue at hand. The transaction value method provided in sub-Section (1) of Section-25 of the Customs Act 1969

was found inapplicable due to wide variations of value displayed in the import data as alleged by the respondent namely Director of Customs valuation and also that the requisite information required under the law was not available to arrive at the correct transaction value. That identical and similar goods valuation methods provided in sub- Sections (5) and (6) of Section 25 of the Customs Act, 1969 were examined for applicability to the re-valuation issue in the instant case which provided some references values of the subject goods but the same could not be exclusively relied on due to wide variation in declared values of the subject goods. Thereafter, market enquiries as envisaged under Section 25(7) of the Customs Act, 1969, were conducted. However no detail about the working was provided before the issuance of the impugned Valuation Ruling and also not reflecting in the impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 issued by the respondent namely Director Customs Valuation, Custom House Karachi in respect of determination of Customs values of Brake Lining And Friction Material (Clutch Facing) under Section 25-A of the Customs Act, 1969. However, no valuation method as stipulated under Rule No.113 to 121 of the Customs Rules, 2001 as notified vice SRO 450(I)/2001 dated 18.06.2001 was applied. The use of such breathtakingly contradictory expressions by the respondent in the impugned Valuation Ruling which tantamount to malafide and ulterior motive which render the impugned Valuation Ruling is to be outright illegal.



12). Without prejudice to the above, it is submitted that there is no visible indication in the contents of paragraph 2, 4 & 5 of the impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 issued by the respondent namely Director Customs Valuation, Custom House Karachi in respect of determination of Customs values of Brake Lining And Friction Material (Clutch Facing) under section 25-A of the Customs Act, 1969 that do not contain any valuable proposal / input put forth by concerned Directorate of Customs Valuation / Collectorate, same have been considered / applied in the determination of impugned Valuation Ruling, whereas no input given by local assemblers / Manufacturers are available / incorporated in the Valuation Ruling.

13). It is submitted that the contents of impugned Valuation Ruling don't establish the actual local market enquiry had indeed been carried out by Customs function are as suggested, no calculation, method incorporated in impugned Valuation Ruling in order to show that cost-profit ratio the sale / purchase by importers / whole sellers / dealers / retailers after proper application by work back method right from point of sale at the retailers end up to the point of purchase at the importers end.

14). It is humbly submitted that the view points of the representatives of PASPIDA were not duly considered during the various meeting held which dates have not been mentioned in the impugned Valuation Ruling and they agitated against enhancement in value as proposed by PAMA, PAPAAM and local assemblers / vendors, but their suggestion were vehemently ignored PASPIDA suggested for decreasing the valuation of replacement parts with view to encourage frequent import and in order to curb smuggling which are beyond their reach. Resultantly impugned Valuation Ruling is irrational, not logical same has been issued in violation of the hall mark judgment of the Honorable High Court of Sindh at Karachi in the case of Rehan Umer reported as (2006 PTD 909), where in it was observed by the Honorable

High Court that an exercise of market enquiry cannot be termed as legal without accommodating the view of majority of stockholder. Since the majority of the users are using the values of Brake Lining and Friction Material (Clutch Facing) therefore the impugned Valuation Ruling is not applicable on the strength of the above stated judgment of the Honorable High Court of Sindh at Karachi.

15). That there is no justification or reason to increase the prices of Brake Lining & Friction Material (Clutch Facing) parts under Section 25-A of the Customs Act, 1969 vide impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 issued by the respondent namely Director Customs Valuation, Custom House Karachi in respect of determination of Customs values of Brake Lining and Friction Material (Clutch Facing) under section 25-A of the Customs Act, 1969 while ignoring the international economic conditions as the prices of oil and raw materials has drastically decreased resulting in reduction in prices for all the products including values of Brake Lining And Friction Material (Clutch Facing) products in the international markets. The above stated view point and contention of the applicant has already been stated which are already on record in the relevant file of the Director General of Customs Valuation of Customs House Karachi and the above stated view point have been placed on record vide review applications made to the Director General Customs Valuation from time to time. Price increase of Brake Lining and Friction Material (Clutch Facing) with different Customs values (C & F) US\$ /Kg as per their origin which is not logical and factual as reflecting in the impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 issued by the respondent namely Director Customs Valuation, Custom House Karachi in respect of determination of Customs values of Brake Lining And Friction Material (Clutch Facing) under Section 25-A of the Customs Act, 1969 item wise.



16). The members of PASPIDA contended that the prices of Brake Lining and Friction Material (Clutch Facing) may not be increased because the item is based on asbestos material which is much cheaper item. The applicants further stated that the clutch facing is mainly imported from China which is not in ready form. The applicants further contended that it is furnished on old clutch disc and generate employment. The view point of the representatives of clearance Collectorate was diagonally opposed to the contention of importers. The applicants further contended that values of the subject items is very low and even lower than the raw material prices and also contended that the Pakistan Auto Spare Parts Importers and Dealers Association (PASPIDA) have not substantiated their contentions with any corroborative. The applicant further contended that the subject item is made from Phenolic Resin, Friction Dust, Copper Dust, Magnesium Oxide etc., which shall be considered to arrive at Customs values. The applicant further produced the clearance data of relevant period indicating that the Customs value in the existing Valuation Ruling are much on lower side and required to be rationalized upward in accordance with prices in international markets. That the view point of all participants was heard detail and considered to arrive at Customs value for subject goods and which is already mentioned in Para-IV of the Impugned Valuation Ruling No. 1298/2018 dated 25.04.2018.

17). That the impugned Valuation Ruling is defective and unlawful as it fails to adhere to the specific provisions of Section 25 and Section 25A of the Customs Act, 1969, and the supplementary Customs Rules, thereby having been issued by the respondent Director Valuation in subversion of his powers. While applying the deductive value method as provided under sub-Section (7) of Section 25 of the Customs Act, 1969 the respondent has completely abandoned the other valuation methods. The respondent has not provided any valid reason or justification as to why the other methods prescribed under Section 25, sub-Sections (1), (5), (6) were not found applicable. The submissions of the applicant in this regard have surprisingly escaped the attention of the respondent namely Director Customs Valuation.

18). It is further stated that no market enquiry was ever conducted by the respondent namely Director Customs Valuation. The market inquiry, as per SOP 01/05 and Rule 119, Customs Rules, is to be conducted in line with strict rules laid down therein which inter alia, includes in line with strict rules laid down therein which, inter alia, includes inclusion of all the stakeholders in such a market inquiry.

19). It was incumbent upon the respondent to refer to and confront the applicant with the material relied upon in determining / fixing the enhanced value after allowing them an opportunity to controvert the same. There is no evidence of contemporaneous import of the same brand / item which prompted the respondent to refuse to accept the proposed prices of Brake Lining and Friction Material (Clutch Facing) provided by the PASPIDA and its members namely Commercial Importers before the issuance of the impugned Valuation Ruling No. 1298/2018 issued by the respondent namely Director Customs Valuation Customs House, Karachi in respect of determination of Customs values of Brake Lining And Friction Material (Clutch Facing) under Section 25-A of the Customs Act, 1969 on behalf of the various importers as submitted by the applicants before the Director Customs Valuation. That in view of lack of evidence, the action for rejection of the proposed prices of Brake Lining and Friction Material (Clutch Facing) submitted by PASPIDA & its members namely Commercial Importers before the issuance of impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 issued by the respondent namely Director Customs Valuation Custom House Karachi in respect of determination of Customs values of Brake Lining And Friction Material (Clutch Facing) under Section 25-A of the Customs Act, 1969 by the applicants is arbitrary, whimsical, capricious and in complete disregard of the provision of Section 25 and 25A of the Customs Act, 1969. Such action is not only contrary to the provisions of law but also against the principle of natural justice and various judgments of the Superior Courts of Pakistan including Apex Court.

20). That Section 25-A of the Customs Act, 1969 does not give unbridled powers to respondent for determination of the values on presumptions. Moreover, the respondent has fixed prices mentioned in the Impugned Valuation Ruling No.1298/2018 dated 25.04.2018 received on 27.04.2018 issued by the respondent namely Director Customs Valuation Custom House Karachi in respect of determination of Customs values of Brake Lining And Friction Material (Clutch Facing) under section 25-A of the Customs Act, 1969 without resorting to the methods provided under Section 25 ibid, and fulfilling the requirements of



