

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACH

File No. DG (V)/Val.Rev/25/2018

28th

September, 2018

Order in Revision No. 37/2018 Under Section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1283/2018 dated 13-04-2018

- 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. Galaxy Enterprises & Others

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

24-07-2018, 16-08-18 and 12-09-18

For the Petitioners

None

For the Respondent

Mr. Abdul Hameed, Principal Appraiser,

This revision petition was filed under Section 25-D of the Customs Act, 1969 against Customs values determined vide Valuation Ruling No. 1283/2018, dated 13-04-2018 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. FACTS

- 1) It is stated that M/s. Galaxy Enterprises Importer & Exporter are regular importers of all sort of Steel Files this and other related items from Indonesia from several years.
- 2) That in the instant case this Valuation Ruling bearing 958/2016 was in field which was challenged before the DG Valuation. The respondent above named, in absence of lawful justification enhanced by more than 200% in the Customs value structure of the above referred goods.
- 3) That the Customs values of Steel Files (classifiable under HS Code 8203.1000) was enhanced arbitrarily by the respondent in absence of any lawful justification, legal basis,What

is Steel File= Metal Files - Hand Tool - Grainger Industrial Supply. A file is a tool used to remove a fine amount of material from a work piece. It is common in woodworking, metal working and other similar trade and hobby tasks. Most are hand tools made of a case hardened Steel Bar of rectangular. Files have also been developed with abrasive surfaces such as natural or synthetic. Files from Grainger are essential hand tools for finishing any woodworking or metal working project. These metal files have a variety of surface textures to handle any job. These surfaces for heavy duty jobs and metal surfaces for softer materials which are made of forged steels and the value of Forged Steel / Hardened Steel Bar based on LME / LMB ranged value from 0.50 to 0.80/Kg. The values fixed in the impugned Valuation Ruling are range from US\$ 4.13 to 5.5/Kg which is against natural justice. Its previous practice of the Valuation Department that values are always determined keeping in view values of raw material of the product. The current prevailing data of the Steel Files ranges from 0.8/Kg to 1.50/Kg.

4) That the impugned Valuation Ruling has been framed in clear disregard to the legal dictates on various Customs Rules and disobedience to the sequential methods as provided under the law.

5) That the respondent above named failed to abide by the norm of audi alteram partem natural justice as no opportunity of being heard in person was provided to the applicant above named at the time of framing impugned Valuation Ruling,

6) That the said Valuation Ruling is nothing but bad, void, arbitrary attempt and deception with the facts and law of the case, which is in clear disregard to mandates of Section 25, 25-A of the Custom Act, 1969, as well as enunciated principles of law under the mandate article 189, 201 and 10-A of the Constitution of Islamic Republic of Pakistan.

7) The Valuation Ruling No. 958/2016 was challenged under Section 25D of the Customs Act, 1969. The DG Valuation reviewed the subject Valuation Ruling vide Order-in-Review No. 312/2017 dated 24-02-2017 and re-fixed the values of the subject goods under Section 25D.

It is therefore, humbly prayed that kindly pass an order to annul the impugned Valuation Ruling and direction may please be passed for redetermination of the Customs values as per transaction values thereof after giving proper and fair opportunity of being heard to all stakeholders on the basis of evidences of the contention by the applicants above named. The prayer is being made in the interest of justice.

3. The respondent department was asked to furnish comments to the arguments submitted by the petitioner in the case. Para-wise comments on the petition are given as under:-

PARAWISE COMMENTS

Para-(1)-(4): Denied. It is submitted that the transaction value under Section 25(1) of the Customs Act, 1969, had not been accepted due to the reason that the requisite information with respect to complete description of goods, sizes, contract with the supplier, proforma invoice, L/C and Proof of Payment through normal banking channel etc. had not been

provided by the importer at the time of exercising the determination of Customs value under Section 25A of the Customs Act, 1969. It is submitted that due to the reasons above, next valuation method in terms of Section 25(5) and 25(6) of the Customs Act, 1969, could also not be applied. Market enquiry in terms of Section 25(7) of the Customs Act, 1969, was also conducted. Moreover, the computed value method in terms of 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 also not available. However, reliance was made upon Fall Back Value method as envisaged under Section 25(9) of the Customs Act, 1969. It is further submitted that the Customs value of under reference goods had been determined strictly in accordance with the provisions of Section 25 of the Customs Act, 1969. Moreover, the petitioners, on the other hand, did not submit requisite import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant. As per Rule-109 of the Valuation Rules issued under SRO No.450 (I)/2001, dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove correctness of transaction value shifts to the importers / applicants. As such the impugned Valuation Ruling No.958/2016, dated 31-10-2016, is not against the principles of law rather the same is based on factual ground realities.



Para-(5)-(6): It is submitted that the impugned Valuation Ruling is self explanatory which clearly reveals whole the process of issuance of the same. Further, it is pertinent to mention here that the Customs values in the said ruling were determined after properly holding meetings with stakeholders on 05-08-2016 and 21-09-2016 and after following all the valuation methods sequentially as envisaged under Section 25 of the Customs Act, 1969. As such the same have been determined after extensive exercises. Moreover, 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 corroboratory documents i.e. copies of Sales Tax Paid Invoices etc.

Para-(7)-(8): 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. In this regard it is submitted that this Directorate General has determined the minimum Customs values in the Valuation Ruling No.1283/2018, dated 13-04-2018 for level playing field and for uniform assessment all over the Customs Stations of the country which was issued after holding meetings with stakeholders and after following valuation methods in sequential manner. All the factors and elements surrounding import of under reference goods were considered while determining the values of under reference goods. The participants as well as the association were requested to

provide following documents like copies of contracts made / LCs, Sales Tax Paid Invoices to substantiate their contention of decrease in market prices : -

- (i) Invoices of imports made during last three months showing factual value
- (ii) Websites, names and E-mail addresses of known foreign manufacturers of the item in question through which the actual current value can be ascertained.
- (iii) Copies of contracts made / LCs opened during the last three months showing value of item in question and ;
- (iv) 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 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. Import data of previous 90 days was analyzed and evaluated and after gathering all information, the Customs values have been determined in terms of Section 25(7) of the Customs Act, 1969, vide above referred Valuation Ruling.



PRAYER

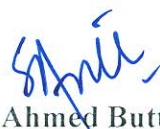
In view of above, it is prayed that the said Valuation Ruling may be allowed to hold filed for assessment being lawful and valid. Further, transaction value cannot be accepted in absence of any tangible import documents. As such under reference petition being not maintainable is liable to be rejected accordingly.

ORDER

4. Neither the appellants nor their representatives appeared at the time when the case was fixed for hearing on 24-07-18, 16-08-18 and 12-09-18. Perusal of the record reflected the fact that since the first hearing, notices were issued on each and every date of hearing, however, the appellant did not attend the hearing nor any reason in writing or application for adjournment was submitted. Non appearance on behalf of the appellant caused delay in finalizing the proceedings. Moreover, the documents called in support of their claim were also not submitted by the appellants. Considering the circumstances, it is clear that the petitioner have no intention to pursue the revision proceedings on this forum. Therefore, the subject petition is dismissed for non-prosecution.

5. Being identical on facts, this order shall apply mutatis mutandis to the following (04) petitions.

- | | |
|--------------------------|------------------------|
| 1. M/s. Mona Traders, | DG(V) Val. Rev 25/2018 |
| 2. M/s. Sabir Sons, | DG(V) Val. Rev 25/2018 |
| 3. M/s. Bismillah Impex, | DG(V) Val. Rev 25/2018 |
| 4. M/s. Tariq Hussain, | DG(V) Val. Rev 25/2018 |


(Suraiya Ahmed Butt)
Director General

Registered copy to:

M/s. Galaxy Enterprises,
Suit No. 2-A, 1st Floor, MR 5/136, Haji Adam Ishaq Building, Jodia Bazar, Karachi.

M/s. Sabir Sons,
Dewan Street No.3, 40- Brandreth Road, Lahore.

M/s. Bismillah Impex,
H.No. 15/B, Street No.49, Khyber Park, Sant Nagar, Lahore.

M/s. Tariq Hussain,
146-C, Phase-I, DHA, Lahore.

M/s. Mona Traders,
Commercial Center, 7 Wahdat 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.