

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

File No. DG (V)/Val.Rev/24/2018

Dated 26th September, 2018

**Order in Revision No. 35 /2018 under Section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1301/2018 dated 04-05-2018**

- 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. Diamond Export Industries (Pvt) Ltd & Others

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

10-07-2018 and 18-09-2018

For the Petitioners

Mr. Muhammad Jawed M/s J.K. Traders
Mr. Shahnawaz A. Sattar M/s Diamond Exp.
Mr. Muhammad Imran, M/s Diamond Fabrics
Mr. M. Yahya M/s Radium Silk Factory
Mr. M. Kamran M/s SKF Collection

For the Respondent

Mr. M. Sohail Ismail, Principal Appraiser

This revision petition was filed under Section 25-D of the Customs Act, 1969 against Customs values determined vide Valuation Ruling No. 1301/2018, dated 04-05-2018 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. That being aggrieved and dissatisfied with the values of "Polyester Microfiber Fabric" determined by the Director Customs Valuation, Karachi, under section 25A of Customs Act 1969 through the S.No. 6 of Valuation Ruling No. 1301/2018 dated 04-05-2018, we prefer this revision petition under Section 25-D of the Customs Act, 1969 before your kind authority on the following facts and grounds.

3. FACTS

- 1) That M/s Diamond Fabrics, Faisalabad is one of the leading manufacturers of "Bed Sheets"

- 2) That hold unblemished record and contribute huge revenue to national exchequer by timely payment of all legitimate Customs duties and allied taxes.
- 3) That to meet our industrial requirement we regularly import printed Polyester Microfiber Fabric from worldwide sources including China.
- 4) That till issuance of impugned VR, there was a uniform policy of almost all the Collectorates to assess the Chinese origin "Printed Polyester Microfiber Fabric"@ US\$ 2.80/Kg. Irrespective of truly declared transactional values for the said item we always accepted the assessment keeping in view the minor difference between genuine transactional values and assessed values, however to the best of our knowledge such assessed values were not acceptable to some other importers.
- 5) That as a matter of fact, actual transactional values in our import cases were ranging from US\$ 2.58 to US\$ 2.68/Kg.
- 6) That the petitioner always believe in correct true and genuine transactional values and no element of any sort of under invoicing is noticed or alleged by any Custom department in the past.
- 7) That it will not be out of place to mention here the background to the issuance of subject Valuation Ruling which is nothing else than stated in the impugned VR.



"Earlier Customs Values of different types of Polyester fabrics were determined vide two different Valuation Rulings No. 1224/2017 and 1225/2017 both dated 28-11-2017. Importers of Polyester microfiber fabric have agitated time and again that their item is not covered under the rulings and they are being incorrectly assessed under the existing rulings."

- 8) In the light of background to the issuance of impugned VR, it is an established fact that the values being assessed by the various Collectorates (i.e. US\$ 2.80/Kg) were not acceptable by most of the importers and they approached the Valuation department for inclusion of their item in the VR to redress their grievances, however instead of determination of fair values of under reference item, through the impugned ruling the values were determined on more higher than the values were agitated.
- 9) In the light of above facts it is therefore requested to please review the determined values on the basis of following grounds.

4. **GROUND**S

- A. That, before issuance of impugned VR, meetings with stakeholders were scheduled, however we were not invited in the referred meetings irrespective of the fact that we are the main stakeholder.
- B. That impugned ruling was issued by adopting the sub-Section (7) of Section 25, on the plea that transactional value method as provided in sub-Section (1) of Section 25 was found

inapplicable due to wide variation of values displayed in the import data, this observation is incorrect as by perusal of import data of last six months it will reveal that the declared transactional values of the under reference were ranging from US\$ 2.58 to US\$ 2.68/Kg, this slight variation cannot be considered to be a sufficient reason to reject the sequential order as provided under sub-Section (1) (5) and (6) of Section 25 of Customs Act 1969.

- C. That the background to the issuance of impugned ruling as mentioned therein is also self explanatory to the effect that before issuance of VR, assessed value i.e. US\$ 2.80/Kg being applied by the respective Collectorates were not acceptable to the importers/manufacturers being on higher side, and exercise to determine the value was initiated by the Directorate on the demand of the trade, now surprisingly the values are determined by further enhancement than already were being assessed by the respective Collectorates.
- D. That "Polyester Microfiber Fabric" is mentioned vide S.No. 2, 4 and 6 in the impugned VR whereby values of unbleached, bleached and printed has been fixed as US\$ 2.35, US\$ 2.50 and US\$ 3.50/Kg. It is quite clear that difference between unprinted and printed has been taken as US\$ 1/Kg. This difference is totally unjustified and unfair, as a matter of fact the printed cost could not be more than US\$ 0.18 to US\$ 0.25/Kg depends on the print designs, the same aspect can easily be verified. Hence additions of printing charges need consideration to determine the values for printed Polyester Microfiber Fabric.
- E. In the light of above it is therefore requested to please order for re-determination of value mentioned against S. No. 6 of Valuation Ruling No. 1301 dated 04-05-2018.
- F. It is also requested to issue interim order for provisional assessment under Section 81 of Customs Act 1969 for already imported consignments pending final decision of the instant case.
5. 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:-

Para wise Comments by the Department

Brief facts of the case are that the Directorate General of Customs Valuation received Board's letter C. No. 3(20)/Tar-I/2017 dated 08.3.2017 and representation from the importers of polyester grey cloth wherein they stated that polyester printed fabric is being cleared by field formations on the value (US\$ 2.80/Kg) which is lower than customs value (US\$ 3.80/Kg) determined for polyester grey fabric vide Valuation Ruling No 1224/2018 dated 28.11.2018. The clearance data retrieved from PRAL confirmed that the polyester printed fabric declared to be for bed sheets were being assessed at US\$ 2.80/Kg which reflected that the representation by the importer of Polyester Grey Fabric needs serious consideration. Accordingly this Directorate vide letter No VAL-DIR Inter Directorate/01/2017-(IV)/3350 dated 16.03.2018 sought view point of the field formations on the issue. The MCC Appraisement (West) vide letter No Si/Misc/78/2018-IV (AW) dated 28.03.2018 informed that the polyester printed fabric for bed sheets is manufactured from micro fiber (recycled



fibers of polyester) hence the same is reportedly cheaper than the fabric for shirting/ suiting. The MCC was of the view that the Directorate Valuation may determine the value of subject item under Section 25- A of the Customs Act 1969. The MCC Port Qasim vide letter No. Group-IV-337-2018-PQ/290 dated also expressed same view point as the MCC Appraisalment (West). Therefore, an exercise initiated for determination of the Customs values of the polyester microfiber fabric and clearly delineate this type of fabrics from other polyester fabrics in terms of Section 25-A of the Customs Act, 1969.

COMMENTS ON FACTS

Para (1) - (3): The contents of Para (1) to (3) of the petition are introductory in nature, hence, require no comments.

Para (4) - (6): The contents of Para (4) to (6) are misleading. Prior to the issuance of the impugned Valuation Ruling there was no uniform value assessment of polyester micro fiber fabric. The clearance data retrieved from PRAL reflected that clearances were being made ranging from US\$ 1.5954/kg to US\$ 3.5342/kg from China. Meetings with stakeholders including commercial importers, FPCC/KCCI and representatives of trade bodies were held on 15.8.2017, 25.8.2017 and 21.11.2017 to discuss the current/prevaling international prices of the subject goods. The view point of all participants was heard in detail and considered to arrive at Custom values of the subject-goods. No arbitrary action was taken and custom values of polyester micro fiber fabrics, grey/unbleached, bleached and printed was determined without prejudice and in accordance with the prevailing facts and findings of clearance data and market surveys.



Para (7) - (8): That the content of the Para (7) & (8) are denied being incorrect and baseless. It is submitted that the Directorate General of Customs Valuation received Board's letter C. No. 3(20)/Tar-I/2017 dated 08.3.2017 and representation from the importers of polyester grey cloth wherein they stated that polyester printed fabric is being cleared by field formations on the value which is lower than Customs value determined for polyester grey fabric vide Valuation Ruling No 1224/2018 dated 28.11.2018. The clearance data also confirmed the contents of representation. Accordingly an exercise was initiated for determination of the Customs values of the polyester microfiber fabric grey, bleached and printed and clearly delineate this type of fabrics from other polyester fabrics in terms of Section 25-A of the Customs Act, 1969.

Para (9): As regards the contents of Para (9) it is submitted that the Valuation Ruling 1301/2018 dated 04.04.2016 was issued under four corners of law, as provided under Section 25A of the Customs Act 1969 and uniform application across the board. There is no ground for this revision application. In view of above stated legal facts, under reference revision petition is not maintainable and may be dismissed as not maintainable.

COMMENTS ON GROUNDS

Para (A). The contents of Para (A) are incorrect and baseless. In fact stake holders including the petitioners were invited for scheduled meetings on 23.4.2018 and 04.5.2018. The meeting notice contains the petitioners name at serial No 14. The importers / stakeholders were requested to submit the documents before or during the course of stakeholders meetings so that customs values could be determined. No one from petitioner side appeared for the scheduled meetings nor any document was submitted by them which shows that they were not interested in proceedings and values were considerably higher than their declarations and by keeping themselves absent, they may have created an alibi for being unheard.

Para (B). The contents of Para (B) are misleading. Prior to the issuance of the impugned Valuation Ruling there was no uniform value assessment of polyester micro fiber fabric. The clearance data retrieved from PRAL reflected that clearances were being made ranging from US\$ 1.5954/kg to US\$ 3.5342/kg from China. Therefore finally reliance was made on Sub-Section (7) of Section 25 of the Customs Act, 1969 to determine Customs values of subject items.

Para (C). The contents of Para (C) are also incorrect and contrary to the facts. The Directorate General of Customs Valuation received Board's letter C. No. 3(20)/Tar-I/2017 dated 08.3.2017 and representation from the importers of polyester grey cloth wherein they stated that polyester printed fabric is being cleared by field formations at US\$ 2.80/Kg which is lower than Customs value determined for polyester grey fabric at US\$ 3.80/Kg vide Valuation Ruling No 1224/2018 dated 28.11.2018. The contention of the petitioner is baseless and liable to be rejected.

Para (D). The contents of Para (D) are misleading and contrary to the facts. Their main thrust on the item at serial No 6 (Printed micro fiber fabric) and questioned to the difference US\$ 1/kg between printed and unprinted fabric however no one has object to item at serial 6 where difference of value between printed and unprinted fabric is more than US\$1/kg. The Customs values determined in the impugned Valuation Ruling are well founded with market enquires and clearance data of relevant period.

Para E&F: The contents of Para (E) & (F) do not merit consideration. It is submitted that the Valuation Ruling 1301/2018 dated 04.05.2018 was issued under four corners of law, as provided under Section 25A of the Customs Act 1969. The case merits no relief at this stage. There is no substance in the appeal and is liable to be rejected. It is prayed that instant petition may be dismissed being devoid of merit.

ORDER

6. Hearings in the subject cases were fixed for 10-07-2018 and 18-09-2018. The petitioners appeared for hearings and reiterated the same arguments as already given in their petitions. The petitioners agitated that they were not invited for the meetings scheduled during the exercise of 25A with stakeholders irrespective of the fact that they are one of the main importers. Their main objection was against the values determined vide impugned Valuation Ruling in respect serial No.6

for Printed Polyester Micro Fiber Fabric (upto 5 square meter/kg). They contended that these values 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. On the other hand, the departmental representative 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.

7. The arguments of petitioners have been heard in detail. 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. The petitioners could not come up with any substantive evidence to suggest that the values determined are exaggerated. On the other hand, the DR presented details of comprehensive market inquiry reports as available on record to support the values determined by them in pursuance of deductive value method.

8. In view of aforesaid factual improprieties and legal infirmities, the revision petitions merits no consideration and are accordingly rejected.

9. Being identical on facts and law point, this order shall apply mutatis mutandis to following (05) Petitions.

1.	M/s. Diamond Fabrics	DG (V) Val. Rev/24/2018
2.	M/s. Radium Silk Factory	DG (V) Val. Rev/24/2018
3.	M/s. J.K. Traders,	DG (V) Val. Rev/24/2018
4.	M/s. SKF Collection,	DG (V) Val. Rev/24/2018
5.	M/s Texperts International	DG (V) Val. Rev/24/2018


(Suraiya Ahmed Butt)
Director General

Registered copy to:

1. M/s. Diamond Export Industries (Pvt) Ltd,
2.5Km, Jaranwal Road, Khurrianwala, Faisalabad.
2. M/s. Diamond Fabrics,
2.5Km, Jaranwal Road, Khurrianwala, Faisalabad.
3. M/s. Radium Silk Factory,
Plot No. L 18/1/1/4, Block-22, F.B. Area, Karachi.
4. M/s. J.K. Traders,
261/B, 1st Floor, Latif Cloth Market, M.A. Jinnah Road, Karachi.
5. M/s. SKF Collection,
1st Floor, Office No. 124-125, Taxtile Plaza, Near New Memon Masjid, M.A. Jinnah Road,
Karachi.

6. M/s. Texperts International,
P.O. Box3172 Ajman-United Arab Emirates

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.