

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

File No. DG (V)/Val.Rev/45/2018 /1516

Dated 28th November, 2018

Order in Revision No. 41/2018 under Section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1341/2018 dated 16-11-2018

- 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.*
If an appeal is filed, the appellant should state whether he desires to be heard in person or through an advocate.



M/s Nadeem Impex and Others

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

27-11-2018

For the Petitioners

Mr M. Riaz
Mr. M. Shiraz
Mr. Shoaib Ahmed
Mr. Zafar Iqbal
Mr. Ali Asghar
Mr. Adnan

For the Respondent

Dr Abdul Qudoos Shaikh Dy. Director

This revision petition was filed under Section 25-D of the Customs Act, 1969 against Customs values determined vide Valuation Ruling No. 1341/2018 dated 16-11-2018 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. That being highly aggrieved and extremely dissatisfied with the impugned valuation ruling No. 1341/2018 dated 16-11-2018 for Suitcases (Soft & Hard) of low end brand issued by the Director valuation, Directorate of valuation department which is arbitrary, incorrect, unjust and illegal, the Petitioner being the affected person who is the importer of goods i.e. SUIT CASES / TROLLEYS BAGS (Soft & Hard) prefers to file this revision petition under Section 25-D of the Custom Act, before the Honorable Authority and pray that honorable authority would be pleased to call for the records and proceedings of the learned Respondent in exercise of revision powers U/S 25-D and set aside the impugned valuation ruling/determination of customs value after examining the legality and correctness of the same on the following facts and grounds namely.

ACTS

- a) That the petitioner M/s. NADEEN IMPEX is registered and regular importer of Suitcases (Soft & Hard)) since last many years and clearance is obtained against fair declaration with a respectable reputation and record of law abiding and tax compliance company who believes in fair practice of business.
- b) That Respondent Director valuation has issued the impugned valuation ruling which is arbitrarily adjudged on presumptive/hypothetical value and issued in hurry totally ignoring the standard of transaction value, in violation of section 25 of the custom Act 1969 and custom rules 2001.
- c) That the most crucial thing which has been ignored while determination of impugned valuation is that increase in prices of general commodity and essential in the present circumstances will increase the prices to general consumers and poor persons who shall be the worst sufferer and this is against the policy of government and an extra burden to common man and poor people and hence petitioner is aggrieved by the action of respondent.
- d) That as regards the para 3 of the impugned Valuation ruling, it is a crucial disclosure that invoices are manipulated which is again incorrect as in presence of valid valuation ruling value cannot be suppressed hence all contents of para 3 are in correct and irrelevant and don't make a valid reason for revision of valuation ruling and further more it is also incorrect that transactional value method found inapplicable whereas on the contrary custom assessment department is releasing the goods declarations by application of valuation ruling without any difficulty or complain from the trade.
- e) Without prejudice to the above, it is submitted that contents of paragraphs also not containing any valuable proposal /input/reasons as put forth by concerned collectorate for issuance/revision of valuation ruling hence these facts proves/render the process of issuance of valuation ruling outright illegal and un lawful as no input has been incorporated in the impugned valuation ruling.
- f) That impugned valuation has been issued without examining the facts and documents warranting any change for increase neither huge decline/downward trend in the prices in international market were noted but prices of this product were stable hence enhancing the valuation is not supported by evidence hence valuation ruling is not justified and shall be called back as non speaking order.
- g) That custom data of past 90 days import reveals and confirms stable prices of the commodity and enhancement is without any justification.
- h) That the Importer reserves his rights to submit evidences and further record at the time of personal hearing so called for

GROUNDS

- a) That the impugned valuation ruling 1341/2018 dated 16-11-2018 has been issued without considering the fact and evidences hence is not a speaking order and therefore completely malafide, arbitrary without jurisdiction and of no legal effect.

- b) The methodology adopted in the impugned valuation ruling is contrary to the law and provision of Section 25 and also against the guidelines given in valuation rules and judgments so issued by honorable high court in similar cases and therefore having following defects and illegalities

The respondent has not disclosed that what resources to verify genuineness of invoices were required which were found absent and not available with the respondent and why any effort has not been made to make them available to exercise proper jurisdiction of determination under section 25 (1) read with section 25 (A) of the Custom Act 1969

That the Respondent has given a vogue reason of non-determination of value in sequential order and under proper method when it is apparent on customs record/data that transactional value of identical goods sold for export to Pakistan was available with the Respondent which are lesser than value so fixed in impugned valuation ruling.

- c) That it is an admitted fact available on record and even in the customs records that prices of subject goods in the international markets have shown stability or slight decline but impugned valuation has been fixed on higher side ignoring all the facts which proves that it has been issued in hurry and without application of mind and using sources available to department.
- d) That it is established principle of interpretation of the law that plain language of the law is to be applied. A bare perusal of the section 25 shows that it is specially provided in sub-section (1) of section 25 that the custom value of the imported goods subject to provision of sections/ rules shall be the transactional value and method 1 to 4 are primary method and mandatory to be adopted and if they cannot be applied then secondary method are to be applied but when custom department regularly releasing the Goods by applying the in force valuation ruling then enhancing the value without any support is not acceptable and without any law.
- e) That petitioner is holding a good reputation and strictly follow rules and all laws of country and all transactions are transparent and through banking channel and suddenly increasing the value of product will harm the importer and price increase to general consumers.
- f) That petitioner reserved the right to submit further grounds and any evidence in its support at the time of hearing



PRAYER

It is prayed that this authority in exercise of jurisdiction so given in section 25-D may kindly be pleased to:

- a) In the interest of justice Set aside or modify the impugned valuation ruling 1341/2018 dated 16-11-2018 and declare the impugned determined values being illegal, arbitrary and invalid and ultra virus in the eye of law.

- b) The present consignments are lying at port incurring heavy port demurrage / shipping line container detention charges, therefore said Valuation Ruling No. 1341/2018 dated 16-11-2018 under section 25-A Custom Act 1969 not sustainable / aintainable, we request you to kindly same may be set aside on the urgent basis.
- c) Grant any other relief deemed fit in the circumstances.

ORDER

2. The petitioners appeared for hearing on 27.11.2018 and submitted that the values of suitcases (soft & hard) of low end brands have been exorbitantly enhanced without getting any feedback or participation of the stakeholders. They agitated that all of a sudden they have come to know of the enhanced values notified vide the impugned Valuation Ruling and that the whole trade is going to be disrupted as their consignments are lying at the port and the values have been drastically enhanced, almost doubled as compared to the previous valuation ruling i.e. 915/2016 dated 25-08-2016. The DR submitted that the petitioners/stakeholders were afforded opportunities of meetings however, they failed to appear in the meetings and submit the requisite import documents. Therefore they did market surveys and notified Customs values accordingly. The petitioners, on the other hand insisted that they are registered Sales Tax payers and their prices can be ascertained through scrutiny of their sales related records. The petitioners requested for re-determination of customs values in accordance with law after extending due opportunity of hearing to them.

3. I have gone through the record of the case and arguments of rival parties. Scrutiny of record reveals that the applicants were not heard by the respondent Director, Customs Valuation, Karachi while determining Customs values under Section 25 of the Customs Act, 1969 in exercise of statutory power conferred on Director Valuation under Section 25A ibid in the form of Valuation Ruling No.1341/2018 dated 16-11-2018; it is also a well known principle of law that no man can be condemned without opportunity of hearing. The presence of said irregularities makes the process of determination of values suffering from procedural impropriety. The arguments of the petitioners carries weight and it is, therefore, ordered that the impugned Valuation Ruling No.1341/2018 dated 16-11-2018 is set aside and the Valuation Ruling No.915/2016 dated 25-08-2016 holds the field for assessment purpose till a fresh Valuation Ruling is issued by the Director, Customs Valuation, Karachi on merits and in accordance with law after giving a fair opportunity of hearing to the petitioners/stakeholders.

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

S #	Petitioner Name	File No
1	M/s United Traders	DG(V)Val. Rev/ 45 /2018
2	M/s M.I.Traders	
3	M/s Afzaal Traders	
4	M/s Diamond Leather Craft	
5	M/s Nadeem Impex	
6	M/s M.M.U. Traders	

7	M/s Zubaida & Sons	
8	M/s Abdullah & Co.	
9	M/s Waseem Enterprises	
10	M/s Ahmad Brothers	
11	M/s Super Traders	


(Suraiya Ahmed Butt)
Director General

Registered copy to:

M/s Al-Hatim Impex,
6-B-5, Fakhri Trade Center, Shahrah-e-Liaqat, Karachi

M/s Roots International Brands Pvt. Ltd.
Plot No.105, Sector 7-A, Korangi Industrial Area, Karachi

M/s Waseem Enterprises,
11-H, Gulshan-e-Ravi, Lahore

M/s Nadeem Impex,
LGH 12, Japan Center, Cooper Road, Lahore

M/s M.I.Traders,
8-E, Main Shah Alam Market, Lahore

M/s M.M.U. Traders,
Suite No.M-281, Mezzanine Floor, Jilani Center, M.W.Tower, M.A.Jinnah Road, Karachi

M/s Diamond Leather Craft,
B-318, Trunk Bazar, Rawalpindi

M/s Afzaal Traders,
B-207, Street No.7, Trunk Bazar , Rawalpindi

M/s Ahmad Brothers,
House No.14, Street No.136-A, Aman Park, Baghban Pura, Lahore

M/s Abdullah & Co.
B-286 Trunk Bazar, Rawalpindi

M/s Zubaida and Sons
B-286, Naya Mohalla Trunk Bazar, Rawalpindi

M/s United Traders
Address not available.

M/s Super Traders
Shop No.12, Shahalam Market, 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.