

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/614/2016

Dated: 18<sup>th</sup> August, 2016

**Order in Revision No. 234 /2016 under section 25-D of the Customs Act, 1969**  
**In compliance of the Honourable Sindh High Court C.P.No. 2928, dt. 19-05-2016**

- 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. A.O. Enterprises

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PETITIONER

VERSUS

Director, Customs Valuation, Karachi

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RESPONDENT

Date (s) of hearing

22-06-2016

For the Petitioners

Mr. Osama Bin Siddiqui

For the Respondent

Mr. Majeed, Assistant Director,  
Mr. Safdar Abbas, Principal Appraiser

M/s A.O. Enterprises Karachi filed a constitutional petition No.2928/2016 in the High Court of Sindh at Karachi with prayers;

*“Under the circumstance, it is most respectfully prayed that by accepting this petition, this Honourable Court may be gracious enough to declare that the mechanism adopted by the subordinate of the respondent No.3 in respect of release of goods provisionally partly in cash and partly in the shape of Pay Order vide impugned letter dated 12-05-2016 is void ab inito and contrary to the provisions of Section-81(1) of the Customs Act, 1969.*

*Direct the Respondents, its subordinate officers and any other person acting on his behalf to released the consignment of the Petitioner lying at port since long, strictly in accordance with the provisions of Section-81 of the Customs Act, 1969. Petitioner is*

*ready to deposit Pay Order/Bank Guarantee of differential amount before the respondent No.2 till the final decision of the case.*

*Direct the Respondents to issue the delay and detention certificate in respect of the said consignment.”*

2. The Honourable High Court of Sindh vide orders dated 02-06-2016 ordered as follows:

*“Learned counsel for the petitioner says that the petitioner has challenged the valuation rulings before the Director General Valuation and till the valuation is determined, the petitioner be allowed treatment under section 81 of the Customs Act, 1969. He further says that the respondents are ready to allow him such treatment but are insisting upon 50% in cash and for remaining 50% through pay order. Counsel appearing for respondents, do not controvert the position. However, in our opinion, since the valuation is yet to be determined by the Director General, Valuation, therefore, the petitioner is to be treated under Section 81 of the Customs Act on deposit of differential by way of pay orders.*

*We, in the circumstances, while disposing off this petition, direct the respondents to' release the petitioner's consignment upon payment of all duties and taxes on declared value and upon securing the differential between the declared and assessed through pay order/bank guarantee with the concerned Collectorate, which would be encashable after fifteen days of the order of Director General, Valuation.*

*The petition, alongwith the pending applications stand disposed in the above terms.”*

3. In compliance of the orders dated 02.06.2016 of the Honorable High Court of Sindh in C.P No. 2928/2016, the consignment was released provisionally under section 81 of the Custom Act, 1969, and hearing opportunity was granted to M/s A.O. Enterprises to substantiate their view point with documentary evidences. After conducting the hearing, this case is decided as follows:-

#### **ORDER**

4. Hearing in this case was fixed on 22.6.2016. However Mr.Osama bin Siddique requested to conduct hearing appeared on 12.7.2016. The hearing was conducted and he was asked to give his view point on the matter. He contended that they have imported menthol crystal smoking grade at US\$ 5/kg from Singapore whereas in Valuation Ruling No.650/2014 dated 26.3.2014 the customs value of menthol crystal (pharmaceutical grade) was determined at US\$ 18/kg for Chinese origin, US\$ 18/kg for Indian origin and US\$ 30/kg for all other origins, which is not applicable on their imports. He was asked to produce the printed literature of manufacturer i.e. M/s Tien Yuan Chemical (PTE) Ltd Singapore to substantiate their claim of smoking grade menthol. They showed their inability to produce the manufacture's literature. He was also asked to produce the sale tax invoice of supply in local market with them. He was further asked that whether other tobacco manufacturers like M/s Pakistan Tobacco or M/s Lakson Tobacco are also importing smoking grade, he informed that they are not importing smoking grade because M/s

Pakistan Tobacco or M/s Lakson Tobacco are not manufacturing menthol cigarettes. They further contended that their item is of low density so does not affect throat and low melting point. He contended that pharma grade whose customs values are determined in Valuation Ruling No.650/2014 dated 26.03.2014 is of high density and high melting point.

5. I have examined the verbal submissions as well record of the case and observed that in Valuation Ruling No.650/2014 dated 26.3.2014; menthol crystals are mentioned without restricting it to particular grade, density or melting point, hence applicable to all grades, densities and melting point menthol crystals. It is also a matter of fact that no other review petition was filed against the subject ruling. Import data was also retrieved and analyzed which reflected that subject ruling was being applied on pharmaceutical as well as food grades without any exception and accepted by the traders without any reservation except by M/s A.O Enterprises. They are of the view that smoking grade is inferior and values @ \$ 5/kg. I have contacted the experts of M/s Pakistan Tobacco Company, who verified that all types menthol used in tobacco industry is of food grade. There is no question of low or inferior quality menthol to be used in the tobacco industry. Moreover, the importer has claimed that he is exporting menthol flavoured tobacco. Low grade menthol is not accepted in other countries. The importer has imported 300 kg menthol twice uptill now. So his consumption is very low. He should seek other ways to get refund of import duty (drawback, rebate etc.) on exports.

6. We have gathered international data of menthol which shows that values of tobacco grade menthol is high. Prices of menthol crystals, all grades were retrieved from international websites and observed that prices are higher as compared to values determined in the Valuation Ruling No.650/2014 which was fixed in 2014 (26.03.2014). The prices of the menthol crystals are based on the grades and ranges from \$ 18 to \$ 35/kg for food grade and from \$ 25 to \$ 45/kg of pharmaceutical grade. The values of smoking grade menthol are akin to food grade menthol. Keeping above facts in view table in the Valuation Ruling No.650/2014, dated 26.3.2014 is replaced as under:

S#	Description of Goods	PCT	Proposed PCT for WeBOC	Origin	Determined Customs Value (C&F) US\$/kg
1	Menthol Crystals Pharmaceutical Grade	2906.1100	2906.1100.1000	China	31
			2906.1000.1200	India	30
			2906.1100.1300	Other origins	32
2	Menthol Crystals Food/Smoking Grade	2906.1100	2906.1100.1400	China	21
			2906.1100.1500	India	20
			2906.1100.1600	Other origins	24

**(Syed Tanvir Ahmad)**  
**Director General**

Registered copy to:

M/s A. O. Enterprises,  
403/1, Sumya Apartment,  
Block-3, C.P.Brar Society, Sharfabad,  
Karachi.

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisalment (South)/Enforcement, Karachi/  
(North) Islamabad/ (Central) Lahore.
3. Collector, MCC Appraisalment (East/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. Assistant Registrar (J), High Court of Sindh, Karachi w/r to CP No.2928/16 dt.19-5-2016
7. Deputy Director (HQ), Directorate General of Customs Valuation , Karachi for uploading  
in One- Customs and WeBOC database.
8. Asstt. Director (Review), Karachi.
9. All Deputy/Assistant Directors (Valuation)
10. Guard File.

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