

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/549/2016

Dated: 21-10-2016

**Order in Revision No. 261/2016 under section 25-D of the Customs Act, 1969
against Valuation Ruling No.851/2016 dated 09-05-2016**

- 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. Ruby Corporation

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PETITIONER

VERSUS

Director, Customs Valuation, Karachi

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RESPONDENT

Date(s) of Hearing

22-06-2016 and 11-08-2016

For the Petitioners

Mr. Murtaza Mohib

For the Respondent

Mr. Shamim Iqbal, Principal Appraiser

This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.851/2016 dated 09-05-2016 issued under section 25-A of the Customs Act, 1969 inter alia, on the following grounds:

2. With reference to the above, we would like to file revision petition as against the above valuation ruling.
3. I was present in the meeting and it was openly discussed that Aluminum Foil is an item for which prices are based on LME. For any items for which criteria of valuation is internationally known price fixation is unjust.
4. It was also discussed that Ms. M Tex is paying a premium of 300USD over LME for Aluminum Foils from 135MIC to 200MIC.

5. I had also brought to attention that we are paying about 800USD premium for import of Aluminum Foils from 80MIC to 150 MIC and 650 USD premium for thickness above 150 MIC.

6. Ms. Dutech imports from 135MIC to 220MIC for which they are paying 500 USD premium.

7. It is a known fact that the prices have reduced dramatically and prices reduced by customs are not in accordance to the international prices.

8. It was also noticed that no minutes of the meeting were properly noted down. And it seemed that the customs had pre-decided as what is to be done. There was no proper market survey for the items. Hence seemed like a simple formality to fill in paperwork.

9. We were the only commercial importers present in the meeting. All others were people who were manufacturers and used the said material to further process the same.

10. We, Ruby Corporation, importers of aluminum sheets, coils and foils have been in this industry since 1972. We have now successfully entered into the third generation. I, Murtaza Mohib, being in this line for 11 years and having my father work with me who is in this line for 45 years see this determination as unjust.

11. For the record, aluminum being a base metal has very long been an item being traded in the commodity market. All around the world this has being traded in London Metal Exchange (LME), which is world's biggest metal commodity exchange.

12. The rule of valuation of aluminum foil/coil/sheet is as follows:

Base price (determined by SMM or LME) + conversion charges + freight

This is covered under Section 25(6) and section 25(8) of the Customs Act, 1969.

13. PRODUCTION PROCESS OF ALUMINIUM FOIL

- i. Aluminum ingots are purchased from the commodity market (LME or SMM).
- ii. Ingots are re-melted and rolled into big slabs.
- iii. From the slabs, hot rolling process starts where thick coils are produced in thicknesses between 3mm and 6mm in different widths.
- iv. After these coils, mentioned in above thicknesses are produced, the process of cold rolling starts. In the production of foil, 3mm thickness coils are used. The coils are then put in a machine that directly rolls these coils into ALUMINIUM FOIL STOCK, usually



in thickness down to 0.2mm (material used for foil production). This process is also known as thin strip rolling.

- v. Hardness is achieved through process of heating based on customer demand.
- vi. With the aluminum foil stock, the production process enters into its next step known as foil rolling. Over here, Aluminum foil stock is further rolled to achieve thicknesses down to 5 microns.
- vii. After the desired thickness has been achieved, the last step involves slitting, known as the slitting operation.

* A detailed version of the entire process has already been submitted by us earlier.

14. VALUATION OF ALUMINIUM SHEETS /COIL/FOIL

- a) Having a clear picture of the process, now we can move onto the valuation of this commodity.
- b) Hence, it is clear that coils in thickness of 0.2mm and above should have the same value as they go through the same process. Therefore, the current price based on market trends for aluminum sheets/coils is between US\$ 1900 to US\$ 2050.
- c) Once, the coils from these thicknesses are transferred for further processing to produce foils, conversion charges are applied accordingly raising the price in between US\$2050 to US\$2300, based on current market trend.
- d) I would like to give reference of valuation ruling No 1/12/2009/IVA/1139 dated 01/06/2009 by Deputy Director Dr. Iftikhar Ahmad of Customs Valuations. I personally met Dr. Iftikhar and after a series of discussions the ruling was given in our favour.
- e) As mentioned before, price determined in the current ruling is unjust. Price of LME and SMM fluctuate based on market forces and world speculation. We have seen LME as low as 1300 and as high as 3100 in the past 11 years. Hence, if the base price keeps on changing based on market trends and many other external factors and still a price fixation is imposed on the items mentioned in the ruling then it will surely lead to further malpractices.
- f) Conclusively, as per Customs Act 1969 if price determination for any product is present, then price fixation is unjust, illegal and without lawful basis. Also, keeping in mind that valuation rulings are by itself a law such kind of a ruling should be quashed immediately.
- g) We humbly request you to kindly do the needful and reply to us on the below mentioned contact details.



15. 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:

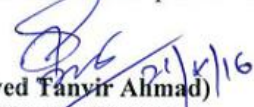
16. Petitioner has disputed the valuation of Plain Aluminum Foil and Sheets issued vide Valuation Ruling No.851/2016, dated 09-06-2016 stating various factors which determine the prices of the products but did not mentioned the consignments of Plain Aluminum Foils and Sheets imported by them. According to the petitioner, the valuation of Aluminum Foil / Coils should be hedged with SMM or LME which will cover Section 25(5) and 25(8) of the Customs Act, 1969.

17. Since the petitioner has not mentioned the details of their grievances against the said Valuation Ruling such as description of goods, origin and C&F value even not submitted the copies of import documents, therefore, cause of grievances against the Valuation Ruling are not known. Hence, merits no consideration and may be rejected.

ORDER

18. I have examined the written and verbal submissions of the petitioners as well as Respondent Department.

19. Petitioner has mainly contended that the valuation of Aluminum Foil / Sheets should be hedged with SMM or LME for assessment purposes. On the other hand respondent department was of the view that value of Aluminum sheets / foils depends on the thickness of Aluminum, the finer / thinner the foil / sheet, higher will be the value. Thus value varies accordingly to the thickness of Aluminum Foil / Sheets, hence the proposal to hedge with SMM or LME for assessment will not solve the purpose and may create valuation dispute. The petitioner has not contested any of the categories of Aluminum Foil / Sheet mentioned in the valuation ruling and simply desired to hedge the valuation with SMM or LME which is not justified as the prices depend according to the thickness of the subject goods. I do not find any reason of the petitioner to disturb the existing Valuation Ruling No.851/2016, dated 09-05-2016. The petition is accordingly rejected.


(Syed Fanyir Ahmad)
Director General

Registered copy to:

M/s Ruby Corporation,
Shop # 7, Fatima Hajjani Mansion,
James Terrace Road, Nanakwara, Karachi

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisement (South)/Enforcement, Karachi/