

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACH

File No. DG (V)/Val.Rev/44/2018

28th August, 2019

**Order in Revision No. 11 /2019 under Section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1340/2018 dated 08-11-2018**

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

M/s G.A.Trading (Pakistan) Limited & Others

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

09-05-2019, 23-05-2019, 28-05-2019,
19-06-2019, 26-06-2019 and 10-07-2019

For the Petitioners

Mr. Farrukh
Mr. Zaeem
Mr. Hasan Gardezi
Mr. Bilal Gardezi
Mr. Kashif
Mr. Adnan
Mr. Abdul Aziz
Mr. Faisal Consultant
Mr. Shakeel
Mr. Javed Raza Consultant
Mr. Salman Yousuf Adv.
Mr. Sadiq Merchant
Mr. Nasir Ahmed



For the Respondent

Mr. Abdul Majeed, Deputy Director
Mr. Altaf Hussain Mangi, Valuation Officer

The revision petitions filed under Section 25-D of the Customs Act, 1969 against Customs value determined vide Valuation Ruling No.1340/2018, dated 08-11-2018 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. **M/s G.A. Trading (Pakistan) Ltd.**

1. That the applicant is a commercial importer of various products including "Kitchen Cabinets" from worldwide sources and enjoys good name and reputation in the local market. The appellant has, through sheer hard work and untiring efforts, developed a sizeable clientele all over the country and enjoys trust and confidence of the business community all over. The Appellant has always discharged his legal obligations in a lawful manner and has always conducted in accordance with law and have regularly contributed huge amount to the exchequer in terms of revenue.
2. That the appellant is regularly getting its imported materials cleared at Karachi and the values declared were never disputed and were being accepted in terms of section 25(1) of the Customs Act 1969.
3. However, on reliance of some baseless information that "Kitchen Cabinets in CKD/SKD/CBU condition" are being imported at lower values than the current international values, The Director Valuation, owing to such baseless information and without following the mandatory provisions of the Act, issued a Valuation Ruling vide No 1340/2018 dated 08.11.2018 whereby the values of the "Kitchen Cabinets in CKD/SKD/CBU condition and accessories" have been fixed @ USD 3.30/Kg for China, @ USD 4.50/Kg for Europe/USA and USD 3.70 for other origin.
4. The applicant in its routine business regularly imports "Kitchen Cabinets" and accessories in CKD/SKD/CBU condition" from China, Europe and other countries on much lower values than the values determined/fixed vide the said impugned ruling, which are the genuine transaction values between the Applicant and its Suppliers. The said Transaction Values are also used in getting its imported materials cleared at Karachi and these declared values were never disputed and were being accepted in terms of section 79 of the Customs Act 1969.
5. The values have been fixed without adhering to the principles laid down in Valuation Cases decided by the Superior Courts as well as Section 25 of the Customs Act 1969. This has prejudiced the applicant and others who are the importers of the said product as the values determined by the respondent vide the said valuation ruling without considering



Transactional Value of the applicant under section 25(1) of the Customs Act 1969, and determined the Values by resorting directly to Section 25(7) which is unlawful, illegal and wholly without jurisdiction.

6. That since the valuation ruling issued is patently illegal, without any justification, arbitrary, discriminatory, completely against the law and in violation of, the mandatory provisions of the Customs Act 1969 and the directions/interpretations of the Honorable Courts from time to time and hence the applicant prefers this review application without prejudice to his right to contest the same before any other forum available in law, on the following grounds:-

GROUNDS

1. That at the outset it is submitted that the values determined by the respondent vide the impugned ruling in terms of section 25-A of the Customs Act 1969 and being applied on the importation of the consignments being imported regularly by the applicant, are illegal, arbitrary, unjust, mala fide and without jurisdiction as valuation ruling has been issued in complete violation of the provisions of Section 25 of the Customs Act 1969 read with the valuation Rules notified vide Chapter IX of SRO 450(I)/2001.
2. That the impugned valuation ruling has been issued by the respondent without issuance of any notice of meeting to the applicant for fixation of the values of the goods in question, whereas, as per the record of the Weboc, it is evident that the applicant is a major stakeholder. Hence the impugned valuation ruling is ex-parte and is liable to be set aside as per this core ground according to rule of law.
3. That the learned respondent issued the impugned valuation ruling under sub section (7) of section 25 of the Customs Act 1969 directly, skipping all previous sub sections. The learned respondent giving justification in this regard, observed that the sub section (1) to (6) cannot be complied with due to various reasons whereas no explanation has been given in this regard. The learned respondent has failed to provide any reason in conformity with section 25 of the Act 1969, as to why the methods of valuation laid down in sub sections (1), (5), (6) and (7) are not followed as per law.
4. That the observation to the effect that *"the transactional value method as provided in sub-section (1) of section 25, found inapplicable in the light of wide variety of invoices submitted at import stage the veracity of which could not be ascertained fully, hence requisite information required under law was not available to arrive at the correct transaction value"* is completely denied as so far the present applicant is concerned, it is a matter of record that all the previous imports made by the applicant were either against the Bank Contract or



Letter of Credits and always the payment were made through proper banking channel without any iota of doubt about the veracity of the Transaction Value.

5. That the applicant has the complete record of import on the basis of payment, duly reflecting from the banking channels for the purpose of determination of the actual payment made by the applicant to the principle exporter against the imports made in this regard. It is further submitted that the applicant have several contracts with the foreign supplier and accordingly opened letters of credit for the imports of the subject product. That the applicant is seriously affected by the impugned valuation ruling where the prices have been fixed much higher than the actual transactions are being made. The fixation of prices without verifying the facts is illegal and without lawful authority, hence the impugned ruling is illegal and liable to be set aside.
6. It is submitted that if the transactional value is not acceptable to the department, then assessment could have been done on the basis of identical goods method in terms of other sub sections of section 25 of the Customs Act 1969. Therefore the valuation arrived at is whimsical in nature without following the provisions of law and hence the exercise of the discretion of power by the Valuation Department is arbitrary and patently illegal.
7. That it is further submitted that in terms of section 25 (1) of the Customs Act 1969, an invoice price cannot be routinely discarded except on the strength of a clear evidence that the invoice is not genuine and it does not show the real price as has been transacted between the applicant and foreign supplier, and that something else has passed clandestinely between the applicant and the foreign supplier. Unfortunately none of such exercises have been carried out in that case as the applicant has imported the subject consignments from reputed concerns through a firm contract and with complete transparency of documentations.
8. That even otherwise and without prejudice, it is submitted that even in applying the deductive method of valuation, the exercise of market survey has to be carried out in each and every case and a general survey cannot be made on basis of fixation of values as otherwise the same would be in total negation to the law declared by the Honorable High Court of Sindh vide judgment reported as Rehan Umer V/s Collector of Customs & others (2006 PTD 909) wherein the Honorable court at Para 18 of the judgment has held that.....for the foregoing reasons it is held that different methods of valuation provided in section 25 of the Customs Act 1969 and the Customs Rules 2001 are required to be applied in a sequential order and without visible exercise reflected on record no resort can be made to sub section (5) and likewise without similar exercise under sub section (5) no resort can be made to sub section (6). In the same manner without an exercise in writing on record under sub section (7) and similarly to subsections (8) & (9). This exercise is to be made in each case separately. On the basis of exercise in the case of



earlier imports by other importers it cannot be applied to any subsequent import by another importer.

9. That in the same judgment another related question was also raised that whether an assessment can be made on the basis of working committee constituted for that purpose to adopt method under section 25(7) without associating the importer or his representative in each case, and the Honorable Court went on to hold that no assessment can be made on the basis of a working committee constituted for the propose of determining the deductive valuation under section 25(7) without associating importer or his representative in each case. Needless to submit that in this ruling while conducting the market surveys neither the applicant nor his representative was ever called for. Therefore such values obtained after a market survey cannot be relied upon for assessment under section 25(7) of the Act ibid.
10. That even otherwise the said ruling is in complete violation of the guidelines issued by the Honorable High Court of Sindh in judgment dated 5.3.2011 in CP No. 2673 of 2009 (Sadia Jabbar vs Federation of Pakistan & others), 2014 PTD 176 (Goodwil Traders vs Federation of Pakistan & others) and in number of other cases, wherein a number of valuation rulings have been found to be illegal under similar and identical circumstances and have been accordingly set aside and the Respondents have been directed to act in accordance with law while issuing the rulings under section 25A of the Customs Act 1969. Therefore the said Ruling is also liable to be set aside on the touchstone of the said observations of the Honorable High Court.
11. That without prejudice the above and from the perusal of the impugned ruling it reveals that the learned respondent/Director valuation while issuing the impugned ruling has focused solely on the advice and information provided by the local manufacturers and or on so called information provided by the local industry. That the impugned valuation ruling has been issued on the whims and wishes of the local industry by ignoring all other aspects.
12. That such action of the respondent is in complete violation of the directives passed by the Hon'able High Court in judgment passed in SCRA 744/2016 whereby it is observed by the Hon'able Court that *"the local manufacturers have no standing to ask for a determination and/or enhancement of the customs value of any goods under section 25A or 25D and for this purpose to file an application or petition under either section or intervene or be allowed or asked to participate in any pending proceeding or be made party thereto, whether as "Stakeholder" or otherwise. It was also observed by the Hon'able Court that "the interest of the local manufacturer is to have the values set at as high a level as possible on the ground that the transactional value or the value set in the valuation ruling(as the case may be)is otherwise too low and is causing them injury"*.

Therefore it was declared d vide said judgment:-



"that on such basis or with such involvement must be regarded as fatally and irremediably tainted with illegality and cannot be allowed to stand".

13. That the applicant craves leave of this Honorable Forum to raise any further grounds at the time of hearing of this application.

PRAYER

It is therefore, prayed by the applicant above named that the Honorable Director General Valuation by virtue of powers vested under section 25D of the Customs Act 1969 may be pleased to pass orders as follows: -

- a) Declare that the impugned valuation ruling No 1340 of 2018 dated 08.11.2018 in terms of section 25-A of the Customs Act 1969 is illegal, unlawful and is a lien to the provisions of section 25 of the Customs Act 1969 and hence be set aside.
- b) Declare that the action of valuation department by resorting to assessment in terms of sub section (9) of section 25 of the Customs Act 1969 directly without first exhausting the methods of assessment provided under sub section (1), (5) (6), of section 25 of the Customs Act 1969, and without associating the applicant in such an exercise is illegal and liable to be set aside;
- c) Direct the Department to assess the goods of the applicant strictly in terms of section 25(1) of the Customs Act 1969.
- d) Direct the department to release/finalize the pending and future imports of the applicant under section 81 of the Customs Act 1969 pending this Review, in terms of Section 81 of the Customs Act 1969 applying the judgments of the Honorable High Court in CP D-6918 of 2015 and CP-D 8281 of 2017.

3. **M/s Prestige Kitchens**

"This VR states that Kitchen Cabinets in CKD/SKD/CBU forms are to be cleared at US\$ 4.5, 3.3 & 3.7 for Europe, China & rest of world respectively.

We do not agree to this Valuation Ruling because:



- (i) Kitchen Cabinet are still undervalued, we have been pleading our case since February, 2018 that cabinets from Europe should be assessed at US\$ 6/Kg & China should 20% less.
- (ii) Kitchen cabinets from European origin should be assessing in Euro.

We would like to file review partition because

- (i) We are still not at level playing field with other players in the market, who are getting advantage of under invoicing over us. By gaining business and giving revenue loss to the exchequer.
- (ii) Euro is the currency of Europe & most of the business from this region in done in it. Euro is highly volatile & has tendency of losing & gaining its value sharply.

4. **PARAWISE COMMENTS BY THE RESPONDENT DEPARTMENT**

It is humbly submitted that the Directorate General of Customs Valuation has setup a mechanism for routine monitoring of "import values" of various imported commodities/goods including Kitchen Cabinets in CKD/SKD/CBU Condition and accessories thereof vis-a-viz their international prices from authentic and unbiased websites, international ledgers, and commodity exchanges, market surveys etc. The objective behind this action is to check the menace of under-invoicing, which potentially forms the basis of tax evasion at subsequent levels of businesses. This Directorate General being the highest executive office to determine customs values of imported goods is empowered to do the same vide S.R.O. 495(1)/2007 and further statutory powers are drawn from statutory provisions 25A of the Customs Act 1969.

2. It was brought to the notice of the Directorate General that value of *Kitchen Cabinet in CKD/SKD/ CBU Condition* & accessories thereof are being declared to customs at much lower value than the current international value. It was also observed that the certain importers were also declaring incorrect and incomplete description of the goods. Verification by this Directorate General reaffirmed this position. Keeping this in view, the Directorate General initiated an exercise for determination of the Customs Values of the *Kitchen Cabinet in CKD/SKD/ CBU Condition & accessories thereof* in terms of Section 25-A of the Customs Act, 1969.

3. A number of meetings with stakeholders including importers and representatives of trade bodies were held to discuss the current international prices of the subject goods. The view point of all participants was heard in detail and considered to arrive at customs value of subject goods and issued the Valuation Ruling No.1340/2018 dated 08.11.2018 and which is applicable on all imports across the board.



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

Para (2)-(4) As regards the contents of Para (2) to (4) it is respectfully submitted that the petitioner had neither furnished their declaration and other import documents at the time of exercise under Section 25-A of the Customs Act 1969. Even the petitioners have not furnished the same with the instant petition. It is respectfully submitted that there is no arbitrary or discriminatory action taken by this Directorate. For the determination of customs values of subject goods, an exercise was initiated and meeting notice bearing No.Misc/01/2018-IX/1159 dated 17.7.2018 was issued to the 55 stakeholders including importers, Chairman FPCC&I Standing Committee for valuation Karachi, President Lahore Chamber of Commerce and Industry and Pakistan Furniture Importers Association to discuss the current international prices of the subject goods. The petitioners didn't appeared for the scheduled meeting nor any document was submitted by them which shows that they were not interested in proceedings and values are considerably higher than their declarations and by keeping themselves absent, they may have created an alibi for being unheard. In the scheduled meetings the view point of all participants was heard in detail and considered to arrive at Customs value of *Kitchen Cabinet in CKD/SKD/ CBU Condition & accessories thereof* and issued the Valuation Ruling No 1340/2018 dated 08.11.2018, which is applicable on all imports across the board. The factors affecting values were duly considered while issuing Valuation Ruling. For the purpose of determining Valuation of *Kitchen Cabinet in CKD/SKD/ CBU Condition & accessories thereof*, the department gathered information from different sources. As indicated in the Valuation Ruling in order of sequence, Valuation methods were applied and Ruling was issued under section 25(7) of the custom Act, 1969. During the proceedings different stakeholders, including importers, trade bodies and representatives of Chambers and Federation were invited for their input. Due consideration was given to the fact that the declared value in many cases are lower than the main constituent materials. Therefore, it became apparently evident that the submissions of the petitioners are contrary to the factual position and not justified in terms of Rule 108 of Customs Rule, 2001. Further the Petitioners have not disclosed their local selling prices of imported *Kitchen Cabinet in CKD/SKD/ CBU Condition & accessories thereof* to substantiate their claim. Therefore, their contentions are incorrect and misleading. Kindly appreciate that market surveys are conducted in accordance with standardized procedure given in Office order No. 17 dated March 19, 2014.

Para (5). It is submitted that the concept of fixation of value no more exists in the Customs Act, 1969. Customs values are being determined under Section 25 read with Section 25A of Customs Act, 1969. The department endeavors to get hold of information from different sources so that values



determined are reflective of correct customs transaction values. For the purpose data of previous transaction is taken into account, but also, in order of sequence, other Valuation methods are adopted in accordance with law. Market inquiries are also conducted. Different stakeholders are also invited for their input. There was no deviation from the prevalent practice while issuing the impugned Valuation Ruling No.1340/2018 dated 08.11.2018.

Para (6).

That the contents of Para (6) of the petition are misleading. As regards the determination of customs values of *Kitchen Cabinet in CKD/SKD/ CBU Condition & accessories thereof* it is submitted that the factors affecting values were duly considered while issuing impugned Valuation Ruling. For the purpose of determining Valuation of *subject goods*, the department gathered information from different sources. As indicated in the impugned Valuation Ruling in order of sequence, Valuation methods were applied and Ruling was issued under section 25(7) of the custom Act, 1969. During the proceedings different stakeholders, including importers and trade bodies were invited for their input. Due consideration was given to the prices of the main constituent material prices. Therefore, it became apparently evident that the claims of the importers were contrary to the factual position and not justified in terms of Rule 108 of Customs Rule, 2001. Further the importers have not disclosed their local selling prices of imported *Kitchen Cabinet in CKD/SKD/ CBU Condition & accessories thereof* to substantiate their claim that Customs value determined vide impugned Valuation Ruling is not correct. Therefore, their contentions are incorrect and misleading. It is not out of place to mention here that it is the established principle of interpretation of the tax law that the plain language of the law is to be applied. The Section 25-A (1) of the Customs Act, 1969 specifically empowers the Director of Customs Valuation to determine the customs value on his own motion or, on a reference made to him by any person, after following the methods laid down in Section 25, whichever is applicable.

Comments on Grounds

Para (1)-(4):

It is prescribed that while determining Customs value of any imported goods under Deductive Value Method in terms of Sub- Section (7) of Section 25 means thereby that after exhausting Sub-Sections (5) and (6), and keeping in view all the factors, ruling has been issued under Section 25(7) of the Customs Act, 1969. It does not mean that the Respondent while issuing Valuation Ruling under Section 25(7) of the Customs Act, 1969, has by-passed or abandoned all previous Sub-Sections of the Act *ibid*. Furthermore, it may be clarified that as per Customs laws and rules it is the discretion of the competent authority to apply the valuation



method which is most suited and move forward to the next method if value cannot be determined under the method in consideration. Local market was surveyed in accordance with the law. The petitioner did not submit any authentic documentary evidence in support of their contention that there are discrepancies and deficiencies in the said Valuation Ruling. It is submitted that the said Valuation Ruling has lawfully been issued after fulfilling all the basic requirements e.g. holding meetings, retrieval of import data, conducting local market surveys and after evaluating and analyzing all the gathered information, the said Valuation Ruling was issued. It is respectfully submitted that the impugned Valuation Ruling No 1340/2018 was issued in accordance with the provisions of Section 25-A of the Customs Act 1969. The Director Customs Valuation has the power as envisaged under Section 25A ibid read with SRO 495(I)/2007 dated 09.06.2007.

Para (5)-(12)

With regards to the contents of Para (5) to (12) of the Grounds of the Petition it is submitted that the department endeavors to get hold of information from different sources so that values determined are reflective of correct customs transaction values. For the purpose data of previous transaction is taken into account, but also, in order of sequence, other Valuation methods are adopted in accordance with law. Market inquires are also conducted. Different stakeholders are also invited for their input. There was no deviation from the prevalent practice while issuing the impugned Ruling. The Petitioners have neither disclosed the local selling price of imported subject item to substantiate their claim. Therefore, the allegations are incorrect and misleading. Kindly appreciate that market surveys are conducted in accordance with standardized procedure of Office Order No. 17 dated March 19, 2014.

Para 13.

That in the light of facts explained above there is no legal ground for the petition. Therefore the petition is not maintainable being contrary to actual facts and liable to be rejected.

PRAYER

In light of the above submissions, it is respectfully prayed before that in light of unambiguously clear provision of Section 25A of the Customs Act, 1969 whereby, values determined under Section 25A of the Customs Act, 1969 are the only applicable customs values of such goods and is therefore the only legally binding assessment of such goods in field (unless the declared values are higher than the values determined under Section 25A of the Act), therefore it is prayed to hold the "Declared Value" to be of no significance in presence of a valid Customs value determined under Section 25A of Customs Act, 1969. It is submitted that the Valuation Ruling No.1340/2018 dated 08.11.2018 was issued under four corners of law, as



provided under Section 25A of the Customs Act 1969. It is prayed that instant petition may be dismissed being devoid of merit.

FINDINGS

5. Hearings in the subject case were fixed for 09-05-2019, 23-05-2019, 28-05-2019, 19-06-2019, 26-06-2019 and 10-07-2019. The petitioners and counsels of the petitioners appeared for hearings and explained their respective points of view. Nine petitioners were represented by their counsel initially by Mr. Salman Yousuf Advocate and subsequently by M/s Franklin Associates. The counsels sought repeated adjournments for preparation, and submission of documents, which was granted.

6. The representative of M/s Eastern Quality Product submitted that his imports originate from China. He was asked to provide commercial documents, details of remittances, sales documents etc. He asked for a few days' time, which was allowed. Copy of unsigned sales contract (which also not legible) was submitted by them on 27-05-2019 which was examined.

7. The representative of M/s Prestige Kitchens reiterated their point of view as stated in their petition and requested for further enhancement in Customs values of kitchen cabinets originating from Europe as well as its determination in Euros rather than in US Dollars. In support of their stance they submitted some documents including their own import GDs.

8. During the hearing proceedings on 10-07-2019, the representatives of the importers provided worksheets showing calculation of C&F value from the work back methods for Italian Kitchen, Turkish and Chinese origins. Various aspects of the process of ordering, importing and installing were discussed. The discussions made it abundantly clear that the Kitchen Cabinets are "highly customized" products, which are either chosen from manufacturer's catalogues by the importer, or their complete specifications are provided by the importer at the time of placing order. Therefore, while no manufacturing (resizing, reshaping etc.) happens after arrival of goods, the local sellers add value in terms of determining requirements prior to sale and installation of the cabinets afterwards. The representative of petitioners argued that the impugned Valuation Ruling (VR) had been issued under methodology of 25(7) of the Customs Act, 1969, whereas the kitchen cabinets are not sold as imported, rather these are manufactured/assembled from components/parts sometimes with local inputs such as marble tops etc.

9. On the other hand, M/s Prestige Kitchens contended that there are three types of categories of manufacturing companies (exporting companies) i.e. Designer category, Brand category and Generic category; whereas the impugned VR is silent on this aspect. The representatives of M/s Prestige Kitchens promised to provide additional data and information for Chinese/Italian Brands which they submitted on 19-07-2019. These documents have also been examined in detail, which show quotations of Italian Kitchens Cabinets ranging from Rs. 3.4 million to Rs. 5.9 million (without appliances). Similarly, quotations by manufacturer of Chinese



Brand.Oppein shows price of Kitchen Cabinets (without appliances or accessories) to range from US\$ 1528 ~ 1733 (for about 500 KG weight).

10. However, the main thrust of the petitioners' arguments, except M/s Prestige Kitchen, was that the Valuation Department did not follow the valuation methods properly and also objected to the market inquiry conducted by the department. They stated that the values determined vide impugned Valuation Ruling in respect of subject item do not reflect the prevalent market prices. They insisted on accepting their declared values as correct transaction values.

11. In order to independently examine this contention, it was decided to cross check the data available on Trade Map (www.trademap.org) which is a website of the International Trade Center (ITC). The ITC is jointly mandated by the World Trade Organization (WTO) and the United Nations Conference on Trade and Development (UNCTAD). The Trade Map website provides International Trade Statistics officially obtained by UN from respective governments. Therefore, data available on the website carries weight. The Trade Map website shows that in the year 2018, against HS Code 9403.4000 (wooden furniture of a kind used in kitchen) Italy showed exports to Pakistan amounting to US Dollars 3.88 million, whereas Pakistan recorded imports of USD 0.49 million from Italy for the same HS Code. This comparison shows that the average prices declared in the country of origin were more than 7 times higher. This data was shown to the petitioners, and they were unable to refute, explain or justify this huge discrepancy in value between Italy and Pakistan. Academic research has established that trade statistics of developed countries are more reliable due to robust taxation systems and stronger AML regimes which are backed by reliable judicial systems. Therefore, it can safely be concluded that the importers (except M/s Prestige Kitchens) were engaged in group under-invoicing in 2018, when the impugned VR was issued, and their declared values do not depict true transaction values.

12. The Departmental Representative (DR) explained in detail the valuation methodologies adopted by them to arrive at the Customs values determined vide impugned Valuation Ruling. In support of department's contention, the DR presented various details/documents and quotations etc. to substantiate valuation exercise/working. However, the examination of the record showed that the survey had focused on Italian Kitchen Cabinets, while the values for Chinese and Turkish Cabinets had been derived from values of Italian origin goods through some formula. The methodology adopted does not seem to be in accordance with that prescribed in Section 25, and the values determined through this methodology require to be rechecked using direct work back method.

ORDER

13. After listening to the detailed discussions/ arguments of rival parties and perusal of the case record; it is evident that as far as valuation of Italian origin Kitchen Cabinets is concerned the valuation department had conducted market inquiry properly for issuing the impugned Valuation Ruling. Moreover, the stakeholders were given sufficient time and opportunity to give



their inputs including documentary proof/evidence to substantiate their transaction values but they failed to establish the correctness of their declared values which were abysmally low. The crosschecking of information through the Trade Map website has also confirmed the phenomenon of group under-invoicing. Furthermore, the DR presented details of comprehensive market inquiry/survey reports as available on record, alongwith many documentary evidence like quotations, kitchen cost estimate, brochures etc. in support of the value determined in the VR for Kitchen Cabinets of Italian Origin.

14. However, two shortcomings have been noticed in the impugned VR. Firstly detailed scrutiny of the record shows that the department did not conduct any comprehensive market inquiry of Chinese and Turkey origins kitchen cabinets and DR could not substantiate and explain satisfactorily about kitchen cabinets originating from China and Turkey. Secondly, customs values of the subject item originating from Europe determined by the department are in US Dollars whereas the relevant currency i.e. Euro is used for transactions in Europe.

15. I have gone through the record of the case and submissions made by the petitioners as well as the DR. Scrutiny of the market survey, analysis of international data and evidences provided by M/s Prestige Kitchens clearly establish that huge group under-invoicing has been taking place in the import of Kitchen Cabinets. During the hearing proceedings, the petitioners seeking downward revision of VR were confronted with the record of market survey, the international data and evidences of higher import value, who failed to rebut the same.

16. In view of all above and record of the case, the appeals of petitioners, except M/s Prestige Kitchens, cannot succeed. Therefore, I do not find any cogent reasons to interfere with the impugned VR. However, considering that impugned VR No.1340/2018 dated 08-11-2018 is more than nine months old and international values of various items can change due to various factors, the impugned VR needs to be revised under Section 25A ibid. Therefore, it is hereby directed that the Director (Valuation) may initiate a fresh exercise to determine customs value of kitchen cabinets keeping in mind the observations and directions discussed herein above. The revision petitions are disposed of accordingly.

17. Being identical on facts and law point, this order shall apply mutatis mutandis to following (10) petitions:

S#	Petitioners' Name	File No.
01	M/s El Abrar	DG (V)/Val.Rev/44/2018
02	M/s Shahazad Gloves Mfg. Co.	DG (V)/Val.Rev/44/2018
03	M/s Home Solutions	DG (V)/Val.Rev/44/2018
04	M/s Sage Enterprises	DG (V)/Val.Rev/44/2018
05	M/s Chughtai Enterprises	DG (V)/Val.Rev/44/2018
06	M/s Ahmad Kapadia	DG (V)/Val.Rev/44/2018



M/s G.A. Trading Pak. Ltd,
M/s Prestige Kitchen & Others
File No.DG(V)Val.Rev/44/2018

07	M/s ZMARIO	DG (V)/Val.Rev/44/2018
08	M/s Prestige Kitchen	DG (V)/Val.Rev/44/2018
09	M/s MRC Enterprises	DG (V)/Val.Rev/44/2018
10	M/s Eastern Quality Products	DG (V)/Val.Rev/44/2018

(Mukarram Jah Ansari)
Director General

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M/s G. A. Trading (Pakistan)
M/s Shahazad Gloves Manufacturing Company
M/s Home Solution
M/s Sage Enterprises
M/s Chughtai Enterprises
M/s Ahmad Kapadia
M/s Z'MARIO
M/s MRC Enterprises
M/s El Abrar
M/s Eastern Quality Products
C/O M/s Franklin Business Associates,
4th Floor, Plot # 4-C, Lane-3, Al-Murtaza Commercial, Phase-VIII, DHA, Karachi

M/s Prestige Kitchens Pvt. Ltd.
Plot No.20-C, Lane-13, Bukhari Commercial Area, Phase-VI, DHA, Karachi.

Mr. Salman Yousuf Advocate, D-86/1/A, Block-7, Clifton, Karachi

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. The Collectors of Customs, MCC Appraisement (East / West)/ Port Qasim, Karachi, MCC Preventive, Karachi/Lahore/Quetta/Peshawar, MCC Appraisement Lahore/ Quetta / Peshawar/ Sambrial (Sialkot) / Faisalabad / Multan / Islamabad /Hyderabad/ Gawadar/ Gilgit-Baltistan.
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 (Revision), Karachi.
8. All Deputy/Assistant Directors (Valuation)
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