

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACH

File No. DG (V)/Val.Rev/34/2019/3030.

21st April, 2020

Order in Revision No. 15 /2020 Under Section 25-D of the Customs Act, 1969, against Valuation Ruling No. 1423/2019 dated 02-11-2019

- 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. T.S. Plastic & Paper & Others

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

24-02-2020, 05-03-2020

For the Petitioners

Mr. Sohail Sarwar, Mr. Abdul Rehman, Mr. Adil Kamdar, Mr. Yahya Marfani, Mr. Abid, Mr. Saud, Mr. Waqar Ahmad, Mr. Javed Iqbal Butt

For the Respondent

Mr. Abdul Hameed, Principal Appraiser,
Mr. Nadeem Sheikh, Valuation Officer

This revision petition was filed under Section 25-D of the Customs Act, 1969, against customs value determined vide Valuation Ruling No. 1423/2019, dated 02-11-2019 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. Being aggrieved by and dissatisfied with the Valuation Ruling No. 1423/2019 issued vide No. C.No.misc/13/2013-III/2548 dated 02.11.2019 respectively by the respondent (hereinafter referred to as the impugned Ruling), the applicant begs to prefer this petition inter-alia on the following facts and grounds:-

3. FACTS

1. That the applicant is an importer of wall papers.
2. That the applicant is engaged in the above business since last many years.
3. That the applicant imports the said items from different countries.

4. That the above item is being imported by the applicant against different values determined by the supplier.
5. That the applicant duly files the import documents for assessment and release of goods on the declared value as provided by the suppliers.
6. That it is pertinent to mention here that the margin of net profit is already at a very low extent after payment of all duties, taxes and other charges.
7. That the applicant shocked to know that the respondent has arbitrarily and unlawfully issued the impugned ruling by enhancing the value on a very higher side.
8. That the applicant time and again approached the respondent in this regard but all efforts have been come fruitless.
9. That the implementation of the impugned ruling is not possible for the applicant as the same are at a very large extent and the applicant is not in a position to continue his business of import of said item in presence of these high values, harsh in nature.
10. That the applicant having no other alternate or option knocks the door of this respectable authority for determination of fair values of the above mentioned item, hence this petition on the following grounds:-

4. **GROUND**S

1. That the impugned ruling is vague, absurd, unlawful, discriminatory and arbitrary and is liable to be set aside/quashed immediately.
2. That the respondent has not considered all the aspects of the matter and passed the impugned ruling without consulting the actual and relevant importers of the said item violating the procedure envisaged in section 25 of Customs Act, 1969.
3. That it is also mentioned here that the said ruling is very much harsh and the values determined in the impugned ruling will definitely damage the legal, lawful and peaceful business of the importers of the said item.
4. That it is also pertinent to mention here that the values determined in the impugned ruling will open a door for the smugglers to smuggle the said item through illegal manners and means which will not only damage the business of the real importers but will also deprive the government from its legitimate revenue.
5. That the perusal of the impugned ruling reveals that the same have been determined on some illogical pleas and having no touch and fact with the market.
6. That it is also mentioned here that the so called market survey and other aspects on the basis of which the impugned ruling has been issued are baseless and having no concerned with the actual market criteria.
7. That it is pertinent to mention here that no actual representative of the importers of the said item have been consulted neither any genuine market survey has been conducted.
8. That the impugned ruling is based on all countries basis which itself is against the norms of justice.
9. That the values determined through this impugned ruling is impossible for the applicant as the margin of net profit is at a very low level due to competition of different kinds of manners and it is not possible for the applicant to bear the expenses and to gain even a little profit.
10. That in all the impugned ruling is not implementable and is liable to be reviewed and considered as instead of weight (kg), it is now based on length (square meter) thereby increasing the Customs value to double.
11. That the review petition is well within the prescribed period of time as provided in the Customs Act, 1969.



5. PRAYER

It is therefore, humbly prayed that this respectable authority may graciously be pleased to look into the matter and set aside/quash the impugned ruling and after considering all aspects of the issue, consulting the actual and real importers of the goods, may issue/revise the valuation ruling and in the meantime direct the customs authorities to accept the declared value of the goods.

6. The respondents were asked to furnish comments to the arguments submitted by the petitioner in the case. Para-wise comments on the petition are given as under:-

PARAWISE COMMENTS

Para-(1) to (4): No comments being introduction of petitioners and imports of under reference goods made by them.

Para-(5) & (6): Not agreed. It is submitted that the said Valuation Ruling was issued after thorough investigation and all aspects were considered. In this regard it is submitted that this Directorate General has determined the correct customs values in the Valuation Ruling No.1423/2019, dated 02-11-2019 for level playing field and for uniform assessment all over the Customs stations of the country. Provisions of Section 25(1) to 25(9) were duly exhausted while issuing the said Valuation Ruling. Import data of previous 90 days was analyzed and evaluated and after gathering all information, the customs values have been determined in terms of Section 25(7) of the Customs Act, 1969, vide above referred Valuation Ruling. As such the said valuation ruling has lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969, for uniform assessment all over the country. Moreover, concept of fixation of value no more exist in the Customs Tariff rather customs values are now being determined in terms of Section 25-A of the Customs Act, 1969, under WTO Agreement for uniform application all over the country.

Para-(7) & (8): It is submitted that the meetings with the stakeholders were held which were attended by commercial importers as well as local manufacturers of subject goods and official bearers/representatives of relevant association. The participants as well as the association were requested to provide documents like copies of contracts made/LCs, sales tax paid invoices to substantiate their contention but they did not provide required documents before meeting. Again during the meeting the participants were requested to submit the following documents:

- (i) Invoices of imports made during last three months showing factual value,
- (ii) Websites, names and E-mail addresses of known foreign manufacturers of the item in question through which the actual current value can be ascertained,
- (iii) Copies of contracts made/LCs opened during the last three months showing value of item in question and;
- (iv) Copies of sales tax paid invoices issued during last four months showing the difference in price to substantiate that the benefit of difference in price was passed on to the local buyers.



None of them submitted sales tax invoices along with monthly sales tax return, on one excuse or the other. Since the matter was lingering on, it was decided to proceed on merits in the light of available record as well as local market enquiry conducted by the Department.

Para (9) & (10): In this regard, it is submitted that this Directorate General has determined the correct customs values in the Valuation Ruling No.1423/2019, dated 02-11-2019, for level playing field and for uniform assessment all over the Customs stations of the country. Import data of previous 90 days was analyzed and evaluated and after gathering all information, the customs values have been determined in terms of Section 25(7) of the Customs Act, 1969, vide above referred valuation ruling. It is submitted that this Directorate General convened meetings for the determination of wall papers and all stakeholders were invited. It is submitted that the petitioners, on the other hand, did not submit requisite import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant. As per Rule-109 of the Valuation Rules issued under SRO No.450 (I)/2001, dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove correctness of transaction value shifts to the importers/applicants. Moreover, the customs values were determined after properly following and exhausting all the valuation methods in sequential manner and giving reasons for rejection therein and finally the values were determined in terms of Section 25(7) of the Customs Act, 1969, for uniform assessment purposes.

GR O U N D S

Para-(1) & (6): It is submitted that the Valuation Ruling No.1423/2019, dated 02-11-2019 itself is a self speaking document which has lawfully been issued by the respondent under Section 25 of the Customs Act, 1969, after exhausting all the valuation methods as envisaged under Section 25 of the Customs Act, 1969. It is further submitted that no valuation method was abandoned as stated by the petitioner rather all valuation methods from Sub-Section (1) to Sub-Section (9) of Section 25 of the Customs Act, 1969, were exhausted while determining the customs values of under reference goods by giving reasons of previous methods and after evaluating and analyzing valuation methods, customs values were determined in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969, for uniform assessment all over the country. These values are arbitrary or unlawful as the same have been determined after properly analyzing and evaluating so gathered from different sources. Therefore, no violation of any rule has occurred while determining the Customs values in the said ruling.

Para-(7) to (11): It is submitted that the customs values have been determined in terms of Section 25-A of the Customs Act, 1969, after extensive exercises and holding meetings with relevant stakeholders of the said goods. As such the said Valuation Ruling has lawfully been issued and may hold field for assessment purposes. The respondent had correctly and lawfully issued Valuation Ruling in terms of Section 25-A and the same was based on factual grounds of the case. It is submitted that the said Valuation Ruling had correctly and lawfully been issued by the respondent in terms of Section 25-A of the Customs Act, 1969, after extensive exercises and meetings with relevant stakeholders of the said goods. As such the respondent has acted in accordance with law and under powers vested upon him under the law. It is submitted that the petitioners, on the other hand, did not submit requisite import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant. As per Rule-109 of the Valuation

Rules issued under SRO No.450 (I)/2001, dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove correctness of transaction value shifts to the importers/applicants. Moreover, the customs values were methods in sequential manner and giving reasons for rejection therein and finally the values were determined in terms of Section 25(7) of the Customs Act, 1969, for uniform assessment purposes.

PRAYER

It is respectfully submitted that the customs values of the subject goods were determined as per valuation methods laid down in Section 25 of the Customs Act, 1969, vide Valuation Ruling No.1423/2019 dated 02-11-2019. The respondent has acted lawfully and the Valuation Ruling No.1423/2019, dated 02-11-2019 has correctly and justifiably been issued in terms of Section 25-A of the Customs Act, 1969. On the other side, the petitioner failed to furnish the requisite documents particularly copies of sales tax paid invoices issued during the last four months showing the values of suppliers (excluding duty & taxes) to substantiate their contentions. Moreover, at the time of exercise of Section 25-A and meetings, the petitioner did not provided requisite import documents to the respondent in support to justify their contention which are essentially required for determination of customs values.

In view of above, it is respectfully prayed that the said Valuation Ruling may be allowed to hold field for assessment being lawful and valid. Further, transaction value cannot be accepted in absence of any tangible import documents. As such no relief is warranted to be given to the petitioners and assessments are liable to made as per said Valuation Ruling.

In the light of above submissions and factual position, the under reference petition being not maintainable and is liable to be dismissed and rejected accordingly.

ORDER

7. Hearings were held on 24.02.2020 and 05.03.2020 regarding valuation ruling 1423/2019 dated 02.11.2019 to decide the revision petition in the light of Honorable High Court of Sindh, Karachi's order vide C.P. No. 8211/2019 dated 21.01.2020.

8. During the hearing proceedings, the valuation ruling was discussed thoroughly. The petitioners put forward the same arguments as already given in their petition. The petitioners contended that the values of Chinese goods are kept on higher side as compared to that of Europe and the USA. The petitioner also objected to the change of unit of measurement from kilogram to square meter and petitioners contended that wall papers are of different categories but the department has fixed the same value for all types of wall papers.

9. The departmental representative, however, rebutted all contentions with documentary evidences and maintained that the values are determined after fulfilling all requirements as laid down under the law. The Federal Board of Revenue issued CGO No. 15/2019 dated 13.09.2019 and CGO 17/2019 dated 19.09.2019, wherein unit of measurement (UoM) for customs values of wall paper was changed from kilogram to square meter for the purpose of assessment.



10. However, after listening to the discussions/arguments of both the parties and perusal of the case record, it is evident that the said valuation ruling is already more than five months old, therefore, the petitioners are directed to approach Director Valuation for issuing a fresh valuation ruling and plead their case properly. In the meanwhile, the valuation ruling is *upheld*.


(Dr. Wasif Ali Memon)
Director General

Registered copy to:

M/s. T.S. Plastic & Paper,
Shop No. 9046/9047, 9th Floor, Central Plaza, Marston Road, Opp. Gul Plaza, Karachi.
M/s. Wall Master,
172-H, Block-2, P.E.C.H.S, Main Tariq Road, Karachi.

M/s. Shaheen Plastic,
15, Altaf Mansion, A.M. No.3, Frere Road, Karachi.

M/s. Home Story (Pvt) Ltd,
82-83, Ground Floor, Ashiyana Centre, Main Boulevard, Gulberg-III, Lahore.

M/s. Wildstone,
House No. 188, Street No.I-4, Imperial Garden, Paragon City, Burki Road, Lahore.

M/s. Fincera (Pvt) Ltd,
131-CCA, Sector DD, Phase-IV, DHA, Lahore.

M/s. Yasmeen Trading International (Pvt) Ltd,
Plot No.04, Near Piolet Steel Mill, Saman Zar Colony, Noor Road, Lahore.

M/s. ARM Interior,
Showroom 02, Apple Garden, Jamal-ud-din, Afghani Road, Behind PTV Station, Sharfabad,
Near Bahadurabad, Karachi.

Copy to:

1. The Member (Customs Policy/Operations), FBR, Islamabad.
2. The Chief Collectors Customs Appraisalment (South)/Enforcement, Karachi/
(North) Islamabad / (Central) Lahore.
3. The Collector, MCC Appraisalment (East) / Appraisalment (West) /Port M. Bin Qasim/
Preventive, Karachi.
4. The Collector, MCC Appraisalment/Preventive, AIIA, Lahore/Quetta/Peshawar/Faisalabad/
Sambrial/Multan/Hyderabad/Islamabad/Gilgit-Baltistan/Gawadar.
5. The Directorate General of Intelligence & Investigation (Customs), Islamabad /Lahore
/Peshawar / Multan / Hyderabad / Gawadar / Quetta.
6. The Director, Customs Valuation, Karachi/Lahore.
7. The Deputy Director (HQ), Directorate General of Customs Valuation, Karachi for
Uploading in One Customs and WeBOC Database.
8. Deputy Director (Revision), Directorate General of Customs Valuation, Karachi.
9. All Deputy/Assistant Directors (Valuation).
10. Guard File.