

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACH

File No. DG (V)/Val.Rev/09/2020 /3038.

Dated:- 06<sup>th</sup> May, 2020

Order in Revision No. 17 /2020 Under Section 25-D of the Customs Act, 1969 against Valuation Ruling No. 1445/2020 dated 20-03-2020

- 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.R. Agro Trading & Others

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing 29.04.2020,

For the Petitioners

Mr. Adnan Ahmad, Mr. Ali Asghar, M. Aslam,  
Mr. Faisal Khan, Mr. Rahim Virani,

For the Respondent

Mr. Tauseef Ahmad, Valuation Officer,  
Mr. Faisal Jokhio, Valuation Officer,

This revision petition was filed under Section 25-D of the Customs Act, 1969, against Customs Value determined vide Valuation Ruling No. 1445/2020, dated 20-03-2019 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. Being aggrieved and dissatisfied with the ruling passed by the learned respondent, the applicant filed this review application under Section 25D of the Customs Act, 1969, on the following facts and grounds:

FACTS

- (1). As originally enacted Section 25 had provided that the customs value of imported goods was to be the normal price of the goods. The normal price was a legal construct. Subsection (1) provided that it was the price that the goods would fetch on the date mentioned in section 25 on a sale in open market between a buyer and a seller independent of each other. The subsequent subsection then set



forth in detail the rules by which the normal price was to be determined. The date mentioned in section 30 was the date on which the bill of entry for home consumption or ex- bonding (as the case may be) for the goods was filed. It will be seen that the actual price of the goods was not, as such determinative of the normal price, since (e.g.) the date specified in section 30 was later (perhaps even much later) than the date on which the contract between the foreign seller and Pakistani buyer came about. In principle therefore, the normal price could be higher or lower than the actual price of the goods. It is also important to keep in mind that since the normal price was a statutory construct, it was to be determined by the appropriate officer of customs in the manner specified in Section 25. In practice, the Central Board of Revenue, through various Customs General Orders and other instructions did make the actual price relevant.

(2). The advent of the WTO system completely upended the previous position. It will be recalled that the Uruguay round, which culminated in the World Trade Organization, resulted in the member states entering into a whole series of agreements relating to different aspects of international trade. One such agreement was the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (herein after the Valuation Agreement). This agreement set forth what was (at least for Pakistan) an entirely new system of how the customs value of imported goods was to be determined. The concept of normal price was abolished, and a different conceptual framework introduced in its stead. Although the WTO system came into effect from 01.01.1995, developing countries like Pakistan were given five years to bring their laws in conformity with the Valuation Agreement and accordingly the new system was enforced in this Country with effect from 01.01.2000. The Valuation Agreement can for present purposes be regarded as falling into two parts. One part comprises of the main articles which contain the substantive rules for determining the customs value of goods. The second part comprises of interpretative notes to the various articles, contained in an annex to the agreement. Of course, the Valuation Agreement has to be construed as a whole, and Article 14 expressly provides that the notes in Annex I form an integral part of the Agreement and that the Articles of this Agreement are to be read and applied in conjunction with their respective notes. The system enforced in Pakistan since 01.01.2000 in the main reflects this divide. Section 25 was substituted in its entirety and its various provisions primarily embody the main articles of the Valuation Agreement. Rules framed by the Central (now Federal) Board of Revenue (FBR) primarily contain in what is now Chapter IX of the Customs Rules, 2001 (the rules) the interpretative notes of Annex I of the Valuation Agreement. (Henceforth unless otherwise expressly stated, all references to Section 25 are to its post-WTO form).

(3). By the Finance Act, 2007 (i.e. in the very next year after the introduction of Section 25A), certain amendments were made to Section 25 and section 25A was substituted entirety. Coming on the point of impugned Valuation Ruling spices, herbs and edible gums which was determined by the Directorate without proper working. In the impugned Valuation Ruling, para three (3) sub-para iv wherein it is stated that prices of some spices and edible gums are available on publications like public ledgers be applied. The stock holders stressed that the prices during the last four months showing the huge difference in price due to agricultural product which comes down when new crops arriver in market to substantiate their contentions. The director not give wattage on the submissions of stakeholders and issued include valuation ruling arbitrarily.



(4). The calling of Sales Tax invoices is not any justification and it is not under the powers of Directorate of Valuation due to reason the submission and audit of Sales Tax Returns is covered under the preview of inland customs which is an independent department. Other documents which are called by the Custom Department were produced by the Stake Holders during the hearings. The Valuation determined is on very higher side although the required documents were produced like packing list indicating Serial Number, Specification, Package, Quantity, Gross Weight, Net Weight, and Measurement (CBM). Invoice indicating Serial Number, Description of Commodity, Total weight, Value C&F / piece, Total Amount C&F.

4. **PRAYER**

In view of the aforementioned facts and circumstances, it is prayed in the interest of justice and equity, that this honorable Authority may be pleased to set aside the Valuation Ruling No. 1445/2020, dated 20/03/2020, passed by the learned respondent and revise the value of the goods according to Section 25 of the Customs Act, 1969.

5. 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**

**GROUND**

Para 1: It is pointed out that this para discuss methodology. It is stated that methodology adopted in the valuation Ruling 1445, dated 20-03-2020, is in accordance with Section 25(9). The Valuation Ruling paragraph No.4 says: Valuation methods given in Section 25 of the Customs Act, 1969, were followed to arrive at values of Spices, Herbs and Edible Gums. Transaction value method provided in Section 25(1) was found inapplicable due to wide variation in the values being declared to the customs. Identical / similar goods value methods provided in Section 25 (5) & (6) were examined for applicability to the valuation issue in the instant case, which provided some reference values of the subject goods, but the same could not be exclusively relied on due to wide variation in declared values. Thereafter, market enquiry as envisaged under Section 25(7) of the Customs Act, 1969, was conducted; different markets were surveyed for this purpose. On line prices were also obtained to corroborate the findings of the market survey. During analysis "Public Ledger" it was noticed that the current market values of subject goods have change significantly. All the information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the Customs values of Spices, Herbs and Edible Gums have been determined under Section 25(9) of the Customs Act, 1969 accordingly.

Para 2: It is pointed out that this para discuss methodology. It is stated that methodology adopted in the Valuation Ruling 1445 dated 20-03-2020, is in accordance with Section 25(9). The Valuation Ruling paragraph No. 04 says: Valuation methods given in Section 25 of the Customs Act, 1969 were followed to arrive at values of Spices, Herbs and Edible Gums. Transaction value method provided in Section 25(1) was found inapplicable due to wide variation in the values being declared to the customs. Identical / similar goods value methods provided in Section 25 (5) & (6) were examined for applicability to the valuation issue in the instant case, which provided some reference values of the subject goods, but the same could not be exclusively relied on due to wide variation in declared values. Thereafter, market enquiry as envisaged under Section 25(7) of the Customs Act, 1969, was conducted; different markets were surveyed for this purpose. On line prices were also

obtained to corroborate the findings of the market survey. During analysis "Public Ledger", it was noticed that the current market values of subject goods have change significantly. All the information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the Customs values of Spices, Herbs and Edible Gums have been determined under Section 25(9) of the Customs Act, 1969 accordingly.

Para 3: It is pointed out that as per Rule 126 of SRO 450(I)/2001 dated 18th June 2001. (Chapter X), all importers shall maintain manual or Electronic accounts of imports and disposal and supply thereof in the prescribed formats and shall maintain original and copies of contract, letter of credit, bills of lading, invoices, packing lists and goods declaration for a period of not less than three years from the date of respective imports. All the above stated documents are required for authentication of their point of view. In the revision petitions you have laid stress on acceptance of your transaction value. However, no supporting documents have been attached by you with your application which could enable the review forum to verify truth and accuracy of their declared transaction value. In the wake of non availability of relevant import documents with their applications, the burden under Rule 109 ibid to prove correctness of your transaction value shifts to you.

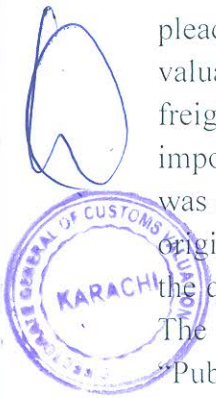
### PRAYER

It is submitted that the customs values of Spices, Herbs and Edible Gums were determined strictly keeping in view the valuation methods as envisaged under section 25 of the Customs Act, 1969. Consequently customs values were determined under Section 25(9) of the Customs Act, 1969. It is further stated that the Valuation Ruling No. 1445, dated 20-03-2020, was issued after meeting with stakeholders. The departmental as well as representatives from Clearance Collectorate stated that the prices of subject items are showing upward trend in the international markets, therefore, they contended that the customs values may be rationalized by revising upward in accordance with prices in international markets.

In view of above, petitions have no merits for consideration and are liable to be rejected.

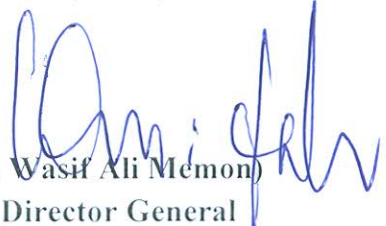
### ORDER

6. Hearing was held on 29.04.2020 regarding valuation ruling 1445/2020 dated 20.03.2020. During the hearing proceedings, the valuation ruling was discussed thoroughly. The importers pleaded that the values have been enhanced arbitrarily in the impugned valuation ruling. The valuation department has issued same values for sea route and land route and the difference in freight for aforementioned routes is altogether ignored. They also objected that the input from importers and Karyana Marchant Association has been neglected and agitated that market inquiry was conducted in an arbitrary manner. Further, they added that the values are kept same for all the origins which is impossible and that the values for all the destinations are also kept same although the quality of goods and value of goods for developed and developing countries are never the same. The importers further submitted that the values in impugned valuation ruling are hedged with "Public Ledger" which is not appropriate because neither the staff of the Appraisement Collectorates nor the vendors have the accessibility to it. The petitioners also agitated that the items namely, Gum Copal and Seed Lac (Lakh Dana) are not edible items and that their values are enhanced by upto 500% from the previous valuation ruling. The departmental representatives stated that the values



were arrived after consulting all stakeholders and after fulfilling all requirements as laid down under the law.

7. The arguments from both the traders and departmental side were examined. The VR under appeal do carry few discrepancies. The impugned valuation ruling 1445/2020, dated 20.03.2020, processed under section 25 (9) has two components. One from serial number 01 to 11 hedged with "Public Ledger" whereas from serial number 12 onward are based on market enquiry. The methods were not sequentially discussed and discarded. The values of ledger do not indicate true values as being items of general use they vary on quantities, qualities and shelf life as rate of bulk purchases are different than smaller quantities. This is also a fact that traditionally spices are likely to be massively under invoiced. But for assessment purpose, the values need to be correctly applied. I, therefore, conclude that more plausible and correct values be ascertained through some comprehensive working and market enquiries. I, therefore, in exercise of section 25-D of the Customs Act, 1969, admitting the revision petition and remand back to Director Valuation to reexamine and issue valuation ruling under section 25 of the Customs Act, 1969, and rules made thereon.

  
(Dr. Wasif Ali Memon)  
Director General

**Registered copy to:**

M/s. New General Trading Co,  
MR 6/12, 3<sup>rd</sup> Floor, Daryalal Street, Jodia Bazar, Karachi.

M/s. H & H Enterprises,  
Shop No. 224, Second Floor, Star City Mall, Opp Bombina Cinema, Saddar, Karachi.

M/s. Bloom Trading Company,  
NP 12/105, Shop No.3, Hussain Centre, Daryalal Street, Jodia Bazar, Karachi.

M/s. Mukati Impex,  
6/37/2, Shop NO.3, Iqbal Trade Centre, M Feroz Street, Jodia Bazar, Karachi.

M/s. Madni Raza Enterprises,  
NP 12/70, 2nd Floor, Allah Dina Street, Jodia Bazar, Karachi.

M/s. Farm Plant,  
Head Office, P-38, Ravi Market, Susan Road, Madina Town, Faisalbad.

M/s. Marhaba Enterprises,  
MR 5/52, Thani Lane, Jodia Bazar, Karachi.

M/s. SEK Impex,  
78, 1st Floor, Ahmed Manzil, Daryalal Street, Jodia Bazar, Karachi.

M/s. Alfa Enterprises,  
Office No. 504, Ismail Trade Centre, Ram Bharti Road, Jodia Bazar, Karachi.

M/s. Coconut & Spice International,  
C-3, 2nd Floor, MR, 5/109/2, Falak Naz, Mansion Market Quarter, Jodia Bazar, Karachi

M/s. Noble Tea & Commodities,  
MR 5/55, Thanai Lane Off Old Dispensary Road, Jodia Bazar, Karachi.

M/s. M. Nadeem Enterprises,  
MR 5/115, Daryalal Street, Jodia Bazar, Karachi.

M/s. Best Food Inc,  
P-226, Block-N, North Nazimabad, Karachi.

M/s. MAZ Enterprises,  
Zehra Square, Suit No.302, 3rd Floor, Opp. New Memon Masjid, Boulten Market, Karachi.

M/s. M. H. Traders,  
Fawad Plaza, 2nd Floor, Office No.6, Samad Khan Street, Quetta.

M/s. Tradesmen International,  
Flat No.6, 3rd Floor, 19/C, Sunset Lane 3, DHA Phase-II, Karachi.

M/s. Al-Asar Enterperises,  
C-3, Mehdi Homes, 164 K, Block-3, PECHS, Karachi.

M/s. Kings Trading Co,  
Flat No.2, 2nd Floor, GK 7/17, Gali No. Haji Ghani Suleman Building, Thanwara ST Newnham Road, Karachi.

M/s. A.S. Trading Corporation,  
Shop No.1, Plot No. M R 5/94, Virjee Street, Jodia Bazar, Karachi.

M/s. Adnan Trading Company,  
P-157, Sadiq Market, Railway Road, Faisalabad.

M/s. Asian Nuts & Spices,  
Gulshan-e-Iqbal, Karachi.

M/s. Mansoor Store,  
Gul Muhammad Street, Jodia Bazar, Karachi.

M/s. Imran Enterprises,  
N.P 11/75, Ghosla Manzil, Daryana Street, Jodia Bazar, Karachi.

M/s. Selani & Selani,  
Shop No. B4, Plot No.12, 56 Daryalal Street, Jodia Bazar, Karachi.

M/s. Dhirani Trading Company,

237, Al-Rehman Trade Centre, Main Shahrah-e-Faisal, New Chali, Karachi.

M/s. Global Trade Link,  
MR 5/110, Virjee Street, Jodia Bazar, Karachi.

M/s. Fluorescent,  
B-141, Sector 6F, Mehran Town, Korangi Industrial Area, Karachi.

M/s. Pyar Ali Fazal & Sons,  
N.P 11/48, Daryalal Street, Jodia Bazar, Karachi.

M/s. Global Trading Company,  
NP 1299, Shop No.2, Hussain Center, Daryalal Street, Jodia Bazar, Karachi.

M/s. SKY Overseas,  
Rehman Street No.2, Al-Sayed Market, 2nd Floor, Brandereth Road, Lahore.

M/s. Emaar Tea & Food Company,  
FF-04, Marhaba Trade Center, Naz Cenima Road, Peshawar.

M/s. Makkah Traders,  
Shop No.05. NP 11/34, Daryalal Street, Near Chabba Gali, Jodia Bazar, Karachi.

M/s. Kerawala International,  
Suit No.101, First Floor, 11/48, Daryalal Street, Jodia Bazar, Karachi.

M/s. Waqas International,  
A-497, Block-D, North Nazimabad, Karachi.

M/s. Rice & Spice Trading Co.  
MR 6/4, 1st Floor, Raees Tar Muhammad Street, Jodia Bazar, Karachi.

M/s. Anwar Traders,  
H-854, Akbarai Mandi, Lahore.

M/s. Pak Indo Trade Link,  
NP 11/78, Duryana Street, Jodia Bazar, Karachi.

M/s. Azuan Natural,  
F-319, SITE Karachi, West SITE Town, Karachi.

M/s. Shah Taj International,  
175-175-A, 174-174-A, Layari Quarter Flat No.601, Al-Rehman Arcade,  
S/W Road, Karachi.

M/s. Naqi Brothers,  
NP 11/78, Durayana Street, Jodia Bazar, Karachi.

M/s. Imran Enterprises,  
N.P 11/75, Ghosla Manzil, Daryana Street, Jodia Bazar, Karachi.

M/s. Saeed & Company,  
H-13, 14 Akbari Mandi, Lahore.

M/s. U.K Traders,  
Mezzanine Floor, Room NO.6, Jumbo Centre, Opp Custom House, Karachi.

M/s. I.M Enterprises,  
H-1375-A, Akbari Mandi, Lahore.

M/s. Global Trading Company,  
Office No.1, First Floor, Al-Naveed Plaza, Munsafi Road, Quetta.

M/s. Diamond Trading Company,  
Shah Qabool Colony, Namak Mandi, Multan.

M/s. Al-Hafiz Kiryana Store,  
Shop No.92, New Grain Market, Vehari Road, Multan.

M/s. Al-Madina Dry Fruit Traders,  
Shop No.92, New Grain Market, Vehari Road, Multan.

M/s. Al-Yousuf Traders,  
NP 12/99, Hussain Center, Daryalal Street, Jodia Bazar, Karachi.

M/s. Aslam Traders,  
NP 12/70, Allah Dina Street, Jodia Bazar, Karachi.

M/s. Wali Khan Trading Company,  
Office No.2, Inside Mirch Mandi, Shahi Bagh Road, Peshawar.

M/s. AQTR,  
4th Floor, Qasr-e-Zeba Building, Ali Akbar Street, Near Acchi Qabar, Jodia Bazar, Karachi

M/s. Crystal Impex,  
Shop No.6, Hussain Centre, Daryalal Street, Jodia Bazar, Karachi.

M/s. Khimani Impex,  
MR-5/107, Hameed Centre, Virjee Street, Jodia Bazar, Karachi.

M/s. Quality Dry Fruits,  
B-1, 1st Floor, Jumani Square, Central Commercial Area, Karachi.

M/s. Arif Traders,  
Shop No. H/1190/5, Main Akbari Mandi, Lahore.

M/s. International Trading Company,  
MR 6/21 2nd Floor, Daryalal Street, Jodia Bazar, Karachi.

M/s. Abdul Ghani & Sons,



N.P. 11/28, Duriyana Street, Jodia Bazar, Karachi.

M/s. Nasima Enterprises,  
Plot No. NP 12/70, Allah Dina Street, Jodia Bazar, Karachi.

M/s. Al-Madina Dry Fruits Traders  
Shop No.92, New Grain Market, Vehari Road, Multan.

M/s. Prime Agencies,  
PA-64/a, Bhadur Yar Jang Academy, Siraud Daula Road, Bahadurabad, Karachi.

M/s. Sohail Jawa Pansari Store,  
H-1173, Akbari Mandi, Lahore.

M/s. Rehman Group of Companies,  
944/C , Kabul Road, Sialkot Cant, Pakistan

M/s. Raheel Impex,  
Plot No.11, Block 7-8, CP Berar Co-operative Housing Society, Karachi.

M/s. A. S. Enterprises,  
NP 12/94, Allah Dina Street, Near Habib Bank Ltd, Jodia Bazar, Karachi.  
M/s. Cheena International,  
MR-5/69, Thani Lane, Jodia Bazar, Karachi.

M/s. T.A. Enterprises,  
MR 5/84, Thanai Lane, Jodia Bazar, Karachi.

M/s. Haji Ahmed Haji Karim,  
3rd Floor, Gani Centre, Zakaria Lane, Jodia Bazar, Karachi.

M/s. Sheikh International,  
G-10, N.P 11/28, Khem Chand Street, Jodia Bazar, Karachi.

M/s. Amina Corporation,  
Momin Manzil, Rampharti Street, Jodia Bazar, Karachi.

M/s. AG Agro Trading,  
Shop No.8, Hussain Centre, Daryalal Street, Jodia Bazar, Karachi.

M/s. Al-Noor Impex,  
2064/B-1st Floor, Inside Mori Gate, Lahore.

M/s. Uzair Enterprises,  
MR-5/115, Daryalal Street, Jodia Bazar, Karachi.

**Copy to:**

1. The Member (Customs Policy/Operations), FBR, Islamabad.

2. The Chief Collectors Customs Appraisement (South)/Enforcement, Karachi/  
(North) Islamabad / (Central) Lahore.
3. The Collector, MCC Appraisement (East) / Appraisement (West) /Port M. Bin Qasim/  
Preventive, Karachi.
4. The Collector, MCC Appraisement/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.