

**GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACH**

File No. DG (V)/Val.Rev/35/2019

09/15

March, 2020

**Order in Revision No. 09 /2020 Under Section 25-D of the Customs Act, 1969 against  
Valuation Ruling No. 1407/2019 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. Brothers Pen Company and others

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

27-02-2020

For the Petitioners

M/s. Brothers Pen Company & others,

For the Respondent

Mr. Nadeem Sheikh, Valuation Officer

This revision petition was filed under Section 25-D of the Customs Act, 1969, against Customs Values determined vide Valuation Ruling No. 1407/2019 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. 1407 of 2019 dated 02.11.2019, the petitioner prefers this revision petition under Section 25-D of the Customs Act, 1969, before this learned Authority on the following facts and grounds, namely:

3. **FACTS**

1. That on 02-11-2019 Director Valuation Custom House, Karachi issued a Valuation Ruling No.1407/2019 for stationery items, the import value of the stationery items are still high. We have the same problem, as we were facing on last Ruling No. 1379/2019 dated 27-06.2019, Ruling No. 1182 dated 16 June, 2017 and Order in Revision No. 416/2017 dated 18 December 18, 2017.

The request of all importers in last meeting to revise the valuation as per fair import value and for purpose of this, we had submitted before all the documents i.e samples, bank transaction documents, Invoices, packing lists, import GDs, export GDs, price work back, local market sales prices and bills.



3. That the worthy Director has re-determined the value of the impugned goods, vide its Valuation Ruling No. No.1407/2019 dated 02 November, 2019, without considering the transactional values of the applicant under Section 25(1) of the Customs Act, 1969 and issued the values under section 25(7) and Section 25(9) of the Customs Act, 1969 as same practice which they have on previous Ruling NO. 1379 dated 27-06-2019, 1182/2017 dated 16-06-2017, 868/2016 dated 961/2017 dated 11-11-2016 and 09-06-2016.

4. **GROUND**

A. That the Director has also ignored the transactional values of the importers under section 25(1) of the Customs Act, 1969, and determined the values of the goods in his own assumption and presumption, where as there is no any confusion about the similar item values etc. as discussed in our last meeting and they have agreed about this.

B. That while re-determining the impugned values the learned Director has not considered the LC documents, commercial invoice, bill of lading and export GDs of the exporter clearly shows that the transactional values of the Stationery Items.

C. The detail of items is in following detail:-

Serial	Item Description	PCT	Origin	VR- 1407
NO.12	COLOR PENCIL HALF IN CARD BOX PACKING.	9609.1000	CHINA	0.0150/PC
NO.14	COLOR PENCIL FULL SIZE SIZE IN CARD BOX PACKING.	9609.1000	CHINA	0.0294/PC

NO.16.	BLACK LEAD PENCIL WITH AND WITHOUT RUBBER TIP IN BULK PACK.	9609.1000	CHINA	0.024/PC
NO.17	BLACK LEAD PENCIL WITH AND WITHOUT RUBBER TIP IN RETIAL PACKING.	9609.1000	CHINA	0.026/PC

D. That Hon'ble Apex Court of Pakistan in the case of Ms. Zymotic Diagnostic International, C.P# 434-K/2005, has clearly held that the fixation of value must be in a sequential order in line with the spirit of Section 25 as well as GATT Rules, operative Para of ruling of Supreme Court is as under:

*"Section 25 of the Customs Act Authorizes and officer of the customs department to reject the declared value of a consignment imported in Pakistan and to assess the same. Section 25 lays down various modes in which the officials of the customs department are required to proceed*



*in determining or assessing the value of the consignment after rejecting the declared value. However for rejecting or refusing to accept the value declared by a consignee in respect of imported goods the concerned officer is required to give cogent plausible and satisfactory reasons. For non-acceptance of the declared value and rejection thereof which cannot proceed on the whims or desire of the officer of the customs."*

E. That in the judgment of the Hon'ble Sindh High Court of Karachi has ruled the same position of law, wherein it was categorically held that;

*"Language of section 25 is mandatory and it requires the department to follow step by step for the purpose of determining value and if there is no result coming out then they may avail the remedy under section 25-A. -- The language of section 25 of the Customs Act is mandatory and it requires the department to follow step by step for the purpose of determining the value of the imported goods and if there is no result coming out then they may avail the remedy under section 25-A. as per language of the above section the determination of the import value should be on the basis of transaction value, provided that conditions provided in sub-section (1)(a) of section 25 are not available. If an importer is crossing sub-section (1)(a) then other sub-section of section 25 the Act to be followed.*

*Where the Customs Authorities have given valuation ruling without reasoning, without mentioning as to how they reached that conclusion and without giving opportunity of being heard, the ruling cannot be sustained. - - The Customs authorities have given the ruling without any reasoning nor it has been mentioned as to how they have reached that conclusion or do they have evidence of other imports on more value nor the affected persons have been given any opportunity to be heard.*

*In such a situation, ruling relied upon by the department cannot be sustained and assessment on its basis is set aside."*

F. That Honorable High Court of Sindh in identical case of M/s. Yousuf Enterprises, PTCL 2005 CL.151, clearly held that the enhancement of value on the basis of any methodology, which is not given under the Section 25 if the Customs Act has no legal value; operative para of the same is reproduced as under:

*"when a system is laid for purposes of valuation, it has to be adhered to and appreciation of any evidence in this respect has to be in conformity with what is prescribed because otherwise depending on something outside the laid methodology would amount to an aberration and upon hearsay and can damage the requirement given by the law and due to the said reason advice of Traders Association for the purpose if valuation is not to be taken as main factor in clash with the provisions of Section 25 is not tenable in law."*





G. That the Honorable High Court has reiterated the same position of law in the case of Mr. Rehan Umar S/o. Muhammad Umar, C.P. # D-1483/2005 dated 20-04-2006 also held that fixation of value without following a proper sequential order as required under section 25 of the Customs Act has no legal value and also held in such circumstances relevant authorities are bound to release the consignment under section 81 of the Customs Act and finalization of same in accordance with the spirit of section 25 in a sequential method, operative para of the same is reproduced as under:

*"It is held that if the goods declaration is filed on customs computerized system, the provisions contained in the customs rules 2001 and in section 81 of the customs as explained above are equally applicable".*

H. The Honorable Sindh High Court, Karachi has ruled:

*"Where the Legislature has expressly prescribed one or more particular modes of dealing with the matters specified therein, and then it excludes any other method of doing acts are treated as absolute enactments".*

I. That the applicant opts for personal hearing or through his counsel to crave leave to highlight more or further grounds if arising out at the time of hearing.

#### 5. PRAYER

1. In view of the aforementioned facts and circumstances, it is prayed in the interest of justice and equity, that this Hon'ble authority may be pleased to set aside the order No. 1407/2019 dated 02 November, 2019 as the same is void and illegal and re-determine the value of impugned goods as per detail given above as declared by the applicant under section 25(1) of the Customs Act, 1969.

2. It is prayed that interlocutory orders may be passed to grant the interim relief and suspend operation of the impugned order till the disposal of this application.

3. It is also prayed that our recent consignment which were released provisionally under section-81, and deposit of differential amount which we have submitted in shape of pay orders not to be in cash due to un-justifiable impugned order values.

4. It is further prayed that our all consignment which have arrived and will arrive at port, may be directed to allow right of provisional release of subject goods imported by us under section 81 of the Custom Act, 1969.

#### PARAWISE COMMENTS

Para-(1): Custom values of stationery items were determined through Valuation Ruling No. 1407/2019 dated 02-11-2019. Moreover, representations were received in this Directorate General that the values of subject goods need redetermination as existing valuation ruling was old.



Keeping in view the above facts, an exercise was carried out to determine the customs values of the subject goods under Section 25-A of the Customs Act, 1969.

Para-(2): Meeting with stakeholders was convened on 29.10.2019, which was attended by different stakeholders and importers. The stakeholders and importers were requested to submit the following documents before or during the meeting, so that customs values could be determined.

- i. Invoices of imports during last three months showing customs values.
- ii. Websites, names and E-mail address 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 the value of item in question.
- iv. Copies of Sales Tax Invoices issued during the last four months showing the difference in price (excluding duty and taxes) to substantiate their contentions.

Para-(3): Customs valuation methods given in Section 25 of the Customs Act, 1969, were applied in sequential order to address the valuation issue at hand. Transaction value method under Sub-Section (1) of Section 25 of the Act *ibid* was found inapplicable because requisite information under the law was not available. Identical and similar goods valuation methods provided in Sub-Section (5) and (6) of Section 25 of the Customs Act, 1969, provided some reference values but due to wide variation and suppressed declarations, the same could not be relied upon. In the sequential order this office then resorted to conduct a market inquiry and, consequently, Deductive value method under Sub-Section (7) of Section 25 of the Customs Act, 1969, was applied to arrive at the assessable customs values of the subject goods being most appropriate for the purpose. All the information together was evaluated and analyzed for the purpose of determination of customs values.

#### 6. PRAYER

Keeping in view on the foregoing facts stated above, it is prayed that the revision petition filed by the importer under Section 25D of the Customs Act, 1969, is baseless hence no merits and the same may be rejected.

#### ORDER

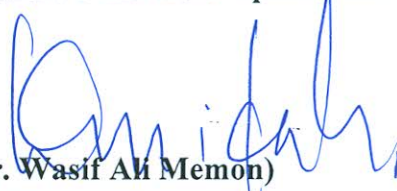
7. Hearing was held on 27-02-2020 regarding Valuation Ruling 1407/2019 dated 02-11-2019 to decide revision petition. The petitioners appeared for hearing and reiterated the same arguments as already given in their petitions. The main thrust of their arguments was that the Valuation Department did not follow the valuation methods properly and also objected to the market enquiry conducted by the department and stated that the values determined *vide* impugned valuation ruling in respect of stationery items do not reflect the prevalent market prices. They insisted on accepting their declared values as correct transaction values. However, no supportive documentary evidence was produced to substantiate their contentions. In defense, the departmental representative explained in the 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 departmental representative presented various details of the valuation exercise/working. The departmental representatives stressed the point that the subject goods were being imported and cleared at very low values. Therefore, Customs values were determined by the Directorate of Valuation vide Valuation Ruling No. 1407/2019 dated 02-11-2019 to safeguard Government revenue and pointed towards the fact that consignment of stationery items are regularly being cleared in accordance with the notified values streamlining the import regime and to support this submission.

8. After listening to the detailed discussion/arguments of respondents and perusal of the case record, it is evident that Valuation department had taken the stakeholders on board while issuing the impugned Valuation Ruling. The department also gave sufficient time and opportunity to get their inputs including documentary proof/evidence to substantiate their transaction values but they failed to provide any such proof or fact to support of their declared values which were abysmally low.

9. In view of above, the review applications merit no consideration. I therefore **uphold** the Valuation Ruling 1407/2019 dated 02-11-2019.

  
(Dr. Wasif Ali Memon)  
Director General

**Registered copy to:**

M/s. Brothers Pen Company,  
32/19, Block "A", Shabbirabad, DBCHS, Karachi.

M/s. Sultan and Co,  
197, Qasoor Street, Marriot Road, Karachi-74000.

M/s. Kings Pen Company,  
MR 2/5, 184, Room 2, First Floor, Bombay Wala Center Marriot Road, Karachi-74000.

M/s. Real Enterprises,  
Shade No. 1, E-96, S.I.T.E, Super Highway, Phase-IsI, Karachi.

M/s. Global Pen Company,  
MR 2/5, 184, Room 2, First Floor, Bombay Wala Center Marriot Road, Karachi-74000.

M/s. Oro Industries,  
Plot No. 86-87, Sector 23, Korangi Industries Area, Karachi-74000.

M/s. Maxi Inc,  
Al-Janat Road, Saggian Ravi by Pass, Nain Sukh, Lahore.

**Copy to:**

- 1) The Member Customs (Policy/Operations), FBR, Islamabad.
- 2) The Chief Collectors Customs Appraisement (South)/Enforcement, Karachi/(North) Islamabad / (Central) Lahore, Balochistan

- 3) The Collector, MCC Appraisement (East) / Appraisement (West) /Port M.Bin Qasim/Preventive, JIAP, 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 / Peshwar / 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) The Deputy Director (Revision), Directorate General of Customs Valuation, Karachi.
- 9) All Deputy/Assistant Directors (Valuation), Lahore/Karachi.
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