

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACH

File No. DG (V)/Val.Rev/01/2020/3020.

18th APRIL, 2020

Order in Revision No. 12 /2020 Under Section 25-D of the Customs Act, 1969, against Valuation Ruling No. 1435/2019 dated 13-12-2019

- 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. Good Luck Traders & Others

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

11-02-2020, 09-03-2020

For the Petitioners

Muhammad Daud, Khwaja Tanveer,
Sh. Amjad Yaqoob,

For the Respondent

Mr. Abdul Hameed, Principal Appraiser

This revision petition was filed under Section 25-D of the Customs Act, 1969, against Customs Value determined vide Valuation Ruling No. 1435/2019, dated 13-12-2019 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

We are one of the leading commercial importers of subject item namely Gum Base since a considerable period of time and are importing gum base covered under HS Code 3824.9910 from China. We shall bring it on record that whenever we desire to import the said product from china, we perform many correspondences and also attend different meeting with supplier and local buyers and then our supplier agree to supply the product at different values less than the value as determined in the impugned valuation ruling as referred to above.

3. **FACTS**

- (1) That the respondent namely Director of Customs Valuation has bluntly refused to accept the transaction value other than the above referred valuation ruling despite of the fact that there

are substantive evidences of value of the goods which act on the part of the respondent and which is absolutely against the norms of natural justice and so also against the true spirit of provision Section 25(1) of the Customs Act, 1969, and Rule 13 of the Customs Rules, 2001.

- (2) That our transaction value is absolutely in accordance with law, fair, just, proper and covering all that aspects of the goods and even the same cannot affect the government revenue.
- (3) That it is pertinent to mention here that the impugned valuation ruling as referred above have been determined without consideration of present market situation and without giving any opportunity of meeting of stakeholders and as such have been determined without our suggestions being the importer and the same are liable to be reviewed forthwith in the great interest of justice particularly keeping in view the legitimate revenue of national exchequer, hence this review application is filed, inter alia on the following grounds amongst others:-

4. GROUNDS

(i) That the impugned Valuation Ruling as referred above does not cover the present fluctuation of prices of international market, which have been reduced to about half of the prices and our product is completely based on international prices.

(ii) That the provisions of Section 25 of the Custom Act, 1969, are to be followed in sequential manner bearing exceptional cases where massive group under invoicing is rampant. It is not possible without exhausting and unfettered indicated in section 25(13) (a) does not give unbridled and unfettered authority to Customs administration to play havoc with the trade at large. Discretions has to be exercised within limits based on reason, rationale and fair play which is specifically provided by the legislature in sub-section (10) of Section 25 of the Customs Act, 1969, sub-section (1) (5) (7) & (8) on the importer's request if so agreed by the Collector of Custom as held in various judgments.

(iii) That the shipping freight also decreases accordingly, which directly has as impact on product price.

(iv) That for the sake of arguments without conceding that the determination made in the impugned ruling is legal, the applicant state is a nullity to the fact and expression and procedure given in the relevant provisions of the Custom Act, 1969 and this is validated from the working of the valuation for determination of applicant to import Gum Base from China by deducting the different margins of respective heads which the applicant has to bear prior to selling the goods rendering the contracted price as transactional value within the meaning of Section 25(1) of the Customs Act, 1969.

(v) The applicant sells the entire goods prior to clearance and at many times the prices of the goods increase prior to clearance and the importer has to bargain the difference of prices at his own.

(vi) The applicant craves to leave further grounds for the time of hearing besides placing valid incriminating documents with the permission of your revision appellate authority.



5. **PRAYER**

It is therefore, humbly prayed that this appellate authority may be pleased to allow the review petition by declaring/order that:

- (i) That the impugned valuation ruling No.1435/2019 dated 13.12.2019 has been issued on forced construction of section 25 of Customs Act, 1969, hence ab-initio null and void and is liable to be withdrawn forthwith.
- (ii) That the transaction/declared value of the applicant to the imported goods is deemed to be fair and answer to the expression of Section 25(1) of the Customs Act, 1969, in Rule 113 of Chapter of the Customs Rule 2001.
- (iii) That the values determined by the department were not in line with market.
- (iv) That the import of goods has decreased due to high Custom Values and resultant heavy burden of duty and taxes, and on the other hand these goods are being regularly smuggled into Pakistan.
- (v) In the existing impugned valuation ruling, the Custom values of the subject goods were increased despite the fact that the prices of oil, iron and steel and other raw materials were declining in international markets.
- (vi) The applicant's main contention is for accepting their declared values as correct transaction values.

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-(I) : Denied. It is submitted that this Directorate General examined the clearance data of Gum Base (PCT: 3824.9910) and observed variations in declared transactional values at various Customs stations despite having same origin etc. Further, representations were received in this office that values of under reference goods are higher than the values declared by different importers. Therefore, an exercise was undertaken to determine the fresh customs values of Gum Base and the said Valuation Ruling was issued in terms of Section 25-A of the Customs Act, 1969, for uniform assessment purposes accordingly.

Para-(II) : 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 minimum customs values in the Valuation Ruling No.1435/2019, dated 13-12-2019 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

