

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACH

File No. DG(V)Val-Rev/07/2020

3025
13

20th

April, 2020

Order in Revision No. /2020 Under Section 25-D of the Customs Act, 1969, against
Valuation Ruling No. 1442/2020 Dated: 05-03-2020

- 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. JOFA International & Others

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

13-04-2020

For the Petitioners

Mr. Zubair Ali Khan , Mr. M. Imran Yousaf, Mr. M. Asim Jofa, Mr. Akhtar Ali, Mr. Salman Aziz,

For the Respondent

Mr. Anees-ur-Rehman, Principal Appraiser,
Mr. Tauseef Ahmad, Valuation Officer,

This revision petition was filed under Section 25-D of the Customs Act, 1969, against customs value determined vide Valuation Ruling No. 1442/2020, dated 05.03.2020, 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. 1442/2020, dated 05.03.2020, 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

Valuation Ruling No. 1442/2020 dated 05.03.2020 has been issued under Section 25-A of the Customs Act, 1969, whereby the customs values of ice creams of various brands have been determined. The petitioner wishes to challenge the Valuation Ruling on the following grounds:-

- i. The petitioner has entered into an arrangement with Haagen-Dazs international shoppe company, inc. for the import of Haagen-Dazs ice cream in Pakistan in bulk. The origin

of the ice cream to be imported by the petitioner is France. The Valuation Ruling has set the customs value of Haagen-Dazs ice cream at US\$ 14.40 per kg. The Valuation Ruling states that a discount of 10% may be afforded to ice cream imported in bulk which is unrealistically low and against well established market practices.

- ii. The Valuation ruling has fixed a single value for all origin of Haagen-Dazs ice cream, which is against the spirit of Customs valuation law and in violation of the judgment of hon'ble Sindh High Court in the case of Sadia Jabbar reported as PTCL 2014 CL 537. The judgment held that a valuation ruling must pertain to a specific country. Fixing values for specific region or all origin is not tenable under the law. The petitioner's imports shall originate from France. A valuation ruling on the petitioner's import of Haagen-Dazs ice cream can therefore only apply on the petitioner if such ruling specifies that it shall apply on ice cream originating from France after necessary verifications have taken place.
- iii. The customs value determined for HAAGEN-DAZS ice cream under the Valuation Ruling is much higher than the actual value at which the goods are being imported and the price payable for such goods under Section 25(1) of the Customs Act, 1969. The consignor of the petitioner's imports is Haagen-Dazs international shoppe company, inc ("Supplier"), which makes and manufactures Haagen-DazS ice cream. The Supplier has issued a price list to the petitioner (attached as Annex-A) for all flavors of Haagen-Dazs ice cream. As per the price-list, the price of a single container of bulk ice-cream of 9.46 Liter is US\$ 45. The weight of each flavor of ice cream in a single container varies due to differences in ingredients and their density. For the sake of clarity, the weight of each flavor of bulk packaging of ice cream is annexed as Annex-B. The average weight of imports of Haagen-Dazs ice cream in bulk to be imported by the petitioner is 9 KGs. As such the price of each liter of ice cream to be imported by the petitioner comes to USD 5 which is considerably lower than the price notified for Haagen-Dazs ice cream through the Valuation Ruling. The Valuation Ruling is liable to be set aside on this basis.
- iv. The Valuation Ruling has been issued without affording the petitioner an opportunity of a hearing which is against the spirit of Article 10A of the Constitution of Pakistan and in violation of various pronouncements of the superior courts of Pakistan;
- v. The subject Valuation Ruling has been issued under sub-section (7) of Section-25 of the Customs Act, 1969; however, no data has been shared or discussed in the Ruling to arrive at these values which renders this Valuation Ruling void and without lawful authority.
- vi. The customs value for Haagen-Dazs ice cream has been set through the valuation ruling by employing the deductive method under Section 25(7) of the Customs Act, 1969. There is no evidence to suggest nor has any data or evidence been mentioned in the Valuation Ruling that a market inquiry was conducted on Haagen-Dazs ice cream which has been imported in bulk directly from the manufacturers of Haagen-Dazs ice cream, as in the petitioner's case. The market inquiry which is the basis of the Valuation Ruling can therefore not be applied on bulk imports of the petitioner.
- vii. The relevant data pertaining to transaction values of subject goods does not support the values determined through the impugned Valuation Ruling.



