

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACH

File No. DG(V)Val-Rev/06/2020 /3026.  
14

21st

April, 2020

**Order in Revision No. /2020 Under Section 25-D of the Customs Act, 1969, against  
Valuation Ruling No. 1443/2020 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. Khan Business & Others

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

13-04-2020

For the Petitioners

Mr. Kamran, Mr. Danish, Mr. Mujtaba, Mr. Farhan  
Saeed, Mr. Waseem,

For the Respondent

Mr. Tauseef Ahmad, Valuation Officer,  
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. 1443/2020, 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. 1443/2020 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:-

**FACTS**

- 1) The Director Customs Valuation issued Valuation Ruling No. 1443/2020, dated 05.03.2020, for assessment of customs value of above commodity.
- 2) That in past, above goods assessed and released by way of substitution of old valuation ruling No. 913/2016, dated: 23.08.2016, with new valuation ruling no. 1413/2019, dated 01.11.2019.



- 3) That we challenged the above valuation ruling in reasons thereof and DG Valuation reached to the conclusion that "Valuation Ruling No. 1413/2019, dated 01.11.2019, is found to be issued in an arbitrary manner and not in accordance with the provision of Section 25-A read with Customs Rules, 2001, therefore, in exercise of powers conferred upon me under Section 25-D of the Customs Act, 1969, I hereby order the impugned Valuation Ruling No. 1413/2019, dated: 01.11.2019, to be set-aside".
- 4) That after setting-aside the valuation ruling No. 1413/2019, dated 01.11.2019, the goods were assessed and released @US\$ 1.65/kg according to old valuation ruling No. 913/2016 dated 23.08.2016, as per order of the Chief Collector.
- 5) During the course of hearing, the Director Valuation also admitted that it was also found that most of the imports of used photocopiers originate from the US and the rest from EU. Due to stringent financial controls in the US, it is difficult and risky for importers to carry out mis-invoicing, which is also not feasible due to low value of goods.
- 6) That ultimately, the Valuation department issued new valuation ruling no. 1443/2020, dated 05.03.2020, and proposed assessment based upon CPM which also indicates charges of under-invoicing on importers whereas at the other hand, it states that no commercial importer attended the meeting.

#### 4. GROUNDS

That above proposed customs value for assessment is seriously harming the interest of the applicant. The above fresh valuation ruling required to be revised further in the light of facts furnished below:

1. That as far as charges leveled against importers on part of under-invoicing, we do not agree because the Director Valuation has already admitted that under-invoicing is not feasible. Thus the under-invoicing charges may be withdrawn.
2. That we do not agree with the assessment proposed according to UOM stands in CPM, the same is also not admissible because old & used photocopiers could not perform as new.
3. As per the CGO 15/2019, dated 17.09.2019, there is clearly mentioned for assessment criteria to assess the items on Kg basis if the consignment imported on weight basis and/or if the consignment imported on unit/piece basis, then it should be to assessed on unit basis, whereas, our problem is only CPM, it is not on kg/unit issue.
4. That new valuation ruling indicates that Mr. Nadeem Khalid, Director of M/s. Office Automation Group (OAG) Karachi, attended the meeting and further indicated that no body from commercial importers attended the meeting. This is absolutely incorrect because we have submitted all relevant documents to Valuation Department prior to meeting. We and 17 other importers had submitted our request letters on 31.01.2020 (enclosed) for extension of the meeting date. We think the Valuation Department totally mentioned lie without actual position. As far as meeting attended by Mr. Nadeem Khalid, Director of M/s. Office Automation Group (OAG) Karachi, it is hereby clarified that he is the importer of brand new photocopier machines. Thus he could not represent importers of old & used photocopier machines. It is therefore, requested to please held fresh meeting / hearing with commercial importers.





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): Needs no comments being introduction of the petitioners.

Para-(2) Agreed. It is submitted that the Valuation Ruling No.1413/2019 dated 01-11-2019 was set aside in terms of Section 25-D of the Customs Act, 1969, by the Honorable Director General (Customs Valuation), Karachi and remanded the case back to the worthy Director (Customs Valuation), Karachi, for issuance of new Valuation Ruling in terms of Section 25-A Of the Customs Act, 1969.

Para-(3): It is submitted that the Valuation Ruling No.1413/2019, dated 01-11-2019, was set aside and exercise for issuance of new and fresh Valuation Ruling was conducted. Finally, a fresh Valuation Ruling No.1443 / 2020, dated 05-03-2020, was issued in terms of Section 25-A of the Customs Act, 1969, but still the importers were aggrieved and filed the under reference petition before the Honorable Director General (Customs Valuation), Karachi for revision of the same.

Para (4): Denied. It is submitted that Para-(2) to (5) of the impugned Valuation Ruling No.1443/2020, dated 05-03-2020, itself are speaking one which clearly reveals that all primary methods of valuation were exhausted and finally customs values were determined under Section 25 (7) of the Customs Act, 1969. Moreover, all the stakeholders were also associated by conveying meetings on the issue. As such the said valuation Ruling has lawfully and justifiably been issued by the respondent in terms of Section 25A of the Customs Act, 1969. Moreover, FBR vide CGO No.15/2019, dated 13-09-2019, and CGO No.17/2019, dated 19-09-2019, has directed to adopt UoM on Per Piece basis instead of Kilogram under recommendations of W.T.O. As such customs values have been determined and arrived at on the basis of Per Piece basis in the under reference valuation ruling.

Para (5): However, it is submitted that the said Customs values in Valuation Ruling No.1443 / 2020, dated 05-03-2020, were based on ground realities as the same were determined after extensive exercises i.e. examining 90 days import data, local market enquiry and after holding meeting with all stakeholders on 04-02-2020 in terms of provisions of Section 25 of the Customs Act, 1969. As such the same were legally applicable on imports of under reference goods across the country for uniform assessment purposes all over the country.

Para (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.1443 / 2020, dated 05-03-2020, 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 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.

## G R O U N D S

Para-(1) & (2): Not Agreed. It is submitted that the said Valuation Ruling was issued after properly following all provisions of Section 25 of the Customs Act, 1969, i.e. From Sub-Sections (1) to (9). Finally, the Customs Values for Used Photocopier Machines were determined in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969, for uniform assessment all over the country. Moreover, the values of used Photocopier Machines were determined keeping in view the CGO No.15/2019, dated 13-09-2019 & CGO No.17/2019, dated 19-09-2019 through which Federal Board of Revenue has directed to adopt UoM on Per Piece basis instead of Kilogram under recommendations of WTO. As such customs values have been determined and arrived at on the basis of Per Piece basis in the under reference valuation ruling.

Para-(3) to (4): It is submitted that before the meetings, participants were requested to provide documents like copies of contracts made / LCs, Sales Tax Paid Invoices to substantiate their contention. Yet they did not provide required documents before meeting. Again during the meetings held on 04-02-2020, the participants were requested to submit the following documents to justify their contention;

- (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.

But 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. 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 such the said 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.

Para (5): Denied. It is submitted that all the participants of meeting were requested to provide following documents to substantiate their declared transactional values but no one provided the requisite import 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.

Instead of furnishing any documentary evidence about downfall in prices in international market, they relied upon their rhetoric of decline in international market prices. They were repeatedly requested to furnish sales tax invoices along with monthly sales tax return filed with Inland Revenue Department as sales tax invoices are authentic document to ascertain local market price and as the Customs has authority in terms of Sub-Section (11) of Section 25 of the Customs Act, 1969, to call any documents to satisfy themselves about the truthfulness or accuracy of any information or declaration made to Customs for valuation purpose. None of them submitted sales tax invoices along with monthly sales tax return, on one excuse or the other. Moreover, it is submitted that the said customs values were determined in terms of provisions of Section 25 by following all Sub-Sections (1) to (9) sequentially. Consequently, the customs values were determined in terms of Section 25(7) of the Customs Act, 1969.

Para-(6) to (7): It is submitted that the Valuation Ruling No.1443 / 2020, dated 05-03-2020, itself is a self speaking document which has lawfully been issued by the Respondent under Section 25-A 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 for rejection of previous methods and after evaluating and analyzing all 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 not arbitrary or unlawful as the same have been determined after properly analyzing and evaluating so gathered from different sources. Therefore, no violation of any rules has occurred while determining the Customs values in the said ruling.

### **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.1443 / 2020, dated 05-03-2020. The respondent has acted lawfully and the Valuation Ruling No.1443 / 2020, dated 05-03-2020, 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.

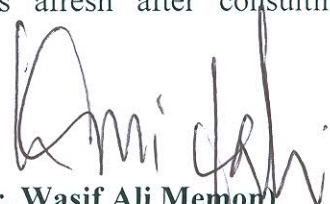
In view of above, it is respectfully prayed that the said Valuation Ruling may be allowed to hold field for assessment being lawful and valid. Further, transaction value cannot be accepted in absence of any tangible import documents. As such no relief is warranted to be given to the petitioners and assessments 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. Hearing was held on 13.04.2020 regarding valuation ruling 1443/2020 dated 05.03.2020. During the hearing proceedings, the valuation ruling was discussed thoroughly. The petitioners contended that the unit of measurement of the item under consideration was changed from Kilogram to CPM in the light of CGO No. 15/2019 dated 13.09.2019, and CGO No. 17/2019 dated 19.09.2019, issued by the Federal Board of Revenue. They further contended that the working on valuation ruling lacked the participation of the importers; therefore, the valuation ruling may be set aside to provide opportunity to the importers to present their case properly. The petitioners also added that the Customs value is increased 500 times from the previous valuation ruling No. 913/2016, dated 23.08.2016, which needs rationalization. The Director took the new machines of various capacities, depreciated them by a certain percentage (40% in the examined case) and determined that to be the value of used machines. The arbitrary calculation has resulted in the C&F values being determined much higher than the actual market prices. The photocopiers are not in proper functioning state when imported. The petitioners also maintained that most of the imports are from USA and Europe where under invoicing is not feasible.

8. During the hearing proceedings, it was transpired that the Customs value determined vide valuation ruling No. 1443/2020, dated 05.03.2020, does not reflect the prevalent market prices. It was also observed that the valuation ruling was issued without the participation of the importers. The impugned valuation ruling is <sup>in</sup>disregard of DG order. The values of old and used photocopiers cannot be fixed in a generalized manner. Therefore, the valuation ruling No. 1443/2020, dated 05.03.2020, is remanded back to Director Valuation re-determination of values afresh after consulting all stakeholders in accordance with laid down procedures.

  
(Dr. Wasif Ali Memon)  
Director General

**Registered copy to:**

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38, Badri Building, I.I. Chundrigar Road, Karachi.

M/s. Amin Traders,  
Shop No.6, Kareem Market, Street No.1, Yarn Market, Lyallpur Town, Faisalabad.

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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.

