

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACH

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

Dated:- 06th 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 As originally enacted Section 25 had provided that the customs value of imported goods was to be the normal price of the goods.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.



