

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACH

File No. DG (V)/Val.Rev/05/2019

5th January 2021

Order in Revision No. 01 /2021 under Section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1356/2019 dated 25-03-2019

- 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. Ghani Global Glass Limited

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

07-12-2020

For the Petitioners

Syed Sibtul Hassan Gilani

For the Respondent

Mr. Iqbal Ali, Principal Appraiser

This revision petition was filed under Section 25-D of the Customs Act, 1969, against Customs Value determined vide Valuation Ruling No. 1356/2019, dated 25-03-2019 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. That the petitioner is extremely grateful to your honor as well as your team for making action on our various representations submitted with Custom Authorities and meetings attended in Directorate General of Customs Valuation, Custom House, Karachi. Finally your good-office principally agreed and issued notification vide No. Misc/19/2018-11/1871 (Valuation Ruling No. 1356/2019, dated 25-03-2019 regarding determination of value of the following products:

S.#.	Description	PCT	Origin	Proposed PCT for WeBOC	Custom Valuation C&F US\$/Kg	Proposed Enhancement of Valuation C&F US\$/Kg

1	Magnesium Silicate (Ethylene Reopener) in Bulk Packing	China	3824.9999	3824.9999.1000	2.50	2.80
2	Magnesium Silicate (Ethylene Reopener) in Sachet Packing	China	3824.9999	3824.9999.2000	3.85	6.00

3. Undersigned had approached for such proposed rates at about one year ago. In this connection we have attended series of correspondence / meetings with the respective Directorate General of Customs Valuation, Custom House, Karachi, from time to time. Such product was finalized in the light of meeting conducted by Directorate of Customs Valuation, Karachi, the same is still under invoiced. It is requested to kindly revise the present tabulation in largest interest of the country. We have attached the new P/I and LC of Magnesium Silicate (Ethylene Fruit Ripener in bulk material @ US\$ 2.80/Kg for your kind consideration.

4. It is humbly requested that the proposed values of Magnesium Silicate (Ethylene Fruit Ripener) both in bulk material and Sachet Packing may kindly be reviewed as per above tabulation in terms of Section 25-D of the Customs Act, 1969 in the larger interest of the country.

5. The respondent department was 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


I. Brief of the case that it was brought to the notice of this Directorate General that values of Magnesium Silicate (Fruit Ripener /Ethylene Ripener) are being declared to the Customs at much lower values than their current international values. Verification by this Directorate General reaffirmed this stance. Keeping in view the prevailing prices in the international markets, this Directorate General initiated an exercise for determination of customs values of Magnesium Silicate (Fruit Ripener/Ethylene Ripener) in terms of Section 25A of the Customs Act, 1969.

II. Meetings with stakeholders including importers and representatives from field formations were held on 13-02-2019 and 12-03-2019 to discuss the prices of the subject goods. The importers/stakeholders were requested to submit the following documents before or during the course of stakeholders meeting so that customs values could be determined:

- i) Invoices of imports during 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 the value

- of item in question.
- iv) Copies of Sales Tax Invoices issued during last four months showing the difference in price (excluding duty and taxes) to substantiate that the benefit of difference in price is passed on to the local buyers.
- III. During the meetings, the stakeholders stated that usage of magnesium silicate was introduced in Pakistan 3 to 4 years back which replaced the old practice of using Calcium Carbide as food ripening agent. Magnesium Silicate imported in drum packing bears additional cost of packing with additional labour cost. Some of the stakeholders also produced substantial supporting documents in support of their contentions. The view point of all participants was heard in detail and considered to arrive at Customs values of the subject goods.
- IV. Valuation methods given in Section 25 of the Customs Act, 1969, were duly applied in their regular sequential order to arrive at customs values of the subject goods. Transaction value method as provided in Section 25 (1) was found inapplicable due to wide variation of values displayed in the import data. Thereafter, identical/similar goods value methods provided in sub-Sections (5) and (6) of Section 25 *ibid* were examined for applicability to the valuation issue in the instant case. The wide variations in declarations were observed. Information available was hence, found inappropriate. In line with statutory sequential order of Section 25, this office conducted market inquiries under sub- Section (7) of Section 25 of the Customs Act, 1969. During the market survey it was observed that Magnesium Silicate (Fruit Ripened/Ethylene Ripener).has been determined under Section 25 (7) of the Customs Act, 1969, vide Valuation Ruling No.1356/2019 dated 25-03-2019.

FACTS

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- 1) It is submitted that the impugned Valuation Ruling was issued after exhausting all primary methods of valuation and consequently, the customs values were determined under Section 25 (7) of the Customs Act, 1969, after conducting market inquiries as envisaged under Section 25 (7) *ibid*. Moreover, all stakeholders were invited including the petitioner. But neither importers nor the petitioner furnished the tangible evidence/requisite documents in support of their claim due to which reliance had to be made on local market inquiry prices.
 - 2) The representation made by the petitioner was examined and accordingly all stakeholders including the petitioner were invited before exercising the determination of customs value. However, customs values were determined vide Valuation Ruling No.1356/2019 dated 25-03-2019.
 - 3) To dig out element of under invoicing, prices were obtained from local market and after applying deductive method of valuation as envisaged under Section 25 (7) of the Customs Act, 1969, the customs values were determined US\$2.50/Kg and US\$3.85/Kg for Magnesium Silicate (Fruit Ripened/Ethylene Ripener) in Bulk and sachet packing

respectively. It may be added here that the subject goods/chemical is used as found ripening agent hence its prices may be fluctuate due to the seasonal factor of the respective fruit/ food. The new proforma invoice furnished by the petitioner is far 04-01-2019 whereas the said valuation ruling was issued on 25-03-2019. The copy of the L/C said to have been attached have not been received with this letter dated 17-04-2019. This shows that no import have been effected US\$2.80/Kg. Hence, without physical import of the subject goods, the value of US\$2.80/Kg cannot be considered as per law.

- 4) It is submitted that the petitioner has not furnished any documentary evidences in support of their proposed enhancement i.e. US\$2.80/Kg instead of US\$2.50/Kg and US\$3.85/kg instead of US\$6.00/Kg. In the absence of any concrete evidence the petitioner's proposed enhancement of value cannot taken into consideration and without associating the importers of the subject goods.
- 5) Under the circumstances mentioned above, the petitioner may be requested to furnish the copies of import documents on the basis of which the import of the subject goods have been affected on their proposed values.

ORDER

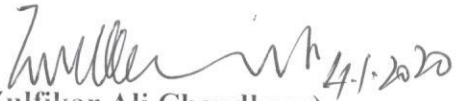
6. Hearing in this case was held on 07-12-2020 at Directorate of Customs Valuation Lahore. The view point of the petitioner and the department were heard in detail. The main contention of the petitioner was that customs values of Magnesium Silicate (Ethylene Fruit Ripener) both in bulk material and sachet packing may be revised upward as the values determined vide impugned valuation ruling are still on lower side and under invoicing is going on. Syed Sibtul Hassan Gilani, on behalf of the petitioner, appeared for hearing and submitted some documents and contended that the commercial importers are still importing the subject item on lower values which needs to be enhanced. The petitioners appreciated for issuance of impugned valuation ruling after getting their input during the exercise conducted under section 25A of the Customs Act, 1969, which was very much helpful to discourage the under-invoicing in the subject goods.

7. On the other hand, the departmental representative (DR) stated that in order to scrutinize element of under invoicing, prices were obtained from local market and after applying deductive method of valuation as envisaged under section 25(7) of the Customs Act, 1969, the customs values were determined @ US\$ 2.50/kg and 3.85/kg for Magnesium Silicate (Fruit Ripener/Ethylene Ripener) in Bulk and Sachet packing respectively. Moreover, the new proforma invoice furnished by the petitioner was dated 04-01-2019 whereas the said VR was issued on 25-03-2019. The petitioner has not furnished any documentary evidences in support of their proposed enhancement i.e. US\$ 2.80/kg instead of US\$ 2.50/kg and US\$ 3.85/kg instead of US\$ 6.00/kg. In the absence of any

concrete evidence, the petitioner's proposed enhancement of value cannot taken into consideration and without associating the importers of the subject goods.

8. After listening to the discussion/arguments of the petitioners and respondent and perusal of the case record, it is established that the Valuation Department had duly taken the stakeholders on board while issuing the impugned valuation ruling and valuation methods were properly followed. The petitioners were given opportunity to substantiate their contentions but they cannot provide any such proof in support of their claims. Therefore, it is concluded that the valuation ruling has been issued in accordance with provisions of law and does not suffer from any legal or procedural infirmities. The valuation ruling No.1356/2019 dated 25-03-2019 is therefore upheld. The revision petitions are disposed off accordingly.

9. However, since the valuation ruling is already almost 20 months old; therefore, the Director Customs Valuation, Karachi, is advised to issue fresh valuation ruling after checking the quantum of import of the subject item as to whether the item needs to be placed under the valuation regime any further.


(Zulfikar Ali Chaudhary)
Director General

Registered copy to:

M/s Ghani Global Glass Limited,
Corporate Office, 10-N, Model Town Ext.,
Lahoe-54700

Copy to:

1. The Member (Customs Policy/Operations), FBR, Islamabad.
2. The Chief Collectors Customs, Appraisalment (South)/Enforcement, Karachi/ (Central) Lahore/ (North) Islamabad / Quetta.
3. The Director General of Intelligence & Investigation-FBR, Islamabad.
4. The Collector, MCC Appraisalment and Facilitation (East/West) /Port M. Bin Qasim/ Enforcement & Compliance, JIAP, Karachi.
5. The Collector, MCC Appraisalment & Facilitation, Lahore / Hyderabad/Faisalabad/Sambrial (Sialkot)/ Multan/ Islamabad/ Peshawar/ Gilgit-Baltistan/ Quetta /Gawadar/ Enforcement & Compliance, Allama Iqbal Int. Airport, Lahore.
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.