

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACH

File No. DG (V)/Val.Rev/33/2018

17<sup>th</sup> March 2021

**Order in Revision No. 10 /2021 under Section 25-D of the Customs Act, 1969  
against Valuation Ruling No. 1307/2018 dated 21-06-2018**

- 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. Anwar Soap Industries & Others

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

28-02-2019, 20-08-2020 & 08-09-2020

For the Petitioners

Ms Rafia Maniar Advocate.

For the Respondent

Mr. Iqbal Ali Principal Appraiser

This revision petition was filed under Section 25-D of the Customs Act, 1969, against Customs Values determined vide Valuation Ruling No. 1307/2018 dated 21-06-2018 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. That Our Client is a sole proprietor and engaged in the business of import of "Soap in Pieces & Powder Form (Waste Condition)", which is indeed of the lowest grade. Our client is income tax payee and enjoys a good credibility in the business circle and in the circle of importers and exporters particularly.
3. That our client has been an active importer of the "Soap in Pieces & Powder Form (Waste Condition)" from Indonesia without any hindrance and or any allegation, mis-declaration or under-invoicing.
4. That the Director valuation issued the Valuation. Ruling No. 1307/2018 dated 21-06-2018 under Section 25-A of the Customs Act, 1969, superseding Valuation Ruling No. 1216/2017 dated 10-10-2017, on the directions / instructions / order of the Director General Valuation vide Order-in-

Review No. 11/2018 dated 10.05,2018, for a fresh exercise of detemilning Customs Values of Soap Noodles.

5. Previously as per the Valuation Ruling No. 1216/2017, the Value of "Soap in Pieces & Powder Form (Waste Condition)" was determined at US\$ 0.425/Kg, as per the Serial No. 3 of the Ruling. The same values were challenged before this Honourable Forum and the Order for a fresh exercise was issued vide Order-In-Review No. 11/2018 date 10-05-2018. The above-mentioned Order in-Review was passed to address / take note the client and other aggrieved parties' concerns that the Valuation Ruling No. 1216/2017 arbitrarily set the price of such a low category product to such a higher bar.

6. However, it may be noted the Director Valuation completely ignored the opinion of his senior, i.e. Director General Valuation and noted only the concerns raised from one of the local manufacturer association namely Pakistan Soap Manufacturers Association, that the prevailing international prices for "Soap in Pieces & Powder Form" of every category are on the rise and the importers of the same are involve in heavy under-invoicing. On the pretext that there has been a price hike of basic raw material as reflected in several international trade journals. Nevertheless, it s pertinent to mention here that in recent judgment in the case of Director General of Customs Valuation and another v/s M/s Al Amin Cera [SCRA 744/2016] the Honourable High Court of Sindh at Karachi, has established a principle that "Local Manufacturers" must not be considered as relevant stakeholder for the exercise of Section 25-A of the Customs Act, 1969, therefore, the Director of Valuation must not take their interest / concern into account while determining the applicable value. Thus, the subject Valuation Ruling is liable to be set-aside for being illegal and unlawful.

7. That at the outset it is submitted that the provision of Section 25-A(1) of the Customs Act 1969, strictly requires the applicable methods laid down in Section 25 of the Act to be followed and the aforesaid determination is not covered by any provision of Section 25 and applicable Rules of the Customs Rules 2001. Hence, the impugned ruling is liable to be remanded back because of being ultra-vires, illegal, unlawful and arbitrary.

8. That during the hearing before the Director Valuation with respect to the 1307/2018,the petitioner presented the argument that "Soap in Pieces & Powder Form (Waste Condition)" is of lowest grade of Soap, therefore, attracts lower prices as reflected by the goods declarations and import documents. More importantly, the petitioner also presented his evidential sale invoices that reflected the true cheaper value of the good.

9. That it may be noted that Section 25-A of the Customs Act, 1969, gives the power to the Director Valuation to determine the Customs value of the good, it does not give power to determine a method of assessment of Custom values to be operative along the methods prescribed under Section 25 of the Customs Act 1969, therefore, ultra-vires and illegal.

10. That the learned Director Valuation has erred in interpretation of Section 25(9) of the Customs Act, 1969, read with Rule 121 of the Customs Rules 2001, as the instant case the above mentioned provision,' which states that in order determine the Custom value of the goods, the data retrieved under other provisions of Section 25 of the Customs Act, 1969, can be flexibly used and interpreted, has been used to developed / determined a flexible method of determining. Therefore,



the impugned Valuation Ruling is liable to be set- aside and remand back because it being issued illegally and unlawful without following the provision of Section 25 read with Section 25-A of the Customs Act, 1969.

11. That it has been held on number of occasions in Superior Courts of Pakistan that the exercise done under Section 25-A of the Customs Act, 1969, is solely governed by the methods prescribed under Section 25 of the Act and any exercise done via method that is covered under Section 25 of the Act is deemed to be declared and illegal, unlawful and without jurisdiction.

12. That as repeatedly quoted that the purpose of the Directorate of Valuation is to determine Custom values which are true reflection of the prevailing transactional value. Indeed, the actions of the Director Valuation while issuing the impugned Valuation Ruling are not as per the said purpose of the department as the impugned Valuation Ruling was issued on the arguments of the Pakistan Soap Manufacturers Association, who were motivated to earn an extra cushion for their inefficiencies in managing increasing production cost and decreasing profit margins. Therefore, such discriminatory and arbitrary Valuation Ruling is liable to set-aside for being contrary to the provisions of the Constitution of Pakistan 1973.

13. That in addition to the above points, it is important to highlight that prevailing transaction value of "Soap in Pieces & Powder Form (Waste Condition)" is between US\$ 300 to 350/MT and indeed the Director Valuation has artificially and arbitrarily fixed values at US\$ 0.630/Kg. Thus, it is requested to set-aside and remands back such an arbitrary Valuation Ruling.

14. That it may be highlighted since the issuance of the impugned Valuation Ruling the petitioner has been in constant correspondence with the office of Director General Valuation for alteration to be brought in the values determined in the impugned Valuation Ruling.

15. In the light of the facts and principle established by the Superior Courts, it is respectfully prayed on behalf of our client:

16. **PRAYER**

In view of the above facts and grounds, it is earnestly prayed on behalf of the applicant that this reputed authority may kindly be pleased to remand back the impugned Valuation Ruling No. 1307/2018 dt: 21.07.2018, with the order of fresh exercise of determination of the Customs values of "Soap in Pieces & Powder Form (Waste Condition)" to be strictly in accordance with the provisions of Section 25 of the Customs Act, 1969, as the same is stated in Section 25A and accordingly held by the Sindh High Court in the case of Sadia Jabbar (PTCL 2014 CL 537).

17. The 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:-

18. **COMMENTS BY THE RESPONDENT DEPARTMENT**

Brief Facts of the Case



Earlier customs values of Soap Noodles were determined vide Valuation Ruling No. 1216/17 dated 10-10-2017. However, it has been challenged under section 25-D of the Customs Act, 1969, before the Director General of Customs Valuation. The same was remanded back vide Order-in-Revision No. 11/2018 dated 10-05-2018. This Directorate General initiated an exercise for determination of the Customs Values of Soap Noodles in terms of Section 25-A of the Customs Act, 1969. In this regard, meetings with stakeholders including importers, representatives from Pakistan Soap Manufacturers Association and representatives from field formations were held on 31-05-2018 and 20.06.2018, to discuss the current international prices of the subject goods. The Pakistan Soap Manufacturers Association informed that the values of Soap Noodles needed to be revised in accordance with the price prevailing in the international markets. This position was verified from the import data, which also reflected inconsistent behavior of declaration of unit values. It was also contended by the stakeholders that there is wide variation in the assessed value of the subject item hence require valuation ruling under Section 25A of the Customs Act, 1969 for uniform application throughout the country. The Pakistan Soap Manufacturers Association pointed out that reputed importers declare the actual prices but some unscrupulous elements resort to mis-declaration and under-invoicing. After detailed deliberations, all the participants agreed that values of Soap Noodles needs to be revised and representatives of the importers and associations also submitted their recommendations. The viewpoints of all participants were heard in detail and considered to arrive at Customs values of the subject goods. The Valuation methods provided in Section 25 of the Customs Act, 1969, were duly applied in their regular sequential order to arrive at customs values of subject goods. All the information so gathered during the proceedings was evaluated for the purposes of determining customs values and consequently, customs values of Soap Noodles have been determined under Sub-Section (9) of Section 25 of the Customs Act, 1969 vide Valuation Ruling No. 1307/2018 dated 21-06-2018.



#### **Parawise comments**

- Para (1&2): Needs no comments being introduction of the Petitioner.
- Para(3): Needs no comments being related to filing of Revision Petition against Valuation Ruling.
- Para(4): No any arbitrary or unlawful action was carried out by the respondent and due consideration was given to the written/verbal submissions, documentation etc., by all concerned stakeholders, and their proposals were thoroughly deliberated upon before concluding values. It is relevant to state here that all possible efforts were made to reach at merit based decision. Moreover, the values were determined on the basis of TFM (total fatty matters) which depicts the quality of the goods. Soap Noodles with 73% TFM and above are considered prime quality, however with 72% TFM and below are of lower quality. Moreover, Soap noodles in shape of waste/broken/lumps pieces and powder are being imported regularly for years. The data retrieved from PRAL shows it was cleared on the value lower than the value notified in the impugned Valuation Ruling. To cover this category separate description was inserted in both of the VR. However, there was uniform assessment for this category. Therefore, for waste/broken/lumps pieces & powder customs values



were determined for uniform application across the board. Therefore, the contentions of para (11) are vehemently denied being devoid of any point of law

Para(5): No any arbitrary or prejudicial act has been carried out by the respondent. All the rules were duly followed by using the powers conferred under the Customs Act, 1969. All the concerned parties/petitioners/stake holders/ local manufacturers/importers were given ample opportunities to present their view points in the proceedings for the determination of values prior to issuance of impugned VR.

Para(6&7): Denied. The subject VR was issued after stringently following section 25 and 25 A of the Customs Act, 1969. During the meetings, fair chance and ample time was granted to the importers and the local manufacturers to develop consensus for determination of customs value of soap noodles and send a mutually agreed proposal. However, despite enough time and opportunity given to the stakeholders, they failed to furnish the same. However, the stakeholders submitted their respective proposals separately. In this regard, importers submitted their sales tax invoices and the local manufacturers submitted ICIS Magazine showing prices of Soap Noodles from July, 2017 to September, 2017. No documents were submitted by other importers /manufacturers for Soap Noodles, Waste/Broken/Lumps and powders in this Directorate General on or even after the said scheduled meetings. Resultantly, numerous surveys were conducted for determination of the customs values. MCC-Appraisalment (West), was represented in the meeting by the officers who were also consulted from time to time, while finalizing this valuation ruling. They have number of cases stuck up in provisional assessment and some importers have abstained to file Good Declarations in anticipation of resolution of valuation issue, it is also observed that cases of Soap noodle valuation can be solved through proper physical examination or intervention of laboratory reports. Valuation methods given in Section 25 of the Customs Act, 1969, were followed to arrive at customs values of Soap Noodles. Transaction value method provided in Section 25 (1) was found inapplicable because the requisite information was not available. Identical / similar goods value methods provided in Section 25(5) & (6) were examined for applicability to the valuation issue in the instant case which provided some reference values of the subject goods but the same could not be exclusively relied on due to wide variation in declared values of subject goods. Thereafter, market enquiry as envisaged under section 25(7) of the Customs Act, 1969, was conducted. The computed value method as provided in Section 25(8) of the Customs Act, 1969, could not be applied as the conversion costs from constituent material at the country of export were not available. Online values of subject "goods were also obtained. All the information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the Customs values of Soap Noodles have been determined under Section 25(9) of the Customs Act, 1969.

Para(8): Vehemently denied because the contentions of para (12) lack any substantial evidence to prove its veracity. The contention that the method followed was highly unlawful, prejudicial and illegal is baseless.





- Para (9): No any arbitrary or prejudicial act has been carried out by the respondent. All the rules were duly followed by using the powers conferred under the Customs Act, 1969. All the concerned parties/petitioners/stake holders/ local manufacturers/importers were given ample opportunities to present their view points in the proceedings for the determination of values prior to issuance of impugned VR.
- Para (10): Denied. It is stated here that while observing Section 25 of the Act each and every clause of the Act was duly followed before proceeding to the next step. Sections 25 of the Customs Act, 1969, were followed in sequential manner. A detailed and unbiased market survey was conducted in order to draw forth information regarding values of soap noodles.
- Para (11) Denied. It is stated here that impugned VR is neither discriminatory nor arbitrary, violating provisions of Customs Act, 1969, or Constitution of Pakistan, 1973. The subject VR truly reflects genuine market prices prevailing at that time. Moreover, in order to reach at a merit based decision due opportunities were provided to maximum number of traders by conducting meetings. In this regard, meetings with stakeholders including importers, representatives from Pakistan Soap Manufacturers Association and representatives from field formations were held on 31-05-2018 and 20-06-2018, to discuss the current international prices of the subject goods. The Pakistan Soap Manufacturers Association informed that the values of Soap Noodles needed to be revised in accordance with the price prevailing in the international markets. This position was verified from the import data, which also reflected inconsistent behavior of declaration of unit values. It was also contended by the stakeholders that there is wide variation in the assessed value of the subject item hence require valuation ruling under Section 25A of the Customs Act, 1969, for uniform application throughout the country. The Pakistan Soap Manufacturers Association pointed out that reputed importers declare the actual prices but some unscrupulous elements resort to mis-declaration and under-invoicing. After detailed deliberations, all the participants agreed that values of Soap Noodles needs to be revised and representatives of the importers and associations also submitted their recommendations. After keen deliberations with stakeholders all possible options were considered at length. The participants during the proceedings agreed that customs values of soap noodles shall be given in three categories which may include specification verifiable at the stage of physical examination and laboratory test including all forms. The view point of all participants was heard in detail and considered to arrive at Customs values of the subject goods. The Valuation methods provided in Section 25 of the Customs Act, 1969 were duly applied in their regular sequential order to arrive at customs values of subject goods. All the information so gathered during the proceedings was evaluated for the purposes of determining customs values and consequently, customs values of Soap Noodles have been determined under Sub-Section (9) of Section 25 of the Customs Act, 1969 vide Valuation Ruling No. 1307/2018 dated 21-06-2018.
- Para (12) Denied. It is submitted that while re-determination customs values vide VR No.1307/2018 dated 21-06-2018 the prevailing prices of Soap Noodles as published in the accredited journals i.e. ICIS Prices, clearance data, propositions of concerned stakeholders were keenly deliberated upon to reach at a decision reflecting genuine prices prevailing at that time. The provisions of Section 25(9) were duly followed in a flexible manner and the information so gathered was evaluated and analyzed for the purpose of determination of customs values.






### PRAYERS

It is respectfully prayed that petitioner failed to furnish the corroboratory documents to justify their view points and the existing valuation ruling No. 1307/2018 dated 21-06-2018 was issued in the light of current price trend. Section 25 (1), (4), (5), (6) & (7) were exhausted and finally Section 25(9) was found applicable for determination of Customs value of Soap Noodles. Accordingly, Honorable Director General may graciously be pleased to reject the petitions and maintain the impugned Valuation Ruling No. 1307/2018 dated 21-06-2018 issued under Section 25A of the Customs Act, 1969.

### ORDER

19. Hearings in this case were conducted on 20-08-20 and 08-09-2020. Ms Rafia Maniar Advocate appeared for the petitioners and reiterated the arguments mentioned in the revision petitions. The advocated in addition to that stated that during the meeting with Director Valuation for determination of Customs values with respect to the 1307/2018, and their client presented the argument that "Soap in Pieces & Powder Form (Waste Condition)" is of lowest grade of Soap, therefore, attracts lower prices as reflected by the Goods Declarations and import documents. More importantly, their clients also presented evidential sale invoices that reflected the true cheaper values of the goods. The counsel further added that Section 25-A of the Customs Act, 1969, gives the powers to the Director Valuation to determine the customs value of the good in accordance of the methods prescribed under Section 25 of the Customs Act 1969. The counsel contended that the purpose of the Directorate of Valuation is to determine custom values, which are true reflection of the prevailing transactional value. However, the counsel pleaded that methods are not followed by the department in sequential order and the impugned Valuation Ruling was issued on the arguments of M/s Nimir Industrial Chemical Company, who were motivated to earn an extra cushion for their inefficiencies in managing increasing production cost and decreasing profit margins. Therefore, the Advocate agitated that such discriminatory and arbitrary Valuation Ruling is liable to set-aside for being contrary to the provisions of Section 25 of the Customs Act, 1969, and the Constitution of Pakistan, 1973.



20. On the other hand, the departmental representative (DR) explained that impugned VR is neither discriminatory nor arbitrary, and does not violate provisions of Customs Act, 1969 or Constitution of Pakistan, 1973. The DR further added that the impugned VR truly reflected genuine market prices prevailing at that time. Moreover, ample hearing opportunities were provided to maximum number of traders by conducting meetings. In this regard, meetings with stakeholders including importers, representatives from Pakistan Soap Manufacturers Association and representatives from field formations were held on 31-05-2018 and 20.06.2018, in order to discuss the current international prices of the subject goods. The Pakistan Soap Manufacturers Association informed that the values of Soap Noodles needed to be revised in accordance with the price prevailing in the international markets. This position was verified from the import data, which also reflected variations in values.

21. The DR further submitted that M/s Pakistan Soap Manufacturers Association pointed out that reputed importers declare the actual prices but some unscrupulous elements resort to mis-

declaration and under-invoicing. After detailed deliberations, all the participants had agreed that values of Soap Noodles need to be revised and representatives of the importers and associations also submitted their recommendations. After keen deliberations with stakeholders all possible options were considered at length. The participants during the proceedings agreed that customs values of soap noodles shall be given in three categories which may include specifications verifiable at the stage of physical examination and laboratory test including all forms. The DR submitted that viewpoints of all participants were heard in detail and considered to arrive at Customs values of the subject goods.

22. In addition to that the DR elaborated that the Valuation methods provided in Section 25 of the Customs Act, 1969 were duly applied in their regular sequential order to arrive at customs values of subject goods. All the information so gathered during the proceedings was evaluated for the purposes of determining customs values and consequently, customs values of Soap Noodles have been determined under Sub-Section (9) of Section 25 of the Customs Act, 1969 vide Valuation Ruling No. 1307/2018 dated 21-06-2018.


23. The DR further stated that while re-determination customs values vide VR No.1307/2018 dated 21-06-2018 the prevailing prices of Soap Noodles as published in the accredited journals i.e. ICIS Prices, clearance data, propositions of concerned stakeholders were also deliberated upon to reach at a decision reflecting genuine prices prevailing at that time. The provisions of Section 25(9) were duly followed in a flexible manner and the information so gathered was evaluated and analyzed for the purpose of determination of customs values and subsequently the values were determined under Sub-Section (9) of Section 25 of the Customs Act, 1969.

24. After listening to the discussion/arguments of the counsel of the petitioners / 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 ample opportunities to substantiate their contentions. 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. Thus, the valuation ruling is upheld and the revision petitions are rejected accordingly.

25. However, it has been observed that the valuation ruling is already more than two and half years old. Therefore, the Director Customs Valuation is directed to issue a fresh valuation ruling of the subject goods in accordance with laid down procedures within two months.

26. Being identical on facts and law points, this order shall apply mutatis mutandis to following (03) petitions.

1. M/s Bin Qasim International,
2. M/s Shazek Multinational,
3. M/s Ali Traders

  
(Zulfikar Ali Chaudhary) 9.3.2022  
Director General



Registered copy to:

M/s. Anwar Soap Industries,  
M/s Bin Qasim International,  
M/s Shazek Multinational,  
M/s Ali Traders

C/o M/s. Franklin Law Associates,  
1<sup>st</sup> Floor, Plot No.4C, Lane No. Al Murtaza Commercial, DHA Phase No.VIII, Karachi.

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, IIAP, 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.