

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACH

File No. DG (V) Val.Rev/47/2020

1173

4th March, 2021

Order in Revision No. 07 /2021 under Section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1491/2020 Dated: 24-11-2020

- 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. AAHIL International

.....

PETITIONER

VERSUS

Director, Customs Valuation, Karachi

.....

RESPONDENT

Date(s) of hearing

01-02-2021

For the Petitioners

Mr. Irfan Siddiq
Rana M. Tayyab Nazir Advocate

For the Respondent

Mr. Shahdad Khan Mari, Principal Appraiser

This revision petition was filed under Section 25-D of the Customs Act, 1969, against customs values determined vide Valuation Ruling No. 1491/2020, dated 24.11.2020, issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. The Valuation Department issued the above mentioned Valuation Ruling by fixing the value of Glass Beads Size 12/0, under Section 25-A of the Custom Act, 1969.
3. In this connection, we hereby to say that we are the regular importer of this item and the Valuation Department issued the said Valuation Ruling with too much higher unit price and we are not in position to release our consignments by assessing on too much higher values.
4. We request your kind honor to please allow to revise the valuation ruling with the nominal price under Section 25D of Custom Act, 1969, to facilitate to the traders / importers. Thanking unit price and we are not in position to release our consignments by assessing on too much higher values.
5. We request your kind honor to please allow to revise the valuation ruling with the nominal price under Section 25D of Custom Act, 1969, to facilitate to the traders / importers.

6. 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:-

FACTS OF THE CASE

Earlier Customs values of Glass Beads, Glass Beads Crystal / Glass Catton Beads were determined under Section 25A of the Customs Act, 1969, vide Valuation Ruling No.939/2016 dated 28-09-2016. The Valuation Ruling was over four years old and values of subject goods both in international and local markets had shown varying trends. Moreover, the EDE data of Chinese Exports to Pakistan also indicated variations in value of Chinese Export values viz-a-viz Pakistan import values of Glass Beads, Glass Beads Crystal / Glass Catton Beads. Therefore, an exercise was undertaken by this Directorate General to revise the same according to trends prevailing in the current international / local markets. Accordingly, meetings with stakeholders were held on 19-10-2020 and 03-11-2020 to discuss the current international prices of subject items for determination of Customs values of the subject goods in terms of Section 25A of the Customs Act, 1969, which were attended by different stakeholders. After analyzing and evaluating whole the information so gathered, a fresh Valuation Ruling No.1491 / 2020 was issued on 24-11-2020 in terms of Section 25(7) of the Customs Act, 1969, accordingly for uniform assessment all over the country.

PARAWISE COMMENTS

Para-1 Need no comments being mention of Valuation Ruling of Glass Beads.

Para-2 Denied. It is submitted that the customs value of under reference goods had been determined strictly in accordance with the provisions of Section 25 of the Customs Act, 1969. Moreover, 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 per Rule-109 of the Valuation Rules issued under SRO No.450(I)/2001, dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove the of transaction value shifts to the importers / applicants. As such the same is not against the principles of law rather the same is based on factual ground realities. Valuation Ruling No.1491 / 2020 dated 24-11-2020, was issued after thorough investigation and all aspects were considered. In this regard it is submitted that this Directorate General has determined the minimum customs values vide Valuation Ruling No.1491 / 2020, dated 24-11-2020 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.



Para-3 Not Agreed. It is submitted that the petitioners have simply claimed for the acceptance of their declaration but did not submit any tangible documents in support to justify their declarations disclosing full and accurate details relating to the value of the imported goods as per Para-108 of Customs Rules, 2001. As

such the transaction value cannot be accepted in absence of any relevant import evidences and documents etc. in terms of Para-108 of the Customs Rules, 2001. The said Valuation Ruling No.1491 /2020 dated 24-11-2020 has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country. However, it is submitted that it is not mandatory for Customs to accept each and every transactional value. It is further submitted that the meeting with the stakeholders was held on 19-10-2020 & 03-11-2020. The participants as well as the Association were requested to provide documents like copies of contracts made / LCs, Sales Tax Paid Invoices to substantiate their contention of decrease in market prices. Yet they did not provide required documents before the meeting. Again during the meeting the participants were requested to submit the following import related documents etc. :-

- (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 alongwith 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 alongwith 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.



Para-4

It is submitted that para-(2) to (5) clearly states whole the process of issuance of said Valuation Ruling. Moreover, Para-(4&5) states that the said ruling has been issued in terms of Sub-Section (7) by exhausting and following all the provisions of Section 25, for the purpose of determination of Customs values. 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 per Rule-109 of the Valuation Rules issued under SRO No.450(I)/2001, dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove correctness of transaction value shifts to the importers / applicants. Moreover, the

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. As such the Respondent has acted in accordance with law and under powers vested upon him under the law.

Para-5

Denied. It is submitted that the impugned Valuation Ruling has correctly been issued in terms of Section 25A of the Customs Act, 1969. It is submitted that concept of "fixation of value" no more exist in the Tariff rather Customs values are being determined in terms of Section 25 of the Customs Act, 1969, for uniform assessment all over the country. It is submitted that the declared value of the consignment is not reliable and not acceptable in terms of Section 25 (1) of the Customs Act, 1969, in presence of Valuation Ruling available under Section 25-A of the Customs Act, 1969. The Valuation Ruling is exhaustive which is always taken for assessment purpose in cases where the declared value is on lower side. The Valuation Ruling has been issued under Section 25-A of the Customs Act, 1969, which always prevails upon the declared value, which in turn is not proof of exact transactional value. Assessments are being made as per said Valuation Rulings all over the country but only the under reference petitioner is aggrieved.

PRAYER

In view of above narrated facts, it is submitted that the petitioner is required to get clear the goods as per Valuation Ruling issued under Section 25-A of the Customs Act, 1969, which is legal and lawful. The Valuation Ruling No.1491/2020, dated 24-11-2020 had lawfully been issued after considering all the facts and figures and after following valuation methods sequentially. As such the same may be allowed to hold field for uniform assessment all over the country. The assessments made on the basis of Valuation Ruling are correct and petitioners are liable to pay duty / taxes as per Valuation Ruling. 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 25A 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 and petition is liable to be rejected accordingly.


ORDER

7. Hearing was conducted on 01-02-2021 at Directorate of Customs Valuation Lahore. Mr Irfan Siddiq and Rana M. Tayyab Nazir Advocate appeared for hearing on behalf of the petitioner. The advocate contended that customs values of Serial No.1 i.e. Glass Beads upto No.12/0 were enhanced arbitrarily and requested for downward revision of values determined vide impugned valuation ruling No.1491/2020 dated 24-11-2020. The advocate also submitted invoices of the goods for China origin from Shah Alam Market Lahore.

08. On the other hand, the departmental representative (DR) explained that the previous valuation ruling was over four years old and values of subject goods both in international and local markets had shown varying trends. Moreover, the EDE data of Chinese Exports to Pakistan also indicated variations in value of Chinese Export values viz-a-viz Pakistan import values of Glass Beads, Glass Beads Crystal / Glass Catton Beads. Therefore, an exercise was undertaken by this Directorate General to revise the Valuation ruling in accordance of the prevailing trends in the current international / local markets. Accordingly, meetings with stakeholders were held on 19-10-2020 and 03-11-2020 to discuss the current international prices of subject items for determination of Customs values of the subject goods in terms of Section 25A of the Customs Act, 1969, which were attended by different stakeholders. After analyzing and evaluating whole the information so gathered, impugned Valuation Ruling No.1491 / 2020 was issued on 24-11-2020 in terms of Section 25(7) of the Customs Act, 1969, accordingly for uniform assessment all over the country.

09. The DR further added that the petitioners have simply claimed for the acceptance of their declarations but they did not submit any tangible documents in support to justify their declarations disclosing full and accurate details relating to the values of the imported goods as per Para-108 of Customs Rules, 2001. Thus, the transaction value cannot be accepted in absence of any relevant import evidences and documents etc. in terms of Para-108 of the Customs Rules, 2001.

10. After listening to the discussion/arguments of the petitioner/respondents and perusal of the case record, it is established that the Valuation Department had duly taken all the stakeholders on board while issuing the impugned valuation ruling and valuation methods were properly followed in their sequential order. The petitioners were given ample opportunity to substantiate their contentions but they failed to provide substantive documents in support of their claims. During the course of revision proceedings a survey was also conducted in order to cross check the local market price trends in Lahore. The result of survey and calculations thereof substantiated the stance of the department. Therefore, it is concluded that the valuation ruling has been issued in accordance with the provisions of law and does not suffer from any legal or procedural infirmities. In view of the foregoing, the valuation ruling is upheld and revision petitions are hereby rejected accordingly.

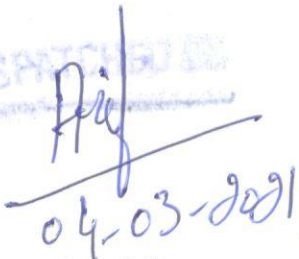

(Zulfikar Ali Chaudhary)
Director General

Registered copy to:

M/s. AAHIL International,
66-Alamgir Market, Shahalam, Lahore.

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.


04-03-2021

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.