

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACH

File No. DG (V) Val.Rev/06/2021

Dt: 13 August, 2021

**Order in Revision No. 23 /2021 under Section 25-D of the Customs Act, 1969
against Valuation Ruling No.1510/2021 Dated: 08-02-2021**

- 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 Pak Madina Hardware Store & Others

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing

03-06-2021

For the Petitioners

Mr.Ghulam Sh. Advocate - Franklin Associates
Mr. Fahad
Mr. Ghulam Yasin Consultant
Mr. Hashim Jaffrani
Mr. Ismail Yusuf
Mr.Sabeen Salman
Mr.Tariq
Mr.Abdul Wahid
Mr.Noman Shakeel
Mr.Zeeshan
Mr.Gulzar Bilal

For the Respondent

Mr Shahdad Khan Mari, Principal Appraiser
Mr Altaf Hussain Mangi, Valuation Officer

This revision petition was filed under Section 25-D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No. 1510/2021 dated 08.02.2021 issued under Section 25-A of the Customs Act, 1969. The petitioner has made the following submissions:

1. **M/s Pak Madina Hardware Store C/O Ghulam Yasin Consultant**

"Being aggrieved and dissatisfied with the Valuation Ruling No.1510/2021 dated 08.02.2021, values determined by the Director of Customs Valuation Custom House Karachi in relation to the Valuation of Different types of Hard ware items such as Knob Handle Door Lock, Door Handle, etc, determined under Section 25-A of the Customs Act 1969. Being dissatisfied, the above-named appellant is filing this Revision Application on the following points

Facts of the case

- i. That the appellant is a reputed regular commercial import of Different types of Hardware items such as Knob & Handle Door Lock etc. The appellant is duly registered with the Sales Tax and Income Tax department under the business title of M/s Pak Madina Hardware Store. The appellant is discharging his liabilities under the various laws and has contributing huge sums to National Exchequer by way of payment of applicable duties and taxes. The Appellant in due course of his business undertakes imports specifically from and other countries
- ii. That the respondent have been entrusted by the Legislature through the enactment of section 25-A, 25-D of the Customs Act, 1969 to efficiently and properly exercise the powers contained therein for the lawful determination of customs values of goods imported into Pakistan for determination of customs duties and taxes and to act in a quasi-judicial capacity upon inter alia receipt of review Application under section 25-D of the Act, 1969.



That the Respondent has unlawfully arbitrarily, determined the values of various kinds of Hardware items of various types vide Valuation Ruling No 1510 of 2021 (referred as impugned Valuation Ruling) The respondent Director has acted in grave violation of powers conferred thereupon and thereby causing serious harm and loss to the Appellant and other importers of similar trade. This is a clear violation of the dictates of the law including sections 25 and 25-A of the Act, 1969,

- iv. That prior to the issuance of the impugned valuation ruling, Valuation Ruling bearing No 1206/2017 dated 08.2017 was in field. The import valuation of all types of Knob & Handle, Door Lock, Door Handler, Entrance Lock, Night Latch etc were covered under smooth valuation which can be observed through 90 days date for the relevant point of time. Therein categories for each type of above referred imported goods were determined individually as per their respective type and origins. Method of valuation was accepted by both the importers as well as the Clearance Collectorates Although the values previously determined were higher than the actual, rate at which the imported goods were available in the international market (Transactional values). Such difference was not prohibitive and exceptionally detrimental to the local trade hence was acceptable for the purposes of valuation. However, after a lap of reasonable time the respondent Director initiated proceedings for re determination of values of above referred goods. It is worth mentioning that no any hearing notice was received by the Appellant nor any meeting was held in the Directorate of Valuation. Contrary to the stance taken by the Directorate vide

para-3 of the impugned Valuation Ruling, no any importers documents were called from the Importers as no such request was received by the Appellant. It is also pertinent to mentioned here that no invitation for a market survey was received. However, the Respondent issued the impugned valuation ruling on 08.02 2020 whereby the values of all items covered were highly increased even about 100 % per cent so in purported exercise of powers under section 25-A of the Act, 1969. The same can be considered ex-parte in nature

- v. That being aggrieved by the above refereed VR the appellant filing this review petition before your Honourable authority for reconsidering the values so determined by the Respondent Director.

GROUND OF REVISION:

a. That the respondent erred in applying the provisions of the Customs Act 1969 while issuing the impugned Valuation ruling. As the circumstances shows that the issuance of impugned Valuation Ruling was not in determination envisaged under section 25-A of the Customs Act, 1969. It is submitted that while determining values of the impugned valuation ruling the Respondent Director ignored the sequential methods of valuation contained in section 25 of the Act, 1969 and in a patently arbitrary and whimsical manner chose section 25(7) of the Act, 1969 as the appropriate instrument of determination of values. It is also submitted that the Respondent has utterly failed to adhere to the provisions of the Act, 1969.

b. That the said authority determines the impugned values without considering the view point of the Appellant hence the same can be treated as exparte in nature.

c. That the Respondent fail to consider that prior to issuance of Impugned Valuation Ruling the imported goods were regularly released by all the clearance Collectorate which can be observed through 90 days date for the relevant point of time. Therein categories for each type of above referred imported goods were determined individually as per their respective type and origins. In the foot note it was clarified that if the above items are imported in parts (CKD) condition under PCT heading 8301.6000 20% discount on the values given in the column 7 may be given to the importer. These values do not cover European Origin not they cover popular brands. It is particular to mention here that in the international market the values of its raw material remain constant and consequently the purchased prices in international market were also remains constant rasing, category wise. If we add the profit margin of all stakeholders/even than the values comes to much lower from the impugned VR.

d. That without prejudice to the above, the respondent has even failed to properly follow the dictates of section 25(7) nor Section 25(5 to 9) of the Act, 1969 and has misused the provisions thereof in an attempt to justify unlawful fixation of values of the imported goods. The respondent has in fact used sub-section (7) of section 25 of the Act, 1969 in order to issue a list values which is neither reflective of the actual transaction values at which the imported goods are readily available in the international market nor is permissible under the law in such a manner. It is submitted that the raw material values of the items listed in the impugned valuation ruling are



significantly lower in the international market than those that have been unlawfully determined. The respondent has merely increased such values up to approximately 100% of those valuation in an arbitrary and patently unlawful manner. Even now above referred imported goods are purchased by the Appellant for import into Pakistan costs much less than the values purported to have been determined by the respondent as evident from the 90 days data attached import commercial invoice / data This action has resulted in difference of duties and taxes leviable upon each container to the tune of approximately several million, leading to utter chaos in the finely tuned workings of the trade of such goods.

e. That further the arbitrary manner of issuance of the impugned valuation ruling is also evident from the fact that although nine (04) categories have been created by the Respondent and purported determination for each category has been carried out. In previous VR values of all types ware Hardware items were given and clearance Collectorates were regularly releasing these imported goods comprising of unbranded good names ware his and not comprising of other Low-end brands whereas in the impugned V/R this scheme was entirely changed.

f. That the Respondent while determining the impugned values has relied upon the so-called hearing notices which were never received to the Appellant as such this order comes into the category of exparte in nature. It is a cordial principle of law that no one can be deprived from his right of defence. The respondents have used method prescribed under Section 25(9) of the Act but he failed to clarify the basis of any sub section. It is submitted that market survey at a different commercial level, i.e. retail prices and have utterly failed to appreciate the nature of trade carried out by importers, including the Appellant, i.e. wholesale trade, the retail price which has been surveyed by the Respondents is as a result of multiple levels of value addition after wholesale trade as multiple levels of increasing costs but not limited to transportation rental costs salaries overheads utilities wastages etc., are added. While the Appellant as well as other importers carry out sale on a wholesale basis with large commercial quantities which attracts nominal costs other than those incurred on a CNF basis during import. Therefore, unless a proper survey / enquiry in light of the dictates of the Customs Act, 1969 as well as Customs Rules, 2001, had been carried out the same cannot be relied upon for justifying the unlawful values determined under the impugned valuation Ruling.

g. That it is also necessary to draw the attention of this Hon'ble Review authority to the fact that the supposed determination of values through the impugned valuation ruling has had serious effects on the fundamental workings of the local market. It is submitted that as a result of the impugned valuation ruling, the prices of different types of the above referred imported goods by the Appellant will rise steeply, and such price will not be reflective of the value of the goods itself. The local purchasers who were previously buying as well as those that had entered into contracts to buy such imported goods will refuse to make any purchases thereby effectively eliminating the business conducted by the Appellant as well as other importers. In the local market the imported goods are readily available on much lower prices as compared to the new Valuation Ruling. It is also highlighted that for assessment purposes data is consulted by the assessing office. On perusal of the subject data it is observed that the values are US\$ 1.20/ kg which is much lower than the new V.R.



h. That in view of the submissions elaborated above, the contents Valuation Ruling are illegal, void ab initio and as such all subsequent proceedings are malafide, illegal and has no sanctity in the eyes of law.

i. That the Appellant above named craves to furnish fresh grounds during the hearing of the case.

PRAYER

It is respectfully prayed that the Honourable Revision authority may very graciously set aside the impugned Valuation Ruling in the larger interest of justice and direct the Respondents to determine the values considering the transactional value of the imported goods & also direct the clearance Collectorate to immediately allow release of the imported goods on the basis of transactional value conserving the provision of Section 25(1) of the Customs Act 1969."

2. The respondents were asked to furnish comments to the arguments submitted by the petitioner in the case which are as under:-

Para-wise Comments on the petition of M/s Pak Madina Hardware Store

Brief facts of the case

After conducting detailed analysis of Pakistan's import for the year 2019-2020, the Directorate General of Customs Valuation, Karachi, was tasked by FBR to identify the items/goods where variation w.r.t. values in exporting countries viz-a-viz import values in Pakistan were observed. Accordingly, a special team was constituted in Directorate General of Customs Valuation, Karachi which identified the subject items as prone to under-invoicing as vast variations in declarations were observed. Accordingly, an exercise was initiated to determine the customs values of Door Handle With Thumb Action Lock (Entrance Lock) Night Latch/Rim Lock(Non-Electric & Electric under Section 25-A of the Customs Act, 1969 value of **Door Lock** and valuation Ruling No.1510/2021 issued on 08-02-2021 as per law.

REPLY OBJECTIONS / COMMENTS FACTS

Para (1): In line with the statutory sequential order of section 25, this office then conducted a market enquiry using Deductive Value Method under Sub-Section (7) of the Section 25 of the Customs Act 1969. All the information was analyzed and evaluated and Sub-Section (7) of Section 25 of the Customs Act, 1969, was applied to arrive at assessable Customs Values of Door Locks. The impugned Valuation Ruling is not issued unlawfully arbitrarily, but Valuation Ruling was issued after gathered all information local/international for the purpose of determination of customs values under Section 25(7) of the Customs Act, 1969.

Para (2) &(3): In order to ensure proper assessment of goods, the values of Door Handle With Thumb Action Lock (Entrance Lock) Night Latch/Rim Lock(Non-Electric & Electric was determined in accordance with law, after taking all the stakeholders on board. The values so determined were notified under Section 25A of the Customs Act, 1969 for uniform implementation across the country and is applicable unless revised or rescinded in terms of 25A(4) of Customs Act, 1969. The Director valuation has to perform his duty within his jurisdiction to determined Customs Values on Genuine ground.

Para (4) Needs no comments.

GROUND

Para a. Denied and vehemently contested. This is merely a false statement, based on ignorance of law and procedure. The learned Director Customs Valuation has acted within his powers conferred under Customs Act, 1969. The Valuation Ruling No.1510/2021 issued on 08-02-2021 was determined as per law in accordance of the provisions of Section 25A read with Section 25 of the Customs Act, 1969. Meeting fixed on 16-11-2020 and 02-12-2020 with stakeholders but no one appeared on meetings . Market enquiry conducted under sub section (7) of 25 of the Act ibid and Customs Values of Door Handle with Thumb Action Lock (Entrance Lock) Night Latch/Rim Lock (Non-Electric & Electric determined under Section (7) of Section 25 of the Customs Act, 1969 as per law.

Para b. In order to ensure proper assessment of goods, the values of Door Lock was determined in accordance with law, after taking all the stakeholders on board. The values so determined were notified under Section 25A of the Customs Act, 1969 for uniform implementation across the country and is applicable unless revised or rescinded in terms of 25A(4) of Customs Act, 1969. The Director valuation has to perform his duty within his jurisdiction to determined Customs Values on Genuine ground to save the national exchequer.

Para c. The Valuation Ruling No. 1510/2021 dated 08-02-2021 of imported of Door Locks issued under Section 25-A of the Customs Act, 1969 is as per law. In presence of valid Valuation Ruling issued by the competent authority for uniform application, there exists no justification to accept the transaction value for assessment.

Para d. Denied. The values as determined are not contradictory, unreflective, illegally and unlawful the same are determined well within the parameters as laid down under section 25 of the Customs Act 1969. Moreover, it is reiterated that the subject values were ascertained after taking into consideration of import data, international prices available on internet and market inquiries under the provision of law. This Directorate General has performed his duties within its jurisdiction. Determination of customs values is domain of this Directorate General of Valuation which are determined under section 25 and 25-A of Customs Act, 1969. Customs values of any article are never determined hypothetically or beyond the prevailing procedure laid down under the Section 25 of the Act, 1969. This office always works to facilitate the genuine trade but also work to culminate the heavy or group under invoicing

Para-e&f. The Transaction value method as provided in sub-section (1) of Section 25 of the Customs Act, 1969 was found inapplicable because no substantial documents were provided by the



stakeholders to prove the declared values were true transactional values. Moreover, different values were declared by different importers for same product according to their brand of Door Locks from different origins. Identical/similar goods value methods provided in Section 25(5) & (6) ibid were examined for applicability to determine customs values of subject goods. The data provided some references however it was found that same could not be solely relied upon due absence of absolute demonstrable evidence of qualities and quantities of commercial level etc. Information available hence found inappropriate. In line with statutory sequential order of section 25, this office conducted market enquiries using Deductive Value Method under Sub-Section (7) of the Section 25 of the Customs Act, 1969. Finally, clearance data, market information and international prices through internet were examined thoroughly and the information so gathered were utilized and analyzed for determination of Customs Values of Door Locks under Section (7) of Section 25 of the Customs Act, 1969. Valuation Ruling itself a speaking one clearly reveals that section 25 of the Customs Act, 1969 for the purpose of determination of customs values have been exhausted in accordance with it spirits for determination of Customs value under Section 25A of the Customs Act, 1969.

Para g. The Valuation Ruling No. 1510/2021 dated 08-02-2021 of imported of Door Locks issued under Section 25-A of the Customs Act, 1969 is as per law. In presence of valid Valuation Ruling issued by the competent authority for uniform application, there exists no justification to accept the transaction value for assessment.

Para h. In order to ensure proper assessment of goods, the values of Door Locks was determined in accordance with law, after taking all the stakeholders on board. The values so determined were notified under Section 25A of the Customs Act, 1969 for uniform implementation across the country and is applicable unless revised or rescinded in terms of 25A(4) of Customs Act, 1969. The Director valuation has to perform his duty within his jurisdiction to determined Customs Values on Genuine ground.

Para i. Needs no comments being related to future grounds at the time of hearing.

PRAYER

- a) It is respectfully prayed that the impugned Ruling was issued after exercising all existing methods of valuation and consequently customs values were determined under section 25 (7) of the Customs Act, 1969. On other side the petitioners have not furnished any requisite documents/evidences in support of petitioners transaction value, the petition has no merit for consideration and is liable to be rejected.
- b) The values determined are not contradictory, unreflective, illegal and unlawful. The Valuation Ruling No. 1510/2021 dated 08-02-2021 of imported of Door Handle With Thumb Action Lock (Entrance Lock) Night Latch/Rim Lock(Non-Electric & Electric issued under Section 25-A of the Customs Act, 1969 is as per law. In presence of valid Valuation Ruling issued by the competent authority for uniform application, there exists no justification to accept the transaction value for assessment.

It is therefore prayed in the light of above explained position that the ruling may be allowed to hold in field in the interest of justice and to safeguard the Government exchequer.

3. M/s Imran Hardware Store and 24 other petitioners filed revision petitions through M/s Franklin Law Associates and their submissions are as follows:

“FACTS

1. That our clients are duly registered concerns engaged in import and trading of different types of door locks and parts. Our clients enjoy unblemished reputation in the business circle having spotless record towards payment of government's legitimate revenues in accordance with law. Our clients are regular taxpayers / filers operative on the Active Taxpayer List of FBR.
2. That the Directorate General of customs valuation has issued impugned Valuation Ruling No. 1510/2021 dated 08.02.2021 whereby customs values of different types of door locks and parts have been unjustifiably enhanced and fixed at \$2.54, \$7.25, \$2.29, \$5.8 (details mentioned at table to para 6 of impugned V.R.). However, the same under-reference goods are usually exported from China at the rate of \$0.80 to \$1.30 per kg as is also evident from export goods declaration of Chinese custom authorities which could also be verified/confirmed.
3. That bare perusal of the impugned valuation Ruling reveals that Customs Value of various items at Sr. No. 1 to 4 of table to paragraph 6 of the impugned V.R. have been fixed/pre-determined irrespective of their particular origins. It is inconceivable, irrational and impractical as to how the subject items could be assessed without taking into consideration their origin of import, because the subject items are imported on varying customs values depending upon the origin of goods. In this regard, it may also be mentioned that the subject goods are normally imported in parts as it is also evident from the evidential GD's. Further it is pertinent to mention here that the under-reference commodity prior to issuance of impugned valuation ruling, the same commodity was being regularly imported, assessed and cleared as per customs values i.e., \$ 0.80, \$0.90, \$1.00.
4. That in addition to the above, it may further be pertinent to mention that on the one hand, it is specified in the table to paragraph 6, that the customs values of the subject items shall be applicable to all origins, however, in the Note 2 of the table it is mentioned that ***“These values do not cover European Origin nor they cover popular brands”***. It, prima facie, appears that the impugned V.R. is inconsistent and not manifest. Further, it has been mentioned that the values determined in the impugned V.R. shall not be applicable to popular brands. The director has failed to spell out the particular brands, as are normally specified in other V.R.'s, to which the impugned V.R. shall not be applicable. That as such the impugned V.R. is vague, obscure and our clients including other like importers may, prima facie be meted out with discriminatory treatment.
5. That, without prejudice to the above, it may relevantly be point out that the customs values of the subject goods have been determined in per piece/per unit as well as per kg, whereas the director is obliged to determine the customs values of imported goods as per unit of measurement prescribed in the Pak. Customs Tariff which in the instant case is per piece/per unit. Therefore, the customs values of the subject items determined in per kg is baseless unlawful, void, ultra vires and of no legal effect.



6. That further perusal of the impugned Valuation Ruling reveals that the same has been issued under subsection (7) of section 25 of the Customs Act, 1969. Under sub-section (7)(a) of the section 25 of the Customs Act, 1969, read with Rule 119 of the Customs Rules, 2001, if the imported goods / identical or similar imported goods are sold in Pakistan in the condition as imported, the customs values of the imported goods shall be based on the price (unit price) at which the greatest number of units is sold. Neither the impugned Valuation Ruling discloses the unit price of the respective Knob & Handle Door Lock (Non-Electric) made of base metal nor the record of greatest aggregate units sold at unit price to reach at a fair account of customs value of each imported Knob & Handle Door Lock (Non-Electric) made of base metal. The impugned Valuation Ruling has, thus, been issued by the competent authority in clear negation of the law laid down in section 25 (7)(a) of the Customs Act, 1969, and the detailed mechanism laid down vide Rule 119 of the Customs Rules, 2001.
7. Furthermore, it is pertinent to mention that for the determination of customs values through market enquiry / survey under section 25(7) of the Customs Act, 1969, the market enquiry is essentially to be conducted in accordance with the comprehensive procedure, parameters and guidelines laid down vide Office Order No. 17 / 2014 dated 19.03.2014, whereas in the instant case, the purported market enquiry under section 25 (7) of the Customs Act, 1969, has been conducted in a clandestine manner without conforming to the mechanism laid down in the Office Order.
8. Further that the Valuation department has lethargically ignored the sequential method of valuation in order to arrive at a true customs value of the subject commodity by offering stereotyped reasons commonly reflected in almost all the Valuation Rulings issued by the department. Needless to mention that valid data of import of similar or identical goods is very much available with the PRAL which cannot be ignored on the plea that there is much variation in the declared value. In case of any abnormal variation in actual transaction value of the commodity imported by different importer from different sources, the average import value can be taken into consideration for determination of customs value of any particular item. In the absence of any tenable reasons or evidence, the customs authorities are not obliged to discard the transaction value unless confronted with the stakeholders/ importers under subsection (1) of section 25 of the Customs Act, 1969. Likewise, the valuation methods as provided for similar / identical goods under subsection (5) & (6) of section 25 of the Customs Act, 1969, were also arbitrarily and malafidely ignored by the department despite the fact that similar / identical goods are being regularly imported. It is relevant to add here that variation in the customs values of under-reference commodity and generally all imported goods is on account of different brands, specifications, different properties, constituents, origin and contractual obligations between the buyer and seller. As such valuation methods provided under section 25 (1), 25(5) & 25(6) of the Customs Act, 1969, could not be ignored on the clichéd premise that "wide variations of values displayed in the import data" or "wide variations in declarations".
9. That the valuation methods provided under the provisions of section 25 of the Customs Act, 1969, for the purpose of determination of customs value, are to be applied in sequential manner. The insertion of the words "may or may not" in the provisions of sub-section 10 of section 25 ibid through Finance Act, 2007, does not dispense with the application of valuation method in sequential manner with the exception of rare occasions and exceptional circumstances. The issue was amicably clarified / interpreted by the august judgment of the Hon'ble High Court of Sindh in case of *Sadia Jabbar versus Federation of Pakistan and others* reported in PTCL 2014 CL 537 & 2018 PTD 1746. It relevant portion of the judgment is reproduced as below:



“.....In our view, therefore, the changes made to sub-section (10) have made no substantive change, and the principle of sequential application continues, as before, to apply to section 25 in full rigor.”

10. That it was further held in the referred case of *Sadia Jabbar versus Federation of Pakistan and others* that exercise carried out under section 25A of the Act is a “determination” and not a mere fixation and further that determination is a multi-step exercise, at each stage of which, there has to be a proper application of mind by the concerned officer. It is, therefore, appropriate that ruling should contain sufficient details to show that section 25A has been properly applied. Contrary to the principles of law settled by the Hon’ble High Court, the impugned Valuation Ruling is neither a speaking order nor the valuation methods as provided under section 25 of the Act have been adhered to / complied with in sequential manner to determine customs value of under-reference goods.
11. That the high landed cost of the product through implementation of the impugned Valuation Ruling is likely to pave way for smuggling of the items into local markets which will be detrimental to the public exchequer on the one hand, and huge loss of government’s revenues on the other which are otherwise duly paid by the importers. As such, the implementation of the aforesaid Ruling would render import of said commodities not feasible owing to its higher landed cost.
12. That being aggrieved of the exorbitant customs values, *inter alia*, of different types of door locks and parts etc. determined vide impugned Valuation Ruling No. 1510 / 2021 dated 08.02.2021, determined under section 25A & 25D of the Customs Act, 1969, the instant revision application under section 25D of the Customs Act, 1969, is preferred, *inter alia*, on grounds enumerated as under:



GROUNDS

- A. That various stake holders, including our clients, were not associated in the proceedings initiated for the determination of customs values of imported different types of door locks and parts (Knob & Handle Door Lock (Non-Electric) made of base metal), providing them a reasonable opportunity of being heard and to file a written representation for putting forth its concerns for fair determination of customs values keeping in view the global market conditions.
- B. That bare perusal of the impugned valuation Ruling reveals that Customs Value of various items at Sr. No. 1 to 4 of table to paragraph 6 of the impugned V.R. have been fixed/pre-determined irrespective of their particular origins. It is inconceivable, irrational and impractical as to how the subject items could be assessed without taking into consideration their origin of import, because the subject items are imported on varying customs values depending upon the origin of goods. Similarly, the impugned VR, itself is contradictory, vague, obscure hence liable to be set-aside.
- C. That, it may relevantly be point out that the customs values of the subject goods have been determined in per piece/per unit as well as per kg, whereas the director is obliged to determine the customs values of imported goods as per unit of measurement prescribed in the Pak. Customs Tariff which in the instant case is per piece/per unit. Therefore, the customs values of the subject items determined in per kg is baseless unlawful, void, ultra vires and of no legal effect hence impugned Valuation Ruling liable to be set-aside.

- D. That further mere perusal of contents of para 5 of the impugned Valuation Ruling dated 08.02.2021 clearly reveal that application of sequential method as provided under section 25 of the Customs Act, 1969, was neither in the sequential manner nor any tenable and cogent evidence was either procured or relied upon to discard the transactional value of the subject goods under subsection (1) of section 25 *ibid*. Instead, the Valuation department haphazardly resorted to jump over to apply the provisions of subsection (7) of section 25 *ibid*. i.e. Deductive value method based on market enquiries whereas the methods provided under subsection (5) & (6) were totally ignored or overruled despite the fact that under-reference items Knob & Handle Door Lock (Non-Electric) made of base metal are regularly imported and cleared by the clearance Collectorate and as such, valid data of import of similar or identical goods is readily available with PRAL. The non-application of subsection (5) & (6) of section 25 of the Customs Act, 1969, merely on the ground that the transactional values show variations, is apparently arbitrary and mala fide exercise on part of the valuation authorities. In fact, the valid and tenable evidence of contemporaneous imports are deliberately overlooked to fix notional values of the commodity with a view to generate more revenues rather to resort to proper valuation of under-reference goods. This exercise is a stereotype mechanism reflected in almost all the Valuation Rulings issued by the valuation department. Since the department's deviation from the applicable valuation methods provided under unambiguous provisions of section 25 *ibid* is quite evident on the surface of the record, the impugned Valuation Ruling is liable to be set aside.
- E. That, nonetheless, the provisions of section 25 (7)(a) of the Customs Act, 1969, and the rule 119 of the Customs Rules, 2001, envisage application of deductive value method for arriving at customs value by disclosing unit price of the respective commodity and the greatest quantity of units sold at a such price during the relevant time of import. The department miserably failed to mention unit price of identical or similar goods so sold in the greatest aggregate quantity in the local market. Further, neither the impugned Valuation Ruling discloses the unit price of the respective Knob & Handle Door Lock (Non-Electric) made of base metal nor the record of greatest aggregate units sold at unit price to reach at a fair account of customs value of each imported Knob & Handle Door Lock (Non-Electric) made of base metal. The impugned Valuation Ruling has, thus, been issued by the competent authority in clear negation of the law laid down in section 25 (7)(a) of the Customs Act, 1969, and the detailed mechanism laid down vide Rule 119 of the Customs Rules, 2001. The impugned Valuation Ruling is liable to be set-aside on this ground alone.
- F. That the market inquiry is essentially required to be conducted in accordance with the comprehensive procedure, parameters & guidelines laid down vide Office Order No. 17 / 2014 dated 19.03.2014. That in accordance with the above guidelines, Market Survey Team, at Pre-Survey Preparation vide Para (A)(i) of the above guideline, is obliged to conduct the identification of origin-wise categories / varieties / grades of goods as per import data; in Survey Methodology vide Para (B)(i) of the above guideline, to record origin-wise market values and specific descriptions of all categories / varieties / grades of goods under survey; in Post-Survey Methodology vide Para (C)(i) of the above guideline, to record origin-wise market values of goods after calculating and accounting for the impact of variables on market value. That from the bare perusal of the aforesaid Valuation Ruling, it is itself evident that the aforesaid mandatory procedure has not been adhered to by the competent authority. As such, the impugned Valuation Ruling is liable to be set-aside on this ground alone.
- G. That it is held by the Hon'ble High Court of Sindh in the case of *Sadia Jabbar versus Federation of Pakistan & others* reported in PTCL 2014 CL537 vide Para 28 thereof that determination of customs value under section 25A of the Customs Act, 1969, by adopting Deductive Value method provided under section 25(7) of the Customs Act, 1969, without adhering to the mechanism



provided under section 25(7) ibid., is ultra vires the provisions of section 25-A of the Customs Act, 1969.

- H. Further in the impugned Valuation Ruling the customs values of different types of door locks and parts have been unjustifiably enhanced and fixed at \$2.54, \$7.25, \$2.29, \$5.8, which is not being supported by any reliable material for determination of the customs values of under reference commodity. Prior to above mentioned Valuation Ruling the same goods were regularly imported, assessed and cleared as per customs values i.e., \$ 0.80, \$0.90, \$1.00.
- I. Further arguments may be urged, with the permission of the Authority, at the time of hearing of this application.

PRAYER

In view of foregoing, it is humbly prayed that the Valuation Ruling No. 1510 / 2021 dated 08.02.2021, exhibiting excessive & exorbitant customs values of different types of door locks and parts (Knob & Handle Door Lock (Non-Electric) made of base metal) of the impugned Valuation Ruling on the basis of application of section 25(7) of the Customs Act, 1969, without conforming to the section 25 (7)(a) of the Customs Act, 1969, and rule 119 of the Customs Rules, 2001, may kindly be set-aside, or in the alternative, a fresh Valuation Ruling may please be issued for determination of customs values in accordance with law."

ORDER

4. Hearing of the case was conducted on 03-06-2021. The petitioners claim that the values notified in the valuation ruling are very high and not indicative of prices in the international market. The prices of raw material i.e. iron & steel, aluminum, brass, etc. as published in the LME have also not been taken into consideration and even if 50% manufacturing cost is applied to the price of raw material, the values would be far below the determined values.

5. The arguments of the petitioners carry weight. The case is remanded to the Director Customs Valuation for the determination of values keeping into view the cost of raw material and other services/additions like freight, handling, etc. The values may be redetermined and notified within two weeks of this order.

6. Being identical on facts and law points, this order shall apply mutatis mutandis to following (51) petitions.


(Shahnaz Maqbool)
Director General

Registered copy to:

S#	Name of Petitioners
1.	M/s. Imran Hardware Store, C/o Franklin Law Associates
2.	M/s. Jaffer Hussain & Co, C/o Franklin Law Associates
3.	M/s. Khas Trading Co, C/o Franklin Law Associates
4.	M/s. Waqas Hardware Traders, C/o Franklin Law Associates
5.	M/s. AM Traders, C/o Franklin Law Associates

6.	M/s. S.A. Hardware Traders, C/o Franklin Law Associates
7.	M/s. Kapa Enterprises, C/o Franklin Law Associates
8.	M/s. Sone Traders, C/o Franklin Law Associates
9.	M/s. Tariq Hussain, C/o Franklin Law Associates
10.	M/s. Hussaini Traders, C/o Franklin Law Associates
11.	M/s. Alpha Hardware, C/o Franklin Law Associates
12.	M/s. Solox International, C/o Franklin Law Associates
13.	M/s. Shabbir Traders, C/o Franklin Law Associates
14.	M/s. Shahid Mahmood & Co (Pvt) Ltd, C/o Franklin Law Associates
15.	M/s. Sarim Trade International, C/o Franklin Law Associates
16.	M/s. Zeeta Corporation, C/o Franklin Law Associates
17.	M/s. Emaan International, C/o Franklin Law Associates
18.	M/s. Wahid Hardware Store, C/o Franklin Law Associates
19.	M/s. Sial Enterprises, C/o Franklin Law Associates
20.	M/s. HIS Import & Export (Pvt) Ltd, C/o Franklin Law Associates
21.	M/s. Bilal Trading Co, C/o Franklin Law Associates
22.	M/s. J.K. Enterprises, C/o Franklin Law Associates
23.	M/s. A.M. Enterprises, C/o Franklin Law Associates
24.	M/s. Khan Enterprises, C/o Franklin Law Associates
25.	M/s. Elkoser Hardware Co, C/o Franklin Law Associates 1 st Floor, Plot No.4C, Lane No.3, Al-Murtaza Commercial, DHA Phase-VIII, Karachi. Phone NO. 021-35246856 Email: franklinlawassociates@gmail.com
26.	M/s. Umar Brothers, Shop No.17, Rehman Gali No.2, Brandreth Road, Lahore. Email: Muhammad.umar3@gmail.com
27.	M/s. Bilal Distributors, 13/1, Hyderabad Colony, Jail Road, Karachi. Email: Bilal550@gmail.com
28.	M/s. World Wide Cargo & Logistic Management, Suit No. 3011, 3 rd Floor, Central Plaza, Marston Road, Karachi. Email wclm.headoffice@gmail.com
29.	M/s. H.T. Enterprises, 395-B, Peoples Colony, Block-N, Batha Town, North Nazimabad, Karachi. Email Lkaleemchad@gmail.com
30.	M/s. AHS Traders, 2195/B, Ward No.9, Muslim Mohallah Shahnsaz Outside Bohar Gate Pull, Shawala Sarqi, Multan. Email: AHSTRDS478@gmail.com
31.	M/s. M.S. Traders, Shop No.4, Fatima Centre MR 1/93, Katchi Gali No.3, Marriot Road, Karachi. Email: MSTRDS758@gmail.com
32.	M/s. VIP Traders, Mezanine Floor No.26, Plot No.38, Liaquat Colony, Hyderabad. Email: viptraders@gmail.com
33.	M/s. MRC Enterprises, 46-ST-8, Ali Alam Garden LMD Housing Scheme, Main Canal Road, Hurbans Pura, Lahore. Email: Mrcentep@gmail.com
34.	M/s. Amin Trading Company,

	Gulberg Colony, Dakhi Sundar Singh Street No.4, Near Shan Ice Cream Nowshera Road, GRW Gujranwala Qila Dedar, Gujranwala. Cell: 0331-8962166
35.	M/s. Sheen International, Room No.36, Chaman Chamber Chowk, Dalgaran, Lahore. Phone: 042-37660334
36.	M/s. RAF Traders , Postal Address & contact number not found in Petition .
37.	M/s. Akhtar Hussain & Co, 23 Brandreth Road, Lahore. Cont 042-3765311
38.	M/s. Meeran Paints & Hardware, Block-45, Shop No.2, I & T Center, G-9/4, Islamabad. Email: mohib78@gmail.com
39.	M/s. Wictor Trading Company, N.P. 9/13, Ghulam Shah Street, Juna Market, Karach. Email: ultrafix_italy@hotmail.com
40.	M/s. Imran Traders, C/o Ghulam Yasin (Consultant)
41.	M/s. Manam Traders, C/o Ghulam Yasin (Consultant)
42.	M/s. Waleed Traders, C/o Ghulam Yasin (Consultant)
43.	M/s. Pak Madina Hardware Store, <u>C/o Ghulam Yasin (Consultant)</u> Room No. 9, 3 rd Floor, Ocean Centre, Opposite Custom House, Karachi. Email: gyasin5755@gmail.com
44.	M/s. Mian Trading Company, C/o Jamshed Raza Alias Ahmed Danish,
45.	M/s. Master & Co, C/o Jamshed Raza Alias Ahmed Danish,
46.	M/s. Sohail Hardware Store, C/o Jamshed Raza Alias Ahmed Danish,
47.	M/s. Waqas Traders, C/o Jamshed Raza Alias Ahmed Danish,
48.	M/s. HMC Hardware, - <u>C/o Jamshed Raza Alias Ahmed Danish,</u> 3/315, Trade Avenue, Hasrat Mohani Road, Karachi. Email: waqastrades64@gmail.com,
49.	M/s. S.K. Global M-127/A, Trade Avenue, Hasrat Mohani Road, Karachi.
50.	M/s. Rukhsar Trading Co, Room No. 504, 5 th Floor, Trade Avenue, Hasrat Mohani Road, Karachi.
51.	M/s. Ammar Enterprises, 14-B, Street No.5, Usman Ganj, Misri Shah, Lahore.
52.	M/s. Junaid Traders, Kashif Chamber, 2 nd Floor, Room No.4, 6 Lodge Road, 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.

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.

