

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACH

File No. DG (V) Val.Rev/01/2021

Dated 27<sup>th</sup> September, 2021

**Order in Revision No. 39/2021 under Section 25-D of the Customs Act, 1969,  
against Valuation Ruling No. 1504/2020 Dated: 28-12-2020**

- 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. Affan Impex & Others

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PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

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RESPONDENT

Date(s) of hearing

04-08-2021 and 16-09-2021

For the Petitioners

Syed Ghayas  
Mr Moosa  
Mr Sohail Ahmed

For the Respondent

Mr. M. Sohail Ismail, Principal Appraiser

Revision petitions was filed under Section 25-D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No. 1504/2020 dated 28.12.2020, issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds. Some other petitions were also filed on similar grounds.

*"Being highly aggrieved by and dissatisfied with the Valuation Rulings issued by the Respondents, the Appellant above named file this review application with the submissions that the Respondent has issued the subject Valuation Ruling FOR HDPE (Fishing Net All Sorts) and mostly importing from all over the world etc (subject to importability conditions as per IPO), Europe, USA and Canada Origin nullity to the provision of Section 25 of the Customs Act, 1969 read with Chapter IX of Customs Rules, 2001 and without evaluating the nature of the goods in question and the dictum laid down by Superior Courts of Pakistan, hence this review before the Honourable Review Authority for decision after consideration of the facts and grounds enumerated herein below.*

**FACTS**

- i) That the Appellant is a commercial Importer of HDPE (Fishing Net All Sorts) and mostly importing from all over the world.

- ii) That the applicant desires to Import the said product from different countries and when the respondent was determining the value, the applicant attended different meetings with the Suppliers and local buyers and the Suppliers have agreed to supply the product at different values very less than the value as determined in the Valuation Rulings as referred above.
- iii) That the respondent have bluntly refused to accept the transaction value other than the above referred Valuation Ruling despite of the fact that there are substantiate evidences of value of the goods which act on the part of the respondent is absolutely against the norms of natural justice and so also against the true spirit of provision Section 25(1) of the Customs Act 1969 and Rule 13 of the Customs Rule, 2001.
- iv) That the Transaction Values of the applicant are absolutely in accordance with law, fair, just, proper and covering the all aspects of the goods and even the same cannot affect the Government Revenue.
- v) That it is pertinent to mention here that the Valuation Rulings as referred above have been determined without consideration of present market situation and without giving any opportunity of meeting of stake holders and as such the same have been determined on the back of the Importers and the same are liable to be reviewed forthwith in the great interest of justice and particularly keeping in view the legitimate revenue of National exchequer, hence this review application, interalia on the following grounds:

#### **GROUND**

- a) That the Valuation Rulings as referred above does not cover the present fluctuation of prices of International Market which have been reduce to about half of the prices and the product of the applicant completely based on International Prices
- b) That in support of his stance, it is appropriate of the applicant to add further that the provision of Section 25 of the Customs Act, 1969 are to be followed in sequential manner baring certain exceptional cases which massive group under invoices is rampant. It is not possible without exhausting and unfettered indicated in Section 25(13) (a) does not give unbridled and unfettered authority to customs administration to play havoc with redundant. Discretions has to be exercised within limits based on reason, rationale and fair play which is specifically provided by the legislature in Sub Section (10) of Section 25 of the Customs Act, 1969 sub-Section (1) (5) (6) (7) (8) at the Importers request if so agreed by the Collector of Customs as held in Judgments.
- c) That the Shipping Freight also decreases accordingly, which directly impact on the product price.
- d) That for the sake of arguments without conceding that the determination made in the ruling is legal, the applicant state that is nullity to the fact and expression and procedure given in the relevant provisions of the Customs Act, 1969 and this validated from the working of Valuation for determination of applicant to Import the different kind of Fabrics by deducting the different margins of respective heads which the applicant has to bear prior to selling the goods rendering the contracted price as transactional value within the meaning of Section 25(1) of the Customs Act, 1969.
- e) The applicant sells the entire goods prior to clearance and at many times the prices of the goods have been increased prior to clearance and the Importer has to bear the difference of prices from his own.
- f) The applicant crave to leave further grounds at the time of hearing besides placing valid incriminating evidences/document with the permission of your good forum.

#### **PRAYER**

It is therefore, humbly prayed that this Revisional authority may be pleased to allow the review application by declaring/order that:

- (a) The Valuation Ruling No. 1504/2020 DATED 28.12.2020 have been issued on forced construction of Section 25 of the Customs Act, 1969, hence ab-initio, null and void and is liable to be withdrawn forthwith.



- (b) *The Transactional/declared value of the applicant to the imported goods is deemed to be fair and answer to the expressions of Section 25(1) of the Customs Act, 1969, in Rule 113 of Chapter of the Customs Rules 2001*
- (c) *Any other relief(s) which this Honorable Revisional Authority may deem fit and proper in the circumstances of the case may also be granted.*

2. The respondents were asked to furnish comments to the arguments submitted by the petitioner in the case. Para-wise comments on the petition are given as under:-

### **BRIEF OF THE CASE**

a. *The Brief of the case is that after conducting detailed analysis of Pakistan's imports for the year 2019-20, the Directorate General of Customs Valuation, Karachi, was tasked by FBR to identify the items/ goods where variations 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 fishing net under Section 25-A of the Customs Act, 1969.*

b. *Meetings with all stakeholders trade bodies including representatives of clearance Collectorates were held in this Directorate General on 13-11-2020 and 26-11-2020 The importers/stakeholders were requested to submit their proposals suggestions as well as following documents before or during the course of stakeholders meeting so that Customs values could be determined;*

- i) *Invoices of import during last three months showing factual values.*
- 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.*

c. *The meeting was attended by importers and stakeholders and their point of view were heard in detail to arrive at custom values of subject goods. The stakeholders claimed that their declared values were true transactional values and may be accepted as such. However, they failed to substantiate the said claim through documentary evidences.*

d. *Valuation methods provided in Section 25 of the Customs Act, 1969, were duly applied in their regular sequential order to arrive at customs value of subject goods. 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 that their declared values were true transactional values.*

e. *Moreover, different values were declared by different importers for same product according to different origins. Identical/similar goods value methods provided in Sections 25 (5) & (6) ibid were examined for applicability to determine customs values of subject goods. The data provided some references: but due to wide variations in declaration. Variety and specifications the same could not be relied upon exclusively. In line with statutory sequential order of section 25, this office conducted various market inquiries under sub-Section (7) of Section 25 of the Customs Act, 1969. Finally reliance had to be made on sub-Section (7) of Section 25 of the Customs Act, 1969, to determine custom values of Fishing Net*

### **PARAWISE COMMENTS**

Para (1) *Require no comments.*



Para (2-5) *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 by considering the current market trend in both local and international markets.*

#### **GROUND**

Para (1-3) *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 by considering the current market trend in both local and international markets.*

#### **PRAYER**

a. *It is respectfully prayed that the customs values of the subject goods were determined after exhausting all primacy methods of valuation as well as by associating of all importers stakeholders.*



b. *Not Agreed. However, it is submitted that it is not mandatory for Customs to accept each and every transactional value in terms of Section 25(1) of the Customs Act, 1969. During determination of Customs values in the said Valuation Ruling, all sub-Sections of Section 25 were duly exhausted sequentially and values were determined in terms of sub-Section (7) Section 25 by giving reasons for rejecting previous sub-Sections of the Act ibid. As such the same has lawfully and justifiably been issued in terms of Section 25(7) of the Customs Act, 1969 for uniform assessment all over the country. Moreover, 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.*

#### **ORDER**

3. The case was heard on 04-08-2021 and 16-09-2021. The petitioners reiterated the arguments submitted in writing. The main thrust of their argument was that vide impugned valuation ruling (VR), customs value determined at Serial No.2 for "HDPE (Fishing Net all sorts)" are on higher side. The petitioners contended that the Valuation Department did not follow the valuation methods properly besides objecting to the market inquiry conducted by the department due to which the values determined vide impugned VR, in respect of item mentioned at S# 2 of the table (Para-6 of VR) are higher than the prevalent market prices. The petitioners insisted on accepting their declared values as correct transaction value but in the process were unable to provide materially reliable supportive/verifiable documentary evidence to substantiate their contention. During the review proceedings, the petitioners were asked to provide wholesale rates/price lists or quotations from different markets which could be cross verified by the department. However, the petitioner, M/s Zafar Enterprises could only provide two un-authentic cash memos of subject item which upon scrutiny could not be related to the sale of fishing nets as having vague description and were not duly supported by any Sales Tax Invoices. Moreover, except the petitioners, it was observed that imports of fishing net are regularly being cleared on the customs values determined vide impugned VR.

4. On the other hand, the departmental representative (DR) explained in detail the valuation methodologies adopted by them to arrive at the Customs values determined vide impugned Valuation Ruling. In support thereof, the DR presented various details of the valuation exercise/ working and comprehensive market inquiry reports conducted by the department. In addition, the DR observed that at the time of issuance of the impugned Ruling, VR No.1473/2020 dated 18-09-2020 of "Nylon Yarn", VR No.1490/2020 dated 20-11-2020 of "Polyester Yarn" and the current prices of "HDPE Film" as

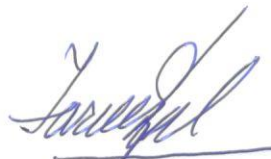
available in the Valuation Chart of Plastic Raw Material of October 2020, which are three basic/essential raw materials for manufacturing Fishing Net were taken into consideration while finalizing the values notified vide the impugned Ruling.

5. After listening to the detailed discussions/ arguments of both the parties and perusal of the case record, it is evident that the Valuation Department had duly taken the stakeholders on board while issuing the impugned Valuation Ruling. The petitioners were given sufficient time and opportunity to give their inputs including documentary proof/evidence to substantiate their transaction value but they failed to provide any such proof or fact in support of their declared values which were low.

6. From the foregoing discussion, it is apparent that the departmental exercise to determine the Customs Values under Section 25-A of the Customs Act, 1969 has been conducted within the legal domain of Section 25 of the ibid Act, and therefore Valuation Ruling No.1504/2020 dated 28-12-2020 is accordingly upheld. The petitions are disposed of accordingly.

7. Being identical on facts and law points, this order shall apply, *mutatis mutandis*, to following (06) petitions.

1. M/s Umer Traders
2. M/s Al-Mujeeb Enterprises
3. M/s S.H.Enterprises
4. M/s Zagfar Enterprises
5. M/s Ismail Trade Corporation
6. M/s I&N Trading Company

  
(Dr. Farzed Iqbal Qureshi)  
Director General

Registered Copy to:

M/s. Affan Impex,  
Shop No.23, Bagasara Square, Block-B, G.Allana Road, Karachi.

M/s. Al-Mujeeb Enterprises,  
House No.A-2, Shaz Bungalows, Shop No.01, Ground Floor, Sector 16A-5, Scheme No.33, Gulshan Town, Karachi East, Karachi.

M/s. Umer Traders,  
Shop No.2, G.K. 7/57, Machi Miani Road, Kharadar, Karachi South, Saddar Town, Karachi.

M/s. S.H. Enterprises,  
House No. 107, Mohalla Bilal View Garden, Ghulam Hussain Qasim Road, Karachi.

M/s. Zafar Enterprises,  
A-2, Shaz Bungalows, Sector 16a-5, Scheme 33, Gulshan Town, Karachi.

M/s. I & N Trading Company,  
Suit No.602, Plot No. 150/S, The Corner Residency, PECHS, Block-2, Khalid Bin Walid Road, Karachi.

Copy to:

1. The Member (Customs Policy/Operations), FBR, Islamabad.
2. The Chief Collectors Customs Appraisalment (South)/Enforcement, Karachi/



- (North) Islamabad / (Central) Lahore/ Quetta.
3. The Collector, MCC Appraisalment and Facilitation (East/West ) /Port M. Bin Qasim/
  4. Enforcement & Compliance, JIAP, Karachi.
  5. The Collector, MCC Appraisalment & Facilitation/Enforcement & Compliance, AIIA, Lahore/Quetta/Peshawar/Faisalabad/Sambrial/Multan/Hyderabad/Islamabad/Gilgit-Baltistan/Gawadar.
  6. The Directorate General of Intelligence & Investigation (Customs), Islamabad /Lahore /Peshawar / Multan / Hyderabad / Gawadar / Quetta.
  7. The Director, Customs Valuation, Karachi/Lahore.
  8. The Deputy Director (HQ), Directorate General of Customs Valuation, Karachi for Uploading in One Customs and WeBOC Database.
  9. Deputy Director (Revision), Directorate General of Customs Valuation, Karachi.
  10. All Deputy/Assistant Directors (Valuation).
  11. Guard File.

