

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACH

File No. DG (V)/Val.Rev/26/2021

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

**Order in Revision No. 33 /2021 under Section 25-D of the Customs Act, 1969  
against Valuation Ruling No. 1538/2021 dated 26-07-2021**

- 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 Pakistan Yarn Merchants Association &  
M/s Filament Yarn Manufacturers Association & other

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing 08-09-2021

For the Petitioners Mr. M. Usman, PYMA  
Mr. Danish, PYMA  
Mr. Shabbir, FYMA

For the Respondent Mr. M. Sohail Ismail, Principal Appraiser

These revision petitions were filed under Section 25-D of the Customs Act, 1969 against Customs values determined vide Valuation Ruling No.1538/2021 dated 26-07-2021 issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

**M/s Pakistan Yarn Merchants Association**

*"Pakistan Yarn Merchants Association wish to state that prices mentioned in the subject Valuation Ruling are US \$ 0.13 Cents /KG higher in all Deniers which is unbelievable & un – acceptable as it is against the method adopted for Valuation of PFY under basic Raw Material of Polymerization (PTA & MEG + Value addition) as well as fifteen years past practice.*

*In view of this Gross – Negligence by DGCV, we appeal you to rectify the subject valuation Ruling # 1538 / 2021 Dated 26.07.2021 which will create Financial Burden on stakeholders.*

We hope that your good self will Re – Consider the subject Valuation Ruling & accept our appeal under section 25-D of Custom Act – 2019.”

**M/s Filament Yarn Manufacturers Association (Pakistan)**

“On the basis of PTA and MEG import prices of last two months and as per Zubair Motiwala’s (ZM) formula without updated freight and intermingle e.g. yarn impact, ITP for 150 denier should be US\$ 1.30/kg. After addition of increasing freight impact of US\$ 0.17/kg (well justified by us as per shanghai freight index) and average out impact of intermingled yarn US\$ 0.06/kg (well acknowledged by your good self during the meeting) VR should have been US\$ 1.53/kg instead of US\$ 1.41. i.e. 12 cents/kg more than what has been notified. The freight addition of 17 cents is based on following: (freight evidence of \$4500 attached as Annex - I)

- |  |               |
|--|---------------|
| - Current freight \$4,500/- for 22,000 kg's  | = \$ 0.205/kg |
| - Less: Previous normal freight \$770 already incorporated in ZM formula   | = \$ 0.035/kg |
| - Difference in freight \$3,730 to be added to prices worked out by ZM formula to bring them closer to actual market price | = \$ 0.17/kg  |

As already informed in the meeting the actual market CFR price of 150 denier during May & June 2021 falls between 1.53/kg to 1.60/kg (instead of the 1.41/kg notified in valuation ruling 1538/2021 of 26<sup>th</sup> July) for which we have enclosed the following evidence (which clearly justifies the addition of increase freight in the ITP).

- a) Clearance by major importers under Manufacturing Bond and EOU imported from China (attached Annex - II)
  - b) Export Value of Chinese and Vietnamese suppliers who do not agree to under invoice practice (Annex - III)
- 1) After detailed discussions amongst all stakeholders in the meetings, it was agreed upon that the impact of increasing freight and cost of intermingled yarn, should be appropriately added in the current ITP to bring it to fair market price. However, we regret to note that despite our valid justification during the meetings our proposal of increased freight cost and intermingled yarn average out impact was not appropriately taken in VR 1538-26-07-2021 whereby for e.g.

Break up of addition:

- 17 cents needs to be added in ZMR formula due to freight increase cost.
- 06 cents further add in all deniers to average out the impact of higher price difference of intermingled over & non intermingled yarn prices and micro filament yarn like 150/144, 75/144 over normal filament yarn in the same denier cargoes of 150 & 75 denier.”

**Additional Submissions**

**“Background History:**

The CFR ITP of Polyester Filament Yarn (PFY) HS code 5402.3300, 4700, 4600, 6200 is being set by arriving at the CFR price by the Zubair Motiwala (ZM) Formula of 2006 which is based on a specified delta/spread of US\$/ton over its basic raw material viz. PTA/MEG prices for various deniers/counts from 40 denier to 300 denier.



For eg for PFY 150 denier CFR ITP is as per ZM formula is = "PTA price and MEG price composite" plus US\$ 100+ \$300. That is in the \$400 the \$100 is the PTA/MEG to chips value addition and \$300 is the chips to PFY value addition. (The PTA and MEG price composite is 0.87x PTA price and 0.35x MEG price whereby the PTA/MEG prices are the average of actual PTA/MEG price as cleared at the port and local Lotte PTA price in the previous 2 months).

The \$ 300 value addition of chips to PFY value also includes the sea freight cost of the imported PFY 150 denier in this case since the ITP so arrived by the ZM formula is CFR value. The sea freight cost in this \$ 300 at the time of the ZM formula was set was \$30 to \$40/ton \$35/ton (\$805/40 ft container) while the \$265 was conversion cost value addition. Today the freight alone is \$195/ton in this \$300, leaving only \$105 for conversion cost value addition.

**REQUEST:**

(1) This formula was set in 2006. While the conversion cost of various deniers have gone up in the last 15 years. We by this letter are not requesting to update the conversion cost (which may need a longer more industry specific exercise) but urgently had requested you vide letter No.AM/SB/FYMA/001/03/2021 dated 08<sup>th</sup> Mar, 2021 to revise the freight component of \$35 per ton in this formula to \$195/ton that is increase the CFR ITP ZM formula by \$160/ton on account of freight increase alone.

(2) In the meantime freight in June / July has further increased (\$4400 for 40 ft container) than what it was in March, i.e \$ 3905/- for 20 ft container, accordingly for 40 ft it is \$ 7029/-. So the ZM Formula in Aug/Sep should have an increased of \$305/ton on account of freight increase.

We attach herewith as (Annex-I) whereby the importers themselves are clearly stating in March 2021 the container freight increased by \$3600 that from \$800 to 4400 per 40ft container. At 23 ton/container each \$3600 = \$160/ton increases.

We attach as (Annex- II) the Shanghai Freight Index which clearly shows this increase in container freight of 20ft \$3905. The freight for 40ft is generally 1.8 times, so  $1.8 \times 3905 = \$7029$ . In future when the Shanghai Freight Index reduces then the freight factor in the ZM formula can be reduced accordingly.

(3) We also request for revision of ruling whereby values should be increase by 12 cents for 150 denier from \$1.41 to \$1.53. Furthermore, on the basis of PTA and MEG import prices of last two months and as per (ZM) formula without updated freight and intermingled yarn impact, ITP for 150 denier should be US\$1.30/kg, as determined by Director's valuation during the month of July 2021. After addition of increasing freight impact of US\$ 0.17/kg (well justified by us as per shanghai freight index) and average out impact of intermingled yarn US\$ 0.06/kg (well acknowledged by Director Valuation & respective team members during the meetings) VR should have been US\$ 1.53/kg instead of US\$ 1.41/kg. i.e 12 cents/kg more than what has been notified. The freight addition of 17 cents is based on following; (freight evidence of \$5,500 attached as Annex - III)

- Freight as per April/May 2021 \$4,500/- for 23,000 kg's	= \$0.196/kg
- Less: Previous normal freight \$805/- already incorporated in ZM formula	= \$0.035/kg
- Difference in freight \$3,695 to be added to prices worked out by ZM formula to bring them closer to actual market price	= \$0.17/kg



- (3) The actual market CFR price of 150 denier during May/June 2021 falls between 1.52/kg to 1.60/kg (instead of the 1.41/kg notified in valuation ruling 1538/2021 of 26<sup>th</sup> July) for which we have enclosed the following evidence
- c) Clearance by major importers under Manufacturing Bond and EOU imported from China (attached Annex-IV)
- d) Export Value of Chinese and Vietnamese suppliers who do not agree to under invoice practice (Annex-V)

After detailed discussions amongst all stakeholders during last VR meetings, it was agreed upon that the impact of increasing freight and cost of intermingled yarn, should be appropriately added in the current ITP to bring it to fair market price. However, we regret to note that despite our valid justification during the meetings our proposal of increased freight cost and intermingled yarn average out impact was not appropriately taken in VR 1538-26-07-2021.

**Conclusion Request:**

Based on May June data for last VR, and evidence of freight for the same month, (a) the valuation ruling of 150 denier should be 1.53 instead of 1.41. We would appreciate that the ZM formula needs to be updated accordingly with the freight increase to reflect the true CFR value of the product. (b) In all future rulings of intermingle yarn freight impact should be considered in ZM formula, which was

As of July 2021:

For freight	\$0.17/kg
For intermingle	\$0.06/kg
Total	\$0.23/kg

And as of Aug/Sep 2021.

For freight	\$0.30/kg
For intermingle	\$0.06/kg
Total	\$0.36/kg

2. The respondent department was asked to furnish comments to the arguments submitted by the petitioners in the case. Para-wise comments on the petitions are given as under:-

**COMMENTS BY THE DEPARTMENT**

The Customs values of Polyester Filament Yarn were earlier determined vide Valuation Ruling No.1527/2021 dated 29-03-2021. As the values of subject goods had shown varying trend in the international market, the Customs values so determined were not reflective of prevailing prices in international market, therefore, an exercise was undertaken by this Directorate General to determine the same.

The values of Polyester Filament Yarn are determined by Directorate General of Customs Valuation taking into consideration the import clearance data of two major constituent raw materials of subject goods i.e. PTA and MEG, as per past practice. The import clearance data for the months of May and June 2021 was obtained from PRAL and data of locally manufactured PTA was obtained from its local manufacturers M/s Lotte Pakistan (Pvt.) Limited. Thereafter, the calculation was done by the Directorate General to arrive at weighted average value of PTA. The weighted average value of PTA and MEG so determined was applied to the formula prescribed and circulated by the Board vide C.No.3 (20)/TAR-I/90-Yarn dated 07-04-2005 to determine the Customs values of Polyester Filament Yarn.



*On the basis of data/information collected and exercise conducted as per formula, the values of Polyester Filament Yarn have been determined under sub-Section (9) of Section 25 of the Customs Act, 1969 on the basis of calculation. And as per calculation, 11 cents enhanced in the customs values and as unanimously agreed that 08 – 11 Cents can safely be added to the amount worked out by formula on account of freight factor, therefore, 11 Cents also have been added in the so determined Customs values.*

*Meetings with M/s Pakistan Yarn Merchants Association, M/s Filament Yarn Manufacturers Association (Pakistan) and different stakeholders were convened on 13-07-2021 and 26-07-2021. The issues pertaining to the valuation of subject goods were deliberated upon in detail. The issue of freight factor at the time of making of Zubair Motiwala Formula (ZM formula) and current prices was deliberated upon in details. The importers were of the view that freight factor is temporary phenomenon which will settle once Covid related issues are settled. However, it was unanimously agreed that 08 – 11 Cents can safely be added to the amount worked out by formula on account of above factor. However, no consensus was made regarding value addition in respect of Intermingle Yarn.*


### **ORDER**

3. The case was heard on 08-09-2021. The view points of the petitioners and the respondent department were heard in detail. The main contention of M/s Pakistan Yarn Merchants Association that the values determined vide impugned VR are not reflective of the prevalent international prices and against the past practice. On the other hand, M/s Filament Yarn Manufacturers Association was of the view that as per Zubair Motiwala's (ZM) formula, values of 150 denier should be US\$ 1.30/kg. It was further argued that on account of massive increase in freight, impact of US\$ 0.17/kg (as per Shanghai Freight Index) as discussed in the stakeholder meeting (under Section 25A ibid), values should have been US\$ 1.53/kg instead of the notified value of US\$ 1.41/kg.

4. The departmental representative (D.R) explained in detail the valuation methodologies adopted by them to arrive at the Customs values determined vide impugned valuation ruling. In support of department's contention, the D.R presented various details of the valuation exercise/ working as available on record to support the values determined vide impugned VR besides raising the critical aspect which was the considerably steep rise in the ocean freight costs.

5. After listening to the detailed discussions/ arguments of petitioners and respondent department and perusal of the case record, it needs to be appreciated that the formula, in the field, for determining the assessable prices of Polyester Filament Yarn (PFY) is the Zubair Motiwala (ZM) formula which, in effect is a method that uses cost of constituent materials, value-addition costs etc. to arrive at the values of the finished goods. However increase in the logistic costs of the ocean shipping is necessarily required to be factored into the values arrived at by the ZM formula, which is also consistent with the provisions of Section 25(8) of the Customs Act, 1969. Accordingly, it is apparent that the values determined by the Department under Section 25-A of the Customs Act, 1969, are within the legal domain of Section 25 of the ibid Act and hence the impugned Valuation Ruling No.1538/2021 dated 26-07-2021 is upheld. The revision petitions are accordingly rejected.

6. Being identical on facts and law points, this order shall apply, *mutatis mutandis*, on the revision petition of M/s M. Usman, Karachi.

  
(Dr. Fareed Iqbal Qureshi)  
Director General

Registered copy to:

M/s Pakistan Yarn Merchants Association  
803-804, 8<sup>th</sup> floor, Business Centre, Mumtaz Hasan Road, Karachi-74000

M/s Filament Yarn Manufacturers Association (Pakistan),  
Room No.104-106, 1<sup>st</sup> floor, Hotel Imperial Building, M.T.Khan Road, Karachi.

M/s M. Usman,  
253-B, 1<sup>st</sup> floor, Latif Cloth Market, M.A.Jinnah 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/ Enforcement & Compliance, JIAP, Karachi.
4. The Collector, MCC Appraisalment & Facilitation/Enforcement & Compliance, AIIA, Lahore/Quetta/Peshawar/Faisalabad/Sambrial/Multan/Hyderabad/Islamabad/Gilgit-Baltistan/Gawadar.
5. The Directorate General of Intelligence & Investigation (Customs), Islamabad /Lahore /Peshawar / Multan / Hyderabad / Gawadar / Quetta.
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.