



GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS (VALUATION)
CUSTOM HOUSE, KARACHI.

File No. DG (V) Val.Rev/10/2021 /784.

Dated: 11th October, 2021

Order in Revision No. 35/2021 under Section 25-D of the Customs Act, 1969
against Valuation Ruling No. 1511/2021 Dated 08-02-2021

M/s. Global Business Enterprises & Others

.....

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

.....

RESPONDENT

Date(s) of hearing

15-09-2021

For the Petitioners

Mr. Ghulamullah Sh. Advocate

For the Respondent

Mr. Umer Baloch, Principal Appraiser

These revisions petitions were filed through their counsel under Section 25-D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No. 1511/2021, dated 08.02.2021, issued under Section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

"Being prejudiced and dissatisfied by notional, untenable and irrational customs values of Snacks Chips made of Corn Powder / Flour and Wheat Powder / Flour pre-determined vide impugned Valuation Ruling No. 1511 / 2021 dated 08.02.2021 issued by the Director, Directorate General of Customs Valuation, Karachi, this revision Petition, under the instructions from and on behalf of our following clients, is preferred under Section 25-D of the Customs Act, 1969, on the consideration of facts and grounds, inter alia, mentioned hereinafter below:

1. Global Business Enterprises (NTN-2091390)
2. Samrah Enterprises (NTN-4262000)
3. Trading House (NTN-0257974)
4. Khalil Sons (NTN-1219797)

3. **FACTS**

- 1) That our clients are duly registered business concerns engaged in import and trading of Snacks / Chips made of Corn Powder / Flour. Such items of various brands and origins are regularly imported by our clients from Malaysia, Greece & UAE. Our clients hold a distinguished position in the business spheres and have always conducted themselves strictly in accordance with the law of the land.
- 2) That during November, 2020, the Directorate General of Customs Valuation reportedly conducted a detailed analysis of Pakistan's imports for the year 2019-20, where after it was tasked by the FBR to identify the items / goods where variations with respect to values in exporting countries-viz-a-viz import values in Pakistan were observed. According to the Directorate, it was reportedly identified that the items such as Snacks / Chips made of Corn Powder / Flour and Wheat Powder / Flour were prone to under-invoicing as vast variations in declarations were observed.
- 3) That thereafter, the Directorate held meetings with all the stake-holders including our clients / their representatives who were asked to provide requisite documents viz. invoices of import during last

three months, websites, names and E-mail addresses of known foreign manufacturers, copies of contracts / LCs opened during the last three months showing the value of item in question and copies of Sales Tax Invoices issued during the last four months. All the documents requisitioned by the Directorate were accordingly furnished by various business concerns including our clients / their representatives, however, the Directorate resorted to discard such documentary evidence put forth by the stake-holders in support of true transactional values of the items imported by our clients and resorted to applying Section 25(7) of the Customs Act, 1969, for conducting market enquiries to arrive at customs values of the Snacks / Chips made up of Corn Powder / Flour and Wheat Powder / Flour and issued impugned Valuation Ruling with notional, speculative and unjustifiable customs values of the subject items. In this regard, paragraph (06) of the impugned Valuation Ruling reflecting customs values of the subject items is reproduced as under:

S.No.	Description	Origin	PCT	Proposed PCT for WeBOC	Customs Values C&F (US\$/KG) (Net Content)
(1)	(2)	(3)	(4)	(5)	(6)
1	Snacks/Chips made up of Corn Powder/Flour and Wheat Powder/Flour Brand: EI Sabor (All flavors)	All Origins	1904.1090 1904.9000 1905.9000	1904.1090.1000 1904.9000.1000 1905.9000.1000	4.52
2	Snacks/Chips made up of Corn Powder/Flour and Wheat Powder/Flour Brand: Smart (All flavors)	All Origins	1904.1090 1904.9000 1905.9000	1904.1090.1100 1904.9000.1100 1905.9000.1100	6.75
3	Snacks/Chips made up of Corn Powder/Flour and Wheat Powder/Flour Brand: Mr. Krisps (All flavors)	All Origins	1904.1090 1904.9000 1905.9000	1904.1090.1200 1904.9000.1200 1905.9000.1200	6.27
4	Snacks/Chips made up of Corn Powder/Flour and Wheat Powder/Flour Brand: Miaow Miaow (All flavors)	All Origins	1904.1090 1904.9000 1905.9000	1904.1090.1300 1904.9000.1300 1905.9000.1300	4.69
5	Snacks/Chips made up of Corn Powder/Flour and Wheat Powder/Flour All Other Brand (All Flavors)	All Origins	1904.1090 1904.9000 1905.9000	1904.1090.1400 1904.9000.1400 1905.9000.1400	5.55

4) That it is pertinent to mention here that under the provisions of sub-Section (7)(a) of Section 25 of the Customs Act, 1969, the customs values of the imported goods are to be determined subject to deductions, amongst others, such as (i) Commission usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with the sales in Pakistan of imported goods of same class / kind; (ii) and the usual costs of transport and insurance and associated costs incurred within Pakistan.

5) That before laying challenge to the sequential method purported to have been applied by the learned Director to unlawfully travel to Section 25(7) of the Customs Act, 1969, it may be mentioned at the very outset that there are crucial considerations (which shall be mentioned hereinafter) involved between the import leading to the availability of the commodity in the market which considerations the office of the Director, Directorate General of Customs Valuation, Karachi, is obliged to take into account, by virtue of Section 25(7)(a) of the Act, while calculating the customs value of the imported goods; though, the office of the Director, prima facie, appears to have ignored such factors while

determining the customs values. Nevertheless, such imminent factors involved in the import leading to the availability of the subject goods in the market, are as under:

The transportation / conveyance charges incurred by the trader / sole distributor of a particular commodity;

- i) Since the commodities are normally sold on Departmental Stores / Chain Stores, yearly / monthly shelf rents are paid by the traders / sole distributor of the imported goods;
- ii) Prices offered by the traders / importers depend upon payment terms & sale volumes;
- iii) Cost incurred by the sole distributor / trader in promotions;
- iv) Branch support / opening support charges of various chains / branches of different departmental stores.

6) That it is pertinent to mention that goods of various brands are imported by our clients, however, as far as 'Miaow Miaow' Food Products are concerned, our client namely M/s. Global Business Enterprises (NTN-2091390) enjoys sole distributorship of the same in Pakistan since 2011 through various letter of Appointments issued by M/s. Miaow Miaow Food Products SDN. BHD.

7) That perusal of the impugned Valuation Ruling reveals that the same has been issued under sub-Section (7) of section 25 of the Customs Act, 1969. The Valuation department has lethargically ignored the sequential method of valuation in order to arrive at a true transactional value of the subject commodity. It is stated in paragraph (05) of the impugned Valuation Ruling that transaction value method was found inapplicable because no substantial documents were provided by the stake-holders to prove their declared values were true transactional values whereas all the relevant documents including bank contracts, invoices of imports, websites / email addresses of foreign manufacturers, sales tax invoices during the last four months were provided to the office of the Director who did not take the same into consideration. It is also stated in the paragraph that different values were declared by different importers for same product according to different origins. Such statement of the department appears to be misconceived on the one hand and stereotype on the other, in view of the fact that the subject goods, amongst others, in relation to which the impugned Valuation Ruling is issued involves such brands as discussed earlier such as 'Miaow Miaow' which is being exclusively imported by our client M/s. Global Business Enterprises, therefore, there arises no question of different values for such same product. Likewise 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 declaration, variety and specifications. It is relevant to add here that variation in the customs values of under-reference commodities and generally all imported goods is on account of different brands, constituents, origin and contractual obligations between the buyer and seller. As such valuation methods provided under Sections 25(1), 25(5) & 25(6) of the Customs Act, 1969, could not be ignored on the basis of clichéd reasons. Nonetheless, had the department properly taken into consideration also the factors involved subsequent to importation of the products, the department would not have determined such notional and unsubstantiated customs values of the subject goods.

8) That it is relevant to add here that our clients are regular importers of the snacks / chips and that snacks / chips, inter-alia, of 'El Sabor' were being invariably assessed by the department at customs values such as US\$ 0.95/Kg whereas Snacks / Chips of 'Miaow Miaow' brand were being invariably assessed at US\$ 2.8/Kg.

9) That the perusal of the instant Valuation Ruling reveals that customs values of Snacks / Chips made of Corn Powder / Flour and Wheat Powder / Flour have been determined by office of the Director, Directorate General of Customs Valuation, Karachi. In this regard, it is essential to take into consideration firstly the percentage of Corn Powder / Flour or Wheat Powder / Flour involved in the preparation of Snacks / Chips made there from and secondly, the customs values of sweet corn, cereal foods made up of Corn, to examine the notional values of Snacks / Chips (involving a minor percentage



of Corn / Wheat Powder) in juxtaposition with customs values of Sweet Corn or other derivatives of corn:

- a) That snacks / chips of various brands imported by our client involve Corn / Corn Starch / Corn Grits ranging from 12.80% to 60.50% whereas Wheat Flour used in such products ranges from 0% to 32.80% of the total eatables.
 - b) That the while customs values of Snacks / Chips of various brands have been arbitrarily fixed at US\$ 4.52/Kg to US\$ 6.75/Kg through the impugned valuation ruling which involve a lesser quantity of Corn Powder / Flour or Wheat Powder / Flour as compared to other ingredients involved, the customs values of Sweet Corn of various reputed brands have only been determined at US\$ 0.67/Kg to US\$ 1.05/Kg vide Valuation Ruling No. 965 / 2016 dated 11.11.2016. Furthermore, cereal foods of Torto brand (Malaysian origin) have been determined as US\$ 2.50/Kg; Cereal foods of Weetabix brand (UK / USA origin) at US\$ 2.16/ Kg; Cereal foods of Kellogg's brand (UK / USA origin) US\$ 3.50/Kg vide Valuation Ruling No. 818 / 2016 dated 03.03.2016. Pop corns of various brands should also be taken into account: customs values of Pop corns of various brands of US / UK / Spain and Europe origin have been determined, vide Valuation Ruling No. 1332 / 2018 dated 28.09.2018, which range from US\$ 2.40 per Kg to US\$ 2.78 per Kg. In addition to the above, it is admitted fact beyond doubt that Snacks / Chips made up of potato are more expensive than Snacks / Chips made up of Corn Powder / Wheat Flour etc. Potato chips of US brands are being normally imported as per customs values determined vide Valuation Ruling No. 1115 / 2017 dated 29.03.2017. Further, corn starch itself is being assessed at US\$ 0.34/Kg.
 - c) That from the perusal of the paragraphs (a) & (b) above as well as legal position narrated in the foregoing paragraphs, it prima facie appears that impugned Valuation Ruling determining customs values of Snacks / Chips of Corn Powder / Flour and Wheat Powder / Flour, is not only illegal but also wrong, unsubstantiated and notional in material particulars. Therefore, the impugned Valuation Ruling is liable to be set aside.
- 10) That notwithstanding the fact that sales tax invoices issued by our clients were also submitted before the Director, Directorate General of Customs Valuation, Karachi, which were not taken into consideration, the same are also annexed herewith for kind perusal of this authority. The prices reflected in the Sales Tax Invoices at which the subject eatables have been sold by our clients include all the expenses incurred (reference may be had to paragraph 5 above) which ought to have been taken into consideration by the Valuation department. Sales Tax Invoices submitted herein truly reflect the values at which the subject eatables are sold by our clients.
- 11) That perusal of the impugned Valuation Ruling reveals that the same has been issued under sub-Section (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 eatables nor the record of greatest aggregate units sold at unit price to reach at a fair account of customs value of Snacks / Chips of each brand. 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.
- 12) That the valuation methods provided under the provisions of Section 25 of the Customs Act, 1969, 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 rigour."

13) That in addition to above, it is pertinent to mention that for redetermination 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.

14) That due to detailed reasons stated supra, our clients shall be seriously prejudiced should the impugned Valuation Ruling be not set-aside or revised taking into consideration material facts stated above, therefore, following grounds, inter-alia, are being offered in support of the present revision petition preferred under Section 25D of the Customs Act, 1969:

4. **GROUND**

A. That the customs values of Snacks / Chips made of Corn Powder / Flour and Wheat Powder / Flour pre-determined vide impugned Valuation Ruling No. 1511 / 2021 dated 08.02.2021, are highly prejudicial, notional, irrational having adverse impact on the legitimate business of our clients. Therefore, the impugned Valuation Ruling is liable to be set-aside.

B. That perusal of paragraph (02) of impugned Valuation Ruling reveals that it is the case of the Valuation department that vast variations w.r.t. values in exporting countries vis-a-vis import values in Pakistan were observed. It is respectfully submitted here that values of items in exporting countries cannot abruptly be taken into consideration without accounting for the local taxes and profits at each level of sale in the country of exportation. The transactional values of the importers otherwise justifiable through valid bank contracts and other relevant documents could not be discarded on the basis of mere values of the items in country of exportation.

C. That the instant Valuation Ruling has been issued under Section 25(7) of the Customs Act, 1969, through market enquiries purportedly conducted by the Valuation Directorate. Details of such market enquiries reported to have been conducted by the Valuation Department have neither been confronted with our clients nor have such details been disclosed to our clients.

D. That in addition to what has been contended at paragraph (B) & (C) of the grounds mentioned above, it may also be mentioned that as (i) the details of the so-called variations in values of the subject items in the exporting country vis-a-vis the same in the Pakistan and (ii) the details of market enquiry have not been disclosed / confronted with our client, the impugned Valuation Ruling does not qualify to be a speaking Valuation Order as required by ratio decided laid down by the Hon'ble Superior Courts as well as Section 24-A of the General Clauses Act, 1897. Therefore, the impugned Valuation Ruling is liable to be dismissed on this ground alone.

E. That since the provisions of sub-Section (7)(a) of Section 25 of the Customs Act, 1969, provide for determination of customs value of under-reference eatables subject to deductions, amongst others, such as (i) Commission usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with the sales in Pakistan of imported goods of same class / kind; (ii) and the usual costs of transport and insurance and associated costs incurred within Pakistan. Therefore, the impugned Valuation Ruling which has not taken into account the transportation / conveyance charges incurred by our clients being the traders / sole distributors of a particular commodity, yearly / monthly shelf rents are paid by the traders / sole distributor of the imported goods and other considerations mentioned in detail vide paragraph (05) above, the impugned Valuation Ruling is liable to be annulled.

F. That in addition to the above, it may be relevant to mention here from the perusal of the provisions of Section 25 (7) of the Customs Act, 1969, read with Rule 119 of the Customs Rules, 2001, one may reasonably infer that no sanctity could be attached to the findings under Section 25(7) of the Customs Act, 1969, unless the deductions embodied under Section 25(7) (a) have been properly

accounted for, which in the instant case are missing. Therefore, the impugned Valuation Ruling is liable to be struck down.

G. That Snacks / Chips of various brands imported by our clients involve Corn / Corn Starch / Corn grits ranging from 12.80% to 60.50% whereas Wheat Flour used in such products ranges from 0% to 32.80% of the respective eatables whereas when the customs values of subject eatables are examined in juxtaposition with customs values of sweet corn / pop corn / cereal foods made of corn or even of the potato chips determined vide various Valuation Rulings, it is evident that such exorbitant, extensive and excessive customs values of subject eatables are, by no stretch of imagination, justified.

H. That it is stated in paragraph (05) of the impugned Valuation Ruling that transaction value method was found inapplicable because no substantial documents were provided by the stake-holders to prove their declared values were true transactional values. All the relevant documents including bank contracts, invoices of imports, websites / email addresses of foreign manufacturers, sales tax invoices during the last four (04) months were provided to the office of the Director who did not take the same into consideration.

I. That it is also stated in the paragraph (06) of the impugned Valuation Ruling that different values were declared by different importers for same product according to different origins. Such statement of the department appears to be misconceived on the one hand and stereotype on the other, in view of the fact that the subject goods, amongst others, in relation to which the impugned Valuation Ruling is issued involves such brands as discussed earlier such as 'Miaow Miaow' which is being exclusively imported by our client M/s. Global Business Enterprises, therefore, there arises no question of different values for such same product.

J. 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. The impugned Valuation Ruling is liable to be set-aside on this ground alone. Needless to mention that unit price of single piece in the local market is always higher than the price of such items sold in greatest aggregate quantity.

K. 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.

L. 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.

M. Further arguments may be urged, with the permission of the Authority, at the time of hearing of this application.



5. **PRAYER**

In consideration of what has been deliberated at length supra, it is humbly prayed that the Valuation Ruling No. 1511 / 2021 dated 08.02.2021, exhibiting notional, irrational, exorbitant and unjustifiable customs values may be set aside, or in the alternative, a fresh Valuation Ruling may please be issued for determination of customs values in accordance with law. Prayer is made in the interest of justice.

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:-

BREIF FACTS OF THECASE

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 Snacks/Chips Made of Corn Powder /Flour and Wheat Powder/Flour under Section 25-A of the Customs Act, 1969 value of Snacks made up corn and valuation Ruling No.1511/2021 issued on 08-02-2021 as per law.

PARAWISE COMMENTS

Para-1 *Need no comments being related to introduction of the importer.*

Para-2&3 *This Directorate General was requested to the importers to submit the required documents but no one provided the same i.e. copies of contact, LCs opened during last three months and Sales Tax Invoices. 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 Snacks made up corn. 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-4&5 *In order to ensure proper assessment of goods, the values of Snacks made up corn 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 determine Customs Values on Genuine ground.*

Para-6&7 *Denied. In response to the under reference para it is submitted that the Valuation Ruling No.1511/2021 issued on 08-02-2021, has correctly and lawfully been issued in terms of Section 25-A of the Customs Act, 1969. This Directorate General has requested each importer to bring the aforementioned documents along with him and furnish the same at the time of the meeting. On the scheduled meeting a large number of importers appeared and attended it, however none of them submitted the Sales Tax Invoices showing selling price in the local market. It was informed to them that although there might be decline in the price in the international market but to confirm the same them same and see whether the benefit of the same is transferred to the end consumer, Sales Tax Invoices were required to judge its effect on common man as Customs Act, 1969, provides method under Section 25(7) of the Customs Act, 1969, to conduct market inquiry and checking market price through bills is an authentic tool. The participants however, not submitted the Sales Tax Invoices & other required documents.*

Para-8 *The Valuation Ruling No. 1511/2021 dated 08-02-2021 of imported of Snacks made up corn 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-9&10 Denied. This Directorate General was requested each importer to bring the aforementioned documents along with him and furnish the same at the time of the meeting. On the scheduled meeting a large number of importers appeared and attended it, however none of them submitted the Sales Tax Invoices and other documents bills showing selling price in the local market. It was informed to them that although there might be decline in the price in the international market but to confirm the same them same and see whether the benefit of the same is transferred to the end consumer, Sales Tax Invoices were required to judge its effect on common man as Customs Act, 1969, provides method under Section 25(7) of the Customs Act, 1969, to conduct market inquiry and checking market price through Sales Tax Invoices are an authentic tool. The participants not submitted the required documents and Sales Tax Invoices s to prove their contention that the difference in prices has been passed on to the consumers and the prices have gone down in the local market also.

Para-11&12 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 13-11-2020 with stakeholders. The impugned Valuation Ruling has, thus, been issued by the competent authority in 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. Market enquiry conducted under sub-Section (7) of 25 of the Act ibid and Customs Values of Snacks/Chips Made if Corn Powder /Flour and Wheat Powder/Flour determined under Section (7) of Section 25 of the Customs Act, 1969 as per law.~~

Para-13&14 Denied and vehemently contested. This is merely a false statement, based on ignorance of law and procedure. The Valuation Ruling 1511/2021 is determined in accordance of the provisions of Section 25A read with Section 25 of the Customs Act, 1969. In fact by asking the importers to submit Sales Invoices the department gave a golden opportunity to them to present documentary evidence of correct market prices. This tantamount to market inquiry "conducted by the importers themselves". But by failing to submit the same, the petitioner actually proved the claim of the Department that price of Snacks/Chips Made if Corn Powder /Flour and Wheat Powder/Flour had not gone down in the local market. It will be noteworthy to place on record that determination of Customs values through market inquiry is quite in accordance with law.

GROUND

Para A to C 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.1511/2021 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 13-11-2020 with stakeholders. Market enquiry conducted under sub-Section (7) of 25 of the Act ibid and Customs Values of Snacks/Chips Made if Corn Powder /Flour and Wheat Powder/Flour determined under Section (7) of Section 25 of the Customs Act, 1969 as per law.

Para D to F 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 and usual transport and insurance and other experience also work out in the work back matter. Market inquiries conducted 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 is 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-G Needs no comments.

Para-H Denied and vehemently contested. This is merely a false statement, based on ignorance of law and procedure. Some importers appeared for meeting but no one submitted the required documents Sales Tax Invoices, contracts, invoices of imports, etc.

Para I&J 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 Snacks/Chips Made if Corn Powder /Flour and Wheat Powder/Flour 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 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 K In order to ensure proper assessment of goods, the values of Snacks/Chips Made if Corn Powder /Flour and Wheat Powder/Flour 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 determine Customs Values on Genuine ground to save the national exchequer.

Para L The Valuation Ruling No. 1510/2021 dated 08-02-2021 of imported of Snacks/Chips Made if Corn Powder /Flour and Wheat Powder/Flour 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 M 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 N 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. 1511/2021 dated 08-02-2021 of imported of Snacks/Chips Made if Corn Powder /Flour and Wheat Powder/Flour 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.

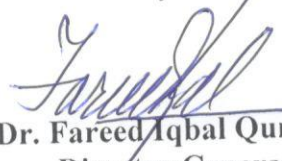
c) *It is therefore prayed in the light of above explained position that the ruling may be allowed to hold in field in the interest of justice and to safeguard the Government exchequer.*

ORDER

3. Hearing in this case was conducted on 15-09-2021 on which dates the counsel for the petitioners stated that inspite of furnishing the requisite documentation viz. import invoices, copies of their contracts / LCs opened, related copies of Sales Tax Invoices etc during the last three months, the department discarded such documentary evidence, in support of their true transaction values, and proceeded to conduct a market inquiry, in term of Section 25(7) of the Customs Act, 1969, to arrive at Customs values of Snacks / Chips made up of Corn Powder / Flour and Wheat Powder / Flour. Consequently, the impugned valuation ruling (VR) notified a notional, speculative and unjustifiable Customs values of the subject items. It was also observed that the values of items in exporting countries cannot abruptly be taken into consideration without accounting for the local taxes and profits at each level of sale in the country of exportation. The counsel further stated that in the para-6 of the impugned valuation ruling, it was stated that different values were declared by different importers for same product according to different origins, which in the context of his client, is un-warranted as the product i.e. 'Miaow Miaow' is being exclusively imported by his client M/s Global Business Enterprises.

4. The departmental representative (DR) submitted that the impugned VR No.1511/2021 dated 08-02-2021 was lawfully issued by the Appropriate Officer, in exercise of the statutory powers provided for under Section 25A of the Customs Act, 1969. The department's direction for submission of various documents i.e., sales tax invoices was in fact an opportunity for the importers to present documentary evidence of correct market prices. However, the failure of the applicants to submit the same, substantiated the department's contention that prices of Snacks/Chips made of Corn Powder /Flour and Wheat Powder/Flour that the values determined, through market inquiry, was in accordance with law.

5. After listening to the detailed discussions/ arguments of petitioners and respondents and perusal of the case record, it is evident that in-adequate consultation was made with the stakeholders in determining the impugned Valuation Ruling. The documentation submitted by the petitioners during the hearing is indicative, that the value, determined is not reflective of the market position, and needs to be revisited especially when looked at in juxtaposition with the existing determined values of other corn products, specifically Popcorn, Corn-based Cereals etc. In these circumstances, I am left with no option but to set aside Valuation Ruling No.1511/2021 dated 08-02-2021 and advise the Director, Customs Valuation (Karachi), to issue fresh Valuation Ruling within 30 days after giving a fair opportunity of hearing to the petitioners / stakeholders.


(Dr. Fareed Iqbal Qureshi)
Director General

Registered copy to:

M/s. Global Business Enterprises,
M/s. Samrah Enterprises,
M/s. Trading House,
M/s. Khalil Sons,
C/o Franklin Law Associates: 1st Floor, Plot No. 4C, Lane No.3, Al-Murtaza Commercial,
DHA, Phase-VIII, Karachi.

Copy for information to: -

- 1) The Member Customs (Policy/Operations), Federal Board of Revenue, Islamabad.
- 2) The Director General, Intelligence and Investigation (Customs)-Federal Board of Revenue, Islamabad.
- 3) The Director General (Reforms & Automation), Custom House, Karachi.
- 4) The Director General, PCA& Internal Audit, Custom House, Karachi.
- 5) The Director General, IOCO, Custom House, Karachi.
- 6) The Director General, Transit Trade, Custom House, Karachi.
- 7) The Chief Collector of Customs (North), Custom House, Islamabad.
- 8) The Chief Collector of Customs Enforcement (Central), Custom House, Lahore.
- 9) The Chief Collector of Customs Appraisement, (Central), Custom House, Lahore.
- 10) The Chief Collector of Customs, Baluchistan, Custom House, Quetta.
- 11) The Chief Collector of Customs, Khyber Pakhtunkhwa, Custom House, Peshawar.
- 12) The Chief Collector of Customs, Appraisement (South), Custom House, Karachi.
- 13) The Chief Collector of Customs, Enforcement (South), Custom House, Karachi.
- 14) The Directors, Intelligence & Investigation, Karachi / Lahore / Islamabad/ Quetta/ Peshawar/ Faisalabad.
- 15) The Director, Directorate of Customs Valuation, Lahore.
- 16) The Collector of Customs, Collectorate of Customs, (Appraisement - West / Appraisement -East/ Appraisement, Port Muhammad Bin Qasim / Enforcement / JIAP), Karachi / Hyderabad / (Appraisement / Enforcement),Quetta / Gwadar / (Appraisement / Enforcement /AIIA),Lahore/ Appraisement, Faisalabad / Appraisement, Sambrial (Sialkot)/ Enforcement, Multan / Islamabad/ Gilgit -Baltistan / (Appraisement / Enforcement), Peshawar / Enforcement, Dera Ismail Khan/ Exports (Port Muhammad Bin Qasim/ Custom House), Karachi.
- 17) The Secretary (Valuation & Audit), Federal Board of Revenue, Islamabad.
- 18) Deputy Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in One Customs & WEBOC database system.
- 19) Deputy Director (Review), Customs Valuation, Karachi
- 20) All Deputy Directors/Assistant Directors, Customs Valuation, Karachi
- 21) Guard File.

