

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACH

File No. DG (V) Val.Rev/28/2021/783.

Dated: 11th October, 2021

**Order in Revision No. 34 /2021 under Section 25-D of the Customs Act, 1969,  
against Valuation Ruling No. 1537/2021 Dated: 09-07-2021**

M/s. AAD Enterprises  
M/s Pentagon International

.....

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

.....

RESPONDENT

Date(s) of hearing

21-09-2021

For the Petitioners

Mr. M. Dilawar for M/s AAD Ent.  
Mr. Zafar Iqbal for M/s AAD Ent.  
Mr. Ryan Zia Advocate for M/s Pentagon Int.

For the Respondent

Mr. Iqbal Ali, Principal Appraiser

These revision petitions were filed under Section 25-D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No.1537/2021 dated 09.07.2021, issued under Section 25-A of the Customs Act, 1969. The grounds on the basis of which the review jurisdiction has been invited are inter alia, are as follows:

**M/s AAD Enterprises**

2. "Being highly aggrieved and extremely dissatisfied with the impugned valuation ruling No.1537/2021 dated 09-07-2021 for Mosquito Coils (Annex A) issued by the Director valuation, Directorate of valuation department which is arbitrary, incorrect, unjust and illegal, the Petitioner being the affected person who is the importer of goods i.e. Mosquito Coils prefers to file this revision petition under Section 25-D of the Custom Act, before the Honorable Authority and pray that honorable authority would be pleased to call for the records and proceedings of the learned Respondent in exercise of revision powers under Section 25-D and set aside the impugned valuation ruling/determination of customs value after examining the legality and correctness of the same on the following facts and grounds namely.

3. **FACTS**

1) That the petitioner M/s. AAD Enterprises registered and regular importer of Mosquito Coil Brand 123 & Double A+D since decades and imported as per transaction value in terms of Section 25(1) of the Customs Act, 1969. The appellant enjoys good reputation and having past clean record law abiding and tax Compliance Company who believes in fair practice of business.

2) That Respondent1 Director valuation has issued the impugned valuation ruling which is an arbitrary on presumptive/hypothetical value and issued in hurry totally ignoring the standard of transaction value, in violation of section 25 of the custom Act 1969 and custom rules 2001.

- 3) That the most crucial thing which has been ignored while determination of impugned valuation is that increase in prices of general commodity and essential in the present circumstances will increase the prices to general consumers and poor persons who shall be the worst sufferer and this is against the policy of government and an extra burden to common man and poor people and hence petitioner is aggrieved by the action of respondent.
- 4) That as regards the para 4 of the impugned Valuation ruling, it is a crucial disclosure that invoices are manipulated which is again incorrect as in presence of valid valuation ruling value cannot be suppressed hence all contents of para 4 are in correct and irrelevant and don't make a valid reason for revision of valuation ruling and further more it is also incorrect that transactional value method found inapplicable whereas on the contrary custom assessment department is releasing the goods declarations by application of valuation ruling without any difficulty or complain from the trade.
- 5) Without prejudice to the above, it is submitted that contents of paragraphs also not containing any valuable proposal / input/reasons as put forth by concerned Collectorate for issuance / revision of valuation ruling hence these facts proves/render the process of issuance of valuation ruling outright illegal and un lawful as no input has been incorporated in the impugned valuation ruling.
- 6) That impugned valuation has been issued without examining the facts and documents warranting any change for increase neither huge decline/downward trend in the prices in international market were noted but prices of this product were stable hence enhancing the valuation is not supported by evidence hence valuation ruling is not justified and shall be called back as non speaking order.
- 7) That custom data of past 90 day's import (Notified Rule No 107(a) of the Customs Rule 2001 which strengthens the factual prices of the commodity and enhancement is without any justification, logic & reason.
- 8) That the Importer reserves his rights to submit evidences and further record at the time of personal hearing so called for:-

4. **GROUND**

- A. That the impugned valuation ruling 1537/2021 dated 09-07-2021 has been issued without considering the fact and evidences hence is not a speaking order and therefore completely mala fide, arbitrary without jurisdiction and of no legal effect.
- B. The methodology adopted in the impugned valuation ruling is contrary to the law and provision of Section 25 and also against the guidelines given in valuation rules and judgments so issued by honorable high court in similar cases and therefore having following defects and illegalities
- i) The respondent has not disclosed that what resources to verify genuineness of invoices were required which were found absent and not available with the respondent and why any effort has not been made to make them available to exercise proper jurisdiction of determination under Section 25 (1) read with Section 25 (A) of the Custom Act 1969.
- ii) That the Respondent has given a vogue reason of non-determination of value in sequential order and under proper method when it is apparent on customs record / data that transactional value of identical goods sold for export to Pakistan was available with the Respondent which are lesser than value so fixed in impugned valuation ruling.
- C. That it is an admitted fact available on record and even in the customs records that prices of subject goods in the international markets have shown stability or slight decline but impugned valuation has been fixed on higher side ignoring all the facts which proves that it has been issued in hurry and without application of mind and using sources available to department.
- D. That it is established principle of interpretation of the law that plain language of the law is to be applied. A bare perusal of the Section 25 shows that it is specially provided in sub-Section (1) of Section 25 that the custom value of the imported goods subject to provision of Sections / Rules shall be the transactional value and method 1 to 4 are primary method and mandatory to be adopted and if they





cannot applied then secondary method are to be applied but when custom department regularly releasing the Goods by applying the in force valuation ruling then enhancing the value without any support is not acceptable and without any law.

E. Those petitioners is holding a good reputation and strictly follow rules and all laws of country and all transactions are transparent and through banking channel and suddenly increasing the value of product will harm the importer and price increase to general consumers.

F. No working, the method of market enquiry calculation have been shown vide therein which is against the parameters as laid down vide leading Judgement of Apex Honorable High Court 2014 PTD 539 (Sadia Jabar v/s Federation of Pakistan).

G. That petitioner reserved the right to submit further grounds and any evidence in its support at the time of hearing.

5. **PRAYER**

It is prayed that this authority in exercise of jurisdiction so given in Section 25-D may kindly be pleased to:

- a. In the interest of justice Set-aside or modify the impugned valuation ruling 1537/2021 dated 09-07-2021 and declare the impugned determined values being illegal, arbitrary and invalid and ultra virus in the eye of law.
- b. The present consignments are lying at port incurring heavy port demurrage / shipping line container detention charges, therefore said Valuation Ruling No. 1537/2021 dated 09-07-2021 under Section 25-A Custom Act 1969 not sustainable / maintainable, we request you to kindly same may be set aside on the urgent basis.
- c. Grant any other relief deemed fit in the circumstances."

**M/s Pentagon International**



"The above named trader M/s Pentagon International along with several others were importing mosquito Coils and aerosol spray science last several years, and customs authority was releasing/ assessing on the basis of Valuation Ruling No. 963/2016 dated 11/11/2016 @ US\$ 0.80/kg to @US\$ 1.25/kg.

Suddenly the Director valuation issued of fresh valuation ruling No.1537/2021 Dated 9-07-2021 on the basis of various representations filed by the traders requesting to determined of fresh valuation ruling due to reason that the old valuation ruling is higher side. The traders requested in their applications that when old valuation ruling was determine in the year 2016 the dollar rate was @RS. 90/ US\$ and now the dollar rate is increased @RS. 156/US\$. The main plea mentioned in the new valuation ruling is that the Director analysis passed clearance data.. It is pertinent to mention here that higher data cannot be established by the stuff of director valuation. The Director valuation has not provided any evidence on the basis of which they increased the values of the said product. Another base of determination value mentioned in the body of valuation ruling is prices through internet which is another fault on the part of director valuation due to reason the higher courts directed in number of orders that internet prices cannot be consider a tool for assessment or determine values of imported goods.

Now I am coming on the international rules and requirements for determine the values for assessment imported goods which is as under:

**HISTORY OF SECTION 25 CUSTOM ACT**

- a) As originally enacted Section 25 had provided that the customs value of imported goods was to be the normal price of the goods. The normal price was a legal construct. Subsection (1) provided that it was the price that the goods would fetch on the date mentioned in section 25 on a sale in open market between a buyer and a seller independent of each other. The subsequent subsection then set forth in



detail the rules by which the normal price was to be determined. The date mentioned in section 30 was the date on which the bill of entry for home consumption or ex-bonding (as the case may be) for the goods was filed. It will be seen that the actual price of the goods was not, as such determinative of the normal price, since (e.g.) the date specified in section 30 was later (perhaps even much later) than the date on which the contract between the foreign seller and Pakistani buyer came about. In principle therefore, the normal price could be higher or lower than the actual price of the goods. It is also important to keep in mind that since the normal price was a statutory construct, it was to be determined by - the appropriate officer of customs in the manner specified in Section 25. In practice, the Federal Board of Revenue, through various Customs General Orders and other instructions directed for assessment actual price relevant at the time of contract between buyer and sealer.

b) The advent of the WTO system completely upended the previous position. It will be recalled that the Uruguay round, which culminated in the World Trade Organization, resulted in the member states entering into a whole series of agreements relating to different aspects of international trade. One such agreement was the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (herein after the Valuation Agreement). This agreement set forth what was (at least for Pakistan) an entirely new system of how the customs value of imported goods was to be determined. The concept of normal price was abolished, and a different conceptual framework introduced in its stead. Although the WTO system came into effect from 01.01.1995, developing countries like Pakistan were given five years to bring their laws in conformity with the Valuation Agreement and accordingly the new system was enforced in this Country with effect from 01.01.2000. The Valuation Agreement can for present purposes be regarded as falling into two parts. One part comprises of the main articles which contain the substantive rules for determining the customs value of goods. The second part comprises of interpretative notes to the various articles, contained in an annex to the agreement. Of course, the Valuation Agreement has to be construed as a whole, and Article 14 expressly provides that the notes in Annex I form an integral part of the Agreement and that the Articles of this Agreement are to be read and applied in conjunction with their respective notes. The System enforced in Pakistan since 01.01.2000 in the main reflects this divide. Section 25 was substituted by its entirety and its various provisions primarily embody the main articles of the Valuation agreement. Rules framed by the Central (now Federal) Board of Revenue (FBR) primarily contain in what is now Chapter IX of the Customs Rules, 2001 (the rules) the interpretative notes of Annex I of the Valuation Agreement. (Henceforth unless otherwise expressly stated, all references to Section 25 are to its post-WTO form).

1-. By the Finance Act, 2007 (i.e. in the very next year after the introduction of Section 25A), certain amendments were made to Section 25 and section 25A was substituted entirely.

2-. **Coming on the point of impugned Valuation Ruling No.1537/2021**

3-. The calling of Sales Tax invoices is not justification and it is not under the powers of Directorate of Valuation due to reason the submission and audit of Sales Tax Returns is covered under the preview of inland revenue which is an independent department.

4-. Other documents which are called by the Custom Department were produced by the Stake Holders during the hearings. The Valuation determined is very higher side the required documents are hereby annexed.

	GOODS DECLARATION No.	INVOICE No.& DATE	L/C NUMBER &DATE	VALUE AS PER VR 1460	DECLARED VALUE
1	KAPE-HC-4353- 06-07-2021 M/s.PENTAGON INTERNATIONAL	21F01S004 dated APRIL 16, 2021	WITHOUT LC	0.80/KG	0.80/KG

The trader imported dozens of consignments in last 6 years.



*In the light of above documents and many more import evidences confirms that my clients never indulged in under invoicing. All the previous imports of my clients was on the basis of proper documentations assessed/ cleared by customs.*

*Now I want to define parameters published under custom rules in SRO 450/2001 AS UNDER.*

*Rights of importer.-(1) Whenever the appropriate officer is unable to accept the transaction value without further inquiry, he shall give the importer an opportunity to supply such further detailed information as may be necessary to enable him to examine the circumstances surrounding the sale. In this context, the appropriate officer of customs shall examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although "related persons" as defined under clause (g) of rule 2 of chapter- I, buy from and sell to each other as if they were not related, this would demonstrate that the price had been settled in a manner consistent with the normal pricing practice of the concerned industry or with the way the seller settles prices for sales to buyers who are not related to him, this would demonstrate that the price has not been influenced by the relationship.*

*(2) Where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period of time, for example, on an annual basis, in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.*

#### SUB-CHAPTER III

#### PRIMARY METHOD OF VALUATION

*113. Price actually paid or payable.-(1) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. The payment need not necessarily take the form of a transfer of money. It may be made by way of letter of credit or negotiable instruments, or by cash or credit or partly by cash and partly by credit and may be made directly or indirectly. As example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owned by the seller.*

*(2) Activities undertaken by the buyer on his own account, other than those for which an adjustment is provided in sub-section (2) of section 25 of the Act are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the value of imported goods.*

#### PRAYER

*14. The impugned Valuation Ruling may kindly be set aside direct the Director Valuation to re-determine the Valuation Ruling by getting on board all stake holders.*

*15. In view of above factual position, and documentary evidence provided herein above honorable Director General may be pleased.*

- a) Set aside Valuation Ruling No. 1537/2021 which issued ignoring method 1 to 8 section 25 of the custom act 1969 and documentary evidences which also available in WeBOC system assessable by directorate of valuation,*
- b) Direct the directorate valuation to determine a fresh Valuation Ruling which must reflect actual prices of assorted types of the product.*



*Direct / Clearance Collectorate to clear appellant's fresh consignments under section 81 of the Customs Act, 1969 by securing Pay Order / Bank Guarantee of differential amount of duty and taxes till final decision of this revision appeal.*

*Direct the respondents that they are on liberty to verify previous imports from concern suppliers."*

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

#### FACTS OF THE CASE

*Customs values of aforementioned goods were earlier determined through Valuation Ruling No.963/2016 dated 11-11-2016. Several representations were received wherein it was contended that the valuation ruling was very old and needs re-determination as per current market trends. Data analysis, valuation trend both in imports declarations as well as local markets confirmed the contention of stakeholders. Therefore, an exercise was initiated in this Directorate General to determine customs values of subject goods in terms of Section 25A of the Customs Act, 1969. Meetings were held on 16-03-2021 and 12-05-2021, which were attended by different stakeholders. The participants were requested to submit following documents before or during the course of meeting so that customs values could be determined:-*

- i. *Invoices of imports made during last three months showing factual value.*
- ii. *Websites, names and E-mail addresses of known foreign manufacturers of the item in question through which the actual current value can be ascertained.*
- iii. *Copies of contracts made / LCs opened during the last three months showing value of item in question and ;*
- iv. *Copies of Sales Tax paid Invoices issued during last four months showing the difference in price to substantiate that the benefit of difference in price was passed on to the local buyers.*

*During the meetings, there was consensus among the stakeholders that the prices of mosquito coils and insecticide sprays are higher than those given in old valuation ruling. The stakeholders also submitted import declarations and other documents to substantiate their contention. Representatives of the stakeholders reiterated that mosquito coils and insecticide sprays are being imported and cleared on higher values as compared to existing valuation ruling, therefore, the ruling needs to be updated. The documents provided, import data and market prices were analyzed to determine the customs values of subject goods. Accordingly, after exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969, customs values of under reference goods were determined in terms of Section 25(9) of the Customs Act, 1969, for uniform assessment all over the country vide Valuation Ruling No.1537/2021 dated 09-07-2021 accordingly.*

#### PARAWISE COMMENTS

- Para-1 *Need no comments being introduction of the petitioners and their imports. However, it is submitted that transaction value could not be accepted being on lower side and there was found wide variation in declared values of under reference goods. Moreover, the petitioners, on the other hand, did not submit requisite import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant. As per Rule-109 of the Valuation Rules issued under SRO No.450(I)/2001, dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove the of transaction value shifts to the importers / applicants. As such the same is not against the principles of law rather the same is based on factual ground realities.*



Para-2 Denied. It is respectfully submitted that the said Valuation Ruling No.1537 / 2021 dated 09-07-2021, was issued after thorough investigation and all aspects were considered. In this regard it is submitted that this Directorate General has determined the minimum customs values vide Valuation Ruling No.1537 / 2021, dated 09-07-2021 for level playing field and for uniform assessment all over the Customs Stations of the country. Provisions of Section 25(1) to 25(9) were duly exhausted while issuing the said Valuation Ruling. Import data of previous 90 days was analyzed and evaluated and after gathering all information, the customs values have been determined in terms of Section 25(9) of the Customs Act, 1969, vide above referred Valuation Ruling.

Para-3 It is submitted that the Petitioners have simply claimed for the acceptance of their declaration but did not submit any tangible documents in support to justify their declarations disclosing full and accurate details relating to the value of the imported goods as per Para-108 of Customs Rules, 2001. As such the transaction value cannot be accepted in absence of any relevant import evidences and documents etc. in terms of Para-108 of the Customs Rules, 2001. The said Valuation Ruling No.1537/2021 dated 09-07-2021 has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country. However, it is submitted that it is not mandatory for Customs to accept each and every transactional value.

Para-4

It is submitted that para-(2) to (5) clearly states whole the process of issuance of said Valuation Ruling. Moreover, Para-(5) states that the said ruling has been issued in terms of Sub-Section (9) by exhausting and following all the provisions of Section 25, for the purpose of determination of Customs values. The petitioners, on the other hand, did not submit requisite import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant. As per Rule-109 of the Valuation Rules issued under SRO No.450(I)/2001, dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove correctness of transaction value shifts to the importers / applicants. One of the stakeholder submitted their documents, wherein they submitted their Export GD, wherein declared invoice value was US\$ 0.77/Kg, while the same are being sold in the local market ([www.Daraz.com](http://www.Daraz.com)) Rs.129/150 gram =  $(129/150 \times 1000 = \text{Rs.}860/\text{Kg})$ , after work-back calculation, the value worked out @ US\$ 2.31/Kg, but the valuation ruling was issued on the basis of average minimum values of about 30 brands. Therefore, the petitioner's contention that their declared value is correct does not justify for merit consideration. Moreover, the customs values were determined after properly following and exhausting all the valuation methods in sequential manner and giving reasons for rejection therein and finally the values were determined in terms of Section 25(9) of the Customs Act, 1969, for uniform assessment purposes. As such the Respondent has acted in accordance with law and under powers vested upon him under the law.

Para-5

Denied. It is submitted that the impugned Valuation Ruling issued after considering the representation of the petitioners and view point of all the stakeholders. The record of the all previous Valuation Rulings and arguments put forward by the Appellants and Respondents were considered during process of issuance of Valuation Ruling. The Appellants were asked to furnish relevant documents so as to enable that forum to verify the truth and accuracy of their contentions but no corroboratory import documents were provided by any of them. No evidence was placed on record to indicate any deviation from the existing laws / provisions as envisaged in Section 25 read with Section 25-A of the Customs Act, 1969, has been occurred. The petitioners could not substantiate their claim with supporting documents on record. No supporting documents / evidences have





been provided by the Appellants to reject department's views and in support of their contention. As such Valuation Ruling No.1537/ 2021, dated 09-07-2021 has lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969.

Para-6 Denied. It is submitted declared values were examined which were found under-invoiced, therefore, Valuation Ruling No.1537/2021, dated 09-07-2021 was issued. As such, the said Valuation Ruling has correctly and lawfully been issued after fulfilling all the requirements and after extensive exercises in terms of Section 25-A of the Customs Act, 1969.

Para-7 In this regard it is submitted that this Directorate General has determined the minimum customs values in the Valuation Ruling No.1537 / 2021, dated : 09-07-2021 for level playing field and for uniform assessment all over the Customs Stations of the country. Import data of previous 90 days was analyzed and evaluated and after gathering all information on, the Customs values have been determined in terms of Section 25 (9) of the Customs Act, 1969, vide above referred Valuation Ruling. Imports data of the relevant period at or about the same time was analyzed which shows that Low End brands Mosquito Coils were being imported and cleared at values ranging from US\$ 0.90/Kg to US\$ 0.97/Kg, which is higher than the value of Valuation Ruling and the same position in the imports of Aerosol Insecticide Spray. However, valuation trend both in imports declarations as well as local markets confirmed that some of the importers were involved in the under invoicing. It is submitted that this Directorate General convened meeting for the determination of Mosquito Coils and Aerosol Insecticide Spray and all stakeholders were duly invited. As such the Respondent has acted according to law while issuing the impugned valuation ruling.

Para-8 Relates to the time of hearing before the competent authority.



### G R O U N D S

Para-A It is submitted that the contention of the petitioners is based on presumptions as in support of the claim no tangible documents have been submitted as required under Para-(108) of the Customs Rules, 2001. A declaration disclosing full and accurate details relating to the value of imported goods as claimed by the petitioner. Further, customs value have been determined after all the information so gathered was evaluated and analyzed in flexible manner applying the provisions of Section 25(9) of the Customs Act, 1969. Contrary to above, the petitioner has even not disclosed the import data or local selling prices of imported goods neither submitted any import documents supporting their contention.

Para-B Not Agreed. It is submitted that while issuing the Valuation Ruling for any imported commodity under Section 25-A, the Director of Customs Valuation has been empowered to exhaust all the valuation methods i.e. Sub-Sections (1), (5), (6), (7), (8) & (9) of Section 25 of the Customs Act, 1969 sequentially. It is submitted that customs values for issuance of Valuation Rulings are properly determined in terms of Subsections to (9) of Section 25 of the Customs Act, 1969, sequentially. However, the word "whichever is applicable" as used in Sub-Section (1) of Section 25A gives discretion to the competent authority to adopt the method as suited to the determination of value under Section 25-A of the Act, which may or may not be applied in a sequential manner. Moreover, it is submitted that it is not necessary that the transaction value of the petitioners must be accepted by the Customs authorities. According to the provisions of Section 25 of the Customs Act, 1969, the burden of proof that the declared transaction values are fair lies upon the importer who may justify their declarations



through documentary evidences.

Para-C

Denied. It is respectfully submitted that the customs value of under reference goods had been determined strictly in accordance with the provisions of Section 25 of the Customs Act, 1969. Moreover, the petitioners, on the other hand, did not submit the requisite corroboratory import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant. As per Rule-109 of the Valuation Rules issued under S.R.O. No.450(I)/2001, dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove the of transaction value shifts to the importers / applicants. As such the same is not against the principles of laws rather the same is based on factual ground realities.

Para-D

Not Agreed. It is respectfully submitted that said Valuation Ruling has correctly been issued in terms of Section 25A of the Customs Act, 1969 and is based on ground realities of the case. It is further submitted that the said Valuation Ruling No.1537/2021 dated 09-07-2021 was issued after thorough investigation and all aspects were considered. In this regard it is submitted that this Directorate General has determined the minimum customs values vide Valuation Ruling No.1537 / 2021, dated 09-07-2021 for level playing field and for uniform assessment all over the Customs Stations of the country. Provisions of Section 25(1) to 25(9) were duly exhausted while issuing the said Valuation Ruling. Import data of previous 90 days was analyzed and evaluated and after gathering all information, the customs values have been determined in terms of Section 25(9) of the Customs Act, 1969, vide above referred Valuation Ruling.

Para-E&F

Not Agreed. It is submitted that the Petitioners have simply claimed for the acceptance of their declaration but did not submit any tangible documents in support to justify their declarations disclosing full and accurate details relating to the value of the imported goods as per Para-108 of Customs Rules, 2001. As such the transaction value cannot be accepted in absence of any relevant import evidences and documents etc. However, the said Valuation Ruling No.1537/2021, dated 09-07-2021 has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country. It is respectfully submitted that it is not mandatory for Customs to accept each and every transactional value. As such the transaction value cannot be accepted in absence of any relevant import evidences and import documents etc. in terms of Para-108 of the Customs Rules, 2001. It is further submitted that the meetings with the stakeholders were held on 16-03-2021 and 12-05-2021 which were duly attended by the commercial importers as well as official bearers / representatives of the concerned Association. The participants as well as the Association were requested to provide the documents like copies of contracts made / LCs, Sales Tax Paid Invoices to substantiate their contention of decrease in market prices. Yet they did not provide required documents before meeting. Again during the meetings the participants were requested to submit:

- i) Invoices of imports made during last three months showing factual value
- ii) Websites, names and E-mail addresses of known foreign manufacturers of the item in question through which the actual Current value can be ascertained. -
- iii) Copies of contracts made / LCs opened during the last three months showing value of item in question and ;
- iv) Copies of Sales Tax paid Invoices issued during last four months showing the difference in price to substantiate that the benefit of difference in price was passed on to the local buyers.

Instead of furnishing any documentary evidence about downfall in prices in international





*market, they relied upon their rhetoric of decline in international market prices. They were repeatedly requested to furnish sales tax invoices alongwith monthly sales tax return filed with Inland Revenue Department as sales tax invoices are authentic document to ascertain local market price and as the Customs has authority in terms of Sub-Section (11) of Section 25 of the Customs Act, 1969, to call any documents to satisfy themselves about the truthfulness or accuracy of any information or declaration made to Customs for valuation purpose. None of them submitted sales tax invoices alongwith monthly sales tax return, on one excuse or the other. Since the matter was lingering on, it was decided to proceed on merits in the light of available record as well as local market enquiry conducted by the Department.*

Para-G *Relates to the time of hearing before the competent authority.*

### PRAYER

It is respectfully submitted that the customs values of the subject goods were determined as per valuation methods laid down in Section 25 of the Customs Act, 1969 vide Valuation Ruling No.1537 / 2021 dated 09-07-2021. The Respondent have acted lawfully and the Valuation Ruling No.1537 / 2021, dated 09-07-2021 has correctly and justifiably been issued in terms of Section 25-A of the Customs Act, 1969. On the other side the petitioner failed to furnish the requisite documents particularly copies of Sales Tax Paid Invoices issued during the last four months showing the values of suppliers (excluding duty & taxes) to substantiate their contentions. Moreover, at the time of exercise of Section 25A and meetings, the petitioner did not provided requisite import documents to the Respondent in support to justify their contention which are essentially required for determination of customs values.

In view of above, it is respectfully prayed that the said Valuation Ruling may be allowed to hold field for assessment being lawful and valid. Further, transaction value cannot be accepted in absence of any tangible import documents. As such no relief is warranted to be given to the petitioners and assessments are liable to made as per said Valuation Ruling.

In the light of above submissions and factual position, the under reference petition being not maintainable is liable to be dismissed and rejected accordingly.

### ORDER

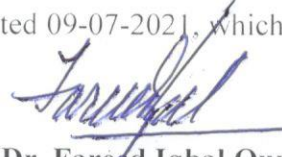
3. Hearing in this case was conducted on 21-09-2021. The main contention of the petitioner M/s AAD Enterprises is that the prices of Mosquito Coils of their brands i.e. "Double A+D" and "123" in the country of origin i.e. China are stable but Valuation Department enhanced the Customs values ignoring all the facts. Further, working of the department was not shared with them. On the other hand, Counsel of M/s Pentagon International contended that the department did not provide any evidence on the basis of which Customs values for mosquito coils were enhanced. The counsel challenged the basis of determination through internet prices. It was also agitated that the calling of Sales Tax invoices is without justification since Directorate of Valuation does not have requisite powers to demand such documents which are within the purview of domestic taxes/Inland Revenue. He stressed that the documents provided during the meeting under Section 25A of the Customs Act, 1969 were not considered and the determined the Customs values were on higher side.



4. The departmental representative (DR) explained in detail the valuation methodologies in terms of Section 25 of the Customs Act, 1969 adopted by them to arrive at the Customs values determined under Section 25A of the ibid Act vide impugned valuation ruling. In support of department's claim, the DR presented various details of the valuation exercise/ working and details of comprehensive market inquiry reports as available on record to support the values determined vide impugned VR.

5. After listening to the detailed discussions/ arguments of petitioners and department 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. It needs to be appreciated that the department's request for documentation is primarily to ascertain, the material credibility of values being declared at import stage as well as to make comparison with the subsequent sale/supply of such imported goods in the domestic market. It is for this reason that the applicant's were given sufficient 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 low declared values. Moreover, except the petitioners, it was observed that imports of subject items are regularly being cleared not only on the customs values determined vide impugned VR, but also at higher values.

6. Therefore, I do not see any reason to interfere with the values determined under Section 25A of the Customs Act, 1969, through Valuation Ruling No.1537/2021 dated 09-07-2021, which accordingly, is upheld.

  
(Dr. Fareed Iqbal Qureshi)  
Director General

Registered Copy to:

M/s. AAD Enterprises,  
Office No.1, MR 1/14, Kashif Chamber, Ram Bharti Street, Jodia Bazar, Karachi.

M/s. Pentagon International,  
C/o Mr. Muhammad Siddiq Zia (Advocate),  
Office No.3, Mezzanine Floor, Jumbo Center, Opp Custom House, 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 / Gawadar / (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.

