

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

File No. DG(V)Val.Rev/24/2022 **1587**

Dated **4th** June, 2022

**Order in Revision No. 51 /2022 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No.1612/2022 Dated: 17-03-2022**

- 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. A.T.S Synthetic (Pvt.) Ltd.

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PETITIONER

VERSUS

Director, Customs Valuation, Karachi

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RESPONDENT

Date(s) of hearing

25-05-2022

For the Petitioners

Mian Anjum Nisar

For the Respondent

Mr. Iqbal Ali, Principal Appraiser

This revision petition was filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No.1612/2022 dated 17.03.2022, issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"2. That the Director Custom Valuation issued new Valuation Ruling No. 1612/2022, dated 17.03.2022 vide which customs values of PVC Panaflex / Banner Sheets failing under PCT Code 3921.1200 and 3921.9090 were determined at US\$ 1.35/Kg for China and US\$ 1.55/Kg for all other origins under Section 25A of the Custom Act, 1969. We are submitting the following for your kind consideration.

3. It is stated that the value determined vide above mentioned Valuation Ruling is significantly on very lower side than the cost of production submitted by us which is US\$ 1.978/Kg and C&F is US\$ 2.398/Kg supported with complete documentary evidences i.e. scan prices of raw materials and Sea freight US\$ per MT prevailing at the time of submitting of application for revision of valuation ruling.

4. It is further highlighted here that during the validation period of previous Valuation Ruling No. 1564/2021 dated 29.07.2021 majority of importers import PVC Panaflex / Banner Sheet by declaring the C&F price at US\$ 1.510/Kg from China, which further reinforced our view³ point that the current value fixed by the Director Customs Valuation is not based on realistic ground.


5. Detail comparison of raw materials and Sea freight prices which shows that at the stage of submission of application for fresh Valuation Ruling on dated 20.11.2021, the prices were higher than before details attach.

6. In view of the foregoing, your office is requested to revisit the valuation ruling No. 1612/2012, dated 17.03.2022, and revised the Valuation of PVC Panaflex / Banner Sheets falling under PCT Codes 3921.1200 and 3921.9090 based on actual C&F prices of raw materials."

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

"Brief Facts of the Case

Earlier, the Customs values of PVC Panaflex / Banner Sheets were determined under Section 25A of the Customs Act, 1969, vide Valuation Ruling No.1541 / 2021 dated 29-07-2021. Being aggrieved, some importers filed revision petitions under Section 25D of the Customs Act, 1969, before the Director General of Customs Valuation. The Director General vide Order-In-Revision No.45/2021 dated 09-09-2021 rejected the petitions with the remarks " Before parting with this decision, I find it necessary to observe that in view of changes in the international economic environment, including higher costs of freight and related inputs used in the manufacturing of PVC flex banner sheets, the Director, Customs (Valuation), Karachi may revisit the impugned Valuation Ruling to ensure it remains reflective of the prices in the international market." Various representations were also received from fresh determination of customs values of subject goods. Accordingly, an exercise was undertaken by this Directorate General to determine the customs value of subject goods. Meeting was held on 04-01-2022 with the stakeholders and trade bodies in this Directorate General. The importers' local manufacturers were requested to submit their proposals / suggestions as well as following documents before or during the course of stakeholders' meetings so that Customs value could be determined :-

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- (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 (excluding duty & taxes) to substantiate their contentions.

The meeting was attended by importers and stakeholders including the local manufacturers and their views were heard in detail to arrive at customs values of subject goods. The local manufacturer contended that the valuation ruling should be revised upward in accordance with current price trend of the raw material in the international market and enhanced freight element. The importers vehemently opposed the local pricing references of the domestic manufacturers of identical / similar goods in terms of "prohibited method" of valuation as provided in Rule 110(i) of Sub-Chapter-II of Chapter-IX of Customs Rules, 2001. The importers also contended that the prices of raw material of PVC Panaflex / Banner Sheets have decreased in the international market and freight charges have reduced due to adjustment of post Covid-19 market. They have also submitted certificate of Chinese supplier showing percentage of raw materials used in the manufacture of PVC Panaflex and composition. The view point of stakeholders were heard in detail and they were requested to submit the requisite import documents and current international prices of the raw materials. The given composition and ratio were also used to arrive at customs values of the aforementioned goods. It was also noticed that the prices of raw material used for the manufacturing of subject goods were showing declining trend in 2022 vis-à-vis prices in October, 2021.

However, after exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969, and evaluating / analyzing whole the information so gathered, the customs values were determined in terms of Sub-

Section (9) of Section 25 of the Customs Act, 1969, and notified in terms of Section 25A of the Customs Act, 1969, accordingly for uniform assessment all over the country.

PARAWISE COMMENTS

- Para-1 *It is submitted that the contents of Para-(1) are denied to the extent declared value of the consignment is not reliable and not acceptable in terms of Section 25 (1) of the Customs Act, 1969, in presence of Valuation Ruling available under Section 25-A of the Customs Act, 1969. The Valuation Ruling is exhaustive which is always taken for assessment purpose in cases where the declared value is on lower side. The Valuation Ruling has been issued under Section 25-A of the Customs Act, 1969, which always prevails upon the declared value, which in turn is not proof of exact transactional value. Assessments are being made as per said Valuation Rulings all over the country but only the under reference petitioner is aggrieved.*
- Para-2 *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 impugned Valuation Ruling No.1541/2021, dated 29-07-2021 and arguments put forward by the Appellants and Respondents were considered during process of revision by the Director General of Customs Valuation. 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.1612 / 2022 dated 17-03-2022 has lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969.*
- Para-3 *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 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 laws rather the same is based on factual ground realities.*
- Para-4 *It is submitted that para-(2) to (5) clearly states whole the process of issuance of said Valuation Ruling. Moreover, Paras-(4&5) states that the said ruling has been issued in terms of Section 25(9) after analyzing and evaluating whole information so gathered for the purpose of determination of Customs values. Further, the customs value of under reference goods been determined strictly in accordance with the provisions of Section 25 of the Customs Act, 1969. Moreover, the petitioner, 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 such the same is not against the principles of law rather the same is based on factual ground realities of the case. The said Valuation Ruling No.1612 / 2022 dated 17-03-2022 has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform*




assessment all over the country.

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.1612 / 2022 dated 17-03-2022. The Respondent have acted lawfully and the Valuation Ruling No.1612 / 2022, dated 17-03-2022 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 be made as per said Valuation Ruling and the under reference petition being not maintainable is liable to be dismissed and rejected accordingly."

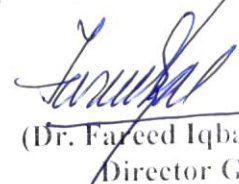
ORDER



3. Hearing in the case was conducted on 17-05-2022 on which date both the petitioner and respondent department were heard in detail. The petitioner contended that the value determined vide impugned Valuation Ruling (VR) is significantly less than their cost of locally producing PVC Panaflex/Banner and in support thereof provided documents i.e. scan prices of raw materials and sea freight (US\$ per MT) prevailing at the time of submission of application for revision of valuation ruling. It was further stated that during the period of previous Valuation Ruling No.1564/2021 dated 29.07.2021, majority of importers had imported PVC Panaflex / Banner Sheet by declaring the C&F price at US\$ 1.510/Kg from China, which further reinforced their view point that the current value fixed by the Director (Customs Valuation) is not based on realistic ground.

4. On the other hand, the departmental representative (D.R) explained that the meeting was attended by importers and stakeholders including the local manufacturers and their views were heard in detail to arrive at Customs values of subject goods. In the meeting, the position of the local manufacturer was that the values determined in impugned V.R. needs upward revision so as to maintain consistency vis-à-vis current price trend of the raw material in the international market as well as the enhanced freight element. Contesting this position, importers contended that the prices of raw material of PVC Panaflex / Banner Sheets have decreased in the international market and freight charges have gradually reduced in the last 12-months period. The D.R informed that a certificate was submitted by an importer, from their Chinese supplier showing actual percentages of raw materials used in the manufacture of PVC Panaflex and composition which is at variance with the data provided by the local manufacturer. The view points of stakeholders were heard in detail and they were requested to submit the requisite import documents and current international prices of the raw materials. Their given composition and ratio were also used to arrive at customs values of the aforementioned goods. It was also noticed that the prices of raw material used for the manufacturing of subject goods were on a declining trend in 2022 vis-à-vis prices in October, 2021.

5. Following the petitioner's discussions/arguments and scrutiny of the case record, it is apparent that with a view to satisfy the percept of Natural Justice, the department consulted the relevant stakeholders when issuing the impugned Valuation Ruling. Needless to mention that determination of Custom values using cost of domestic manufacturing falls within the domain of prohibited methods as provided for in Rule 110 of the Customs Rules, 2001. As regards the petitioners claim that the importers had started to pay taxes as per values of \$1.510/kg (from China), it is observed that where a Valuation Ruling (V.R.) is in the field, import of items, that are provided for in such Ruling is subjected to Import levies on the basis of the Customs values determined in such Ruling. Furthermore, the documentary proof/evidence to indicate increase in price of goods from different respective origins was not forthcoming. From the foregoing discussion, the departmental recourse to determine the Customs value in terms of Section 25A of the Customs Act, 1969 has been conducted within the legal domain of the ibid Act, and the revision petition being devoid of any material legal content are accordingly rejected. However, it appears that in order to thrash out the valuation issue regarding market situation i.e. Import values and domestic sale prices (for both locally manufactured and Imported variants), keeping in view adjustments provided for in Section 25 of the Act ibid, a sectoral study is to be carried out by the Director (Valuation), Karachi in association with all relevant stakeholders. This exercise is to be completed at the earliest preferably within 08 weeks and where required, assistance may also be sought from office of Director (Valuation), Lahore.


(Dr. Fareed Iqbal Qureshi)
Director General

Registered copy to:

M/s. A.T.S Synthetic (Pvt.) Ltd.
4-Km. Kacha Road, Kahna Nau, Lahore.

Copy to:

- 1) The Member Customs (Policy/Operations), Federal Board of Revenue, Islamabad.
- 2) The Director General, Intelligence and Investigation (Customs)-FBR, 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 / (Appraisalment / 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) All Additional Directors / Deputy Directors / Assistant Directors, Customs Valuation, Karachi
- 19) Deputy Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in One Customs & WEBOC Database System.
- 20) Guard File.

