

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

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File No.DG(V)Val.Rev/35/2022/589.

Dated 06<sup>th</sup> June, 2022

**Order in Revision No. 52 /2022 under Section 25D of the Customs Act, 1969,  
against Valuation Ruling No. 1643/2022 Dated: 29-04-2022**

M/s. Fit Brands International & Others

.....

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

.....

RESPONDENT

Date(s) of hearing

02-06-2022

For the Petitioners

Mian Tahir  
Mr. Muhammad Amjad  
Mr. M. Irfan  
Mr. Farooq  
Mr. M. Zahid

For the Respondent

Mr. Shahdad Khan Mari, PA

This revision petition was filed under Section 25D of the Customs Act, 1969, against customs values determined vide Valuation Ruling No. 1643/2022 dated 29.04.2022, issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

1. "That the name and address of the Petitioner has correctly been mentioned in the titled revision petition for purposes of services of hearing notice and other correspondence.
2. That the facts/law necessitating the filing of titled revision petition stem from the issuance of the impugned valuation ruling by the Respondent under section 25-A bearing No.1642 of 2022 and 1643 of 2022 both dated 29.04.2022 in respect of the S.No.1 to 6 of each impugned valuation ruling as per descriptions (Annexed-A) against the subject impugned valuation rulings, whereby the respondent in exercise of his authority has determined the customs value of Chinese origin and all other origins by arbitrarily enhancing the values upto 700% as compared with the previous valuation ruling Nos.991/2016 dated 14-12-2016. The comparative chart is tabulated as under for the favour of your sympathetic consideration.

<u>S.NO</u>	<u>VR 991</u> <u>DESCRIPTION</u> <u>PER/KG BRANDED</u>	<u>CATEGORY</u>	<u>AS PER VR 991</u> <u>SPECIFICATIONS</u>	<u>VR 1643</u> <u>PER/KG</u>	<u>VR 1643</u> <u>PER/KG UNBRANDED</u>
1	PLASTIC TOYS	SIMPLE/BASIC	NON MECHANICAL 1.75/KG		4.20/KG 10.80/KG
		MECHANICAL TOYS			
		FRICTION OR SPRING ACTION	2.16/KG	5.67/KG	14.50/KG
		B/O TOYS	2.65/KG	25.00/KG	70.00/KG
		ELECTRICAL PLASTIC TOYS	2.78/KG		
	LEGO	NON MECHANICAL	2.05/KG		
	GUNS	MECHANICAL	2.30/KG	10.00/KG	35.00/KG



DOLL	BARBIE B/O	22/KG	
	BARBIE SIMPLE	8.00/KG	
	OTHER B/O DOLL	4.50/KG	30.00/KG80.00/KG
	OTHER SIMPLE DOLL	2.90/KG	20.00/KG60.00/KG
RIDE ON TOYS	SIMPLE PADLE TYPE	2.15/KG	2.36/KG 7.08/KG VR1642
	SWING TYPE	9.00/KG	10.00/KG30.00/KGVR1642
	TRICYCLE	2.25/KG	2.48/KG 7.44/KG VR1642
	B/O SCOOTER	4.10/KG	4.51/KG 13.53/KGVR1642
	B/O HOVER BOARD	9.50/KG	14.25/KG36.00KG VR1642
	B/O CAR 4.00/KG	4.40/KG	12.00/KGVR1642
	B/O SPORTS CAR/HEAVY BIKE	10.00/KG	30.00/KG80.00/KGBIKE
	BAMPER CAR 10.00/KG	30.00/KG	
	OTHER B/O VEHICLES	4.50/KG	
	OTHER PLASTIC TOYS		
	BO/ELECTRIC	3.60/KG	
	SIMPLE	2.90/KG	25.00/KG60.00/KG
	PLUSH & STUFFED TOYS	3.05/KG	25.00/KG
	SIMPLE MANUAL	2.60/KG	20.00/KG
	WOODEN TOYS ALL TYPES		
	MECHANICAL/SIMPLE/BLOCK	2.05/KG	20.00/KG50.00/KG
	DIE CAST METAL TOYS ALL TOYS	FRICITION	1.75/KG 15.00/KG35.00KG
	B/O	2.10/KG	25.00/KG45.00/KG
	VENDING MACHINE TOYS/PRIZE GIFT	6.00/KG	15.00/KG20.00/KG
	PULL BACK CAR	4.00/KG	18.00/KG35.00/KG
	ELECTRIC VEHICLES	4.00/KG	25.00/KG
	OTHER METAL TOYS	2.50/KG	20.00/KG35.00/KG
	CERAMIC/PORCELAIN TOYS	ALL TOYS	
	KIDDY TOYS	2.20/KG	8.00/KG
	FLYING TOYS HELICOPTER		
	B/O ELECTRICAL	10.00/KG	40.00/KG65.00/KG
	PLANE/AIR CRAFT	B/O ELECTRICAL 12.00/KG	50.00/KG80.00/KG
	DORNE WITH OUT CAMERA	14.00/KG	40.00/KG75.00/KG
	WITH CAMERA	20.00/KG	50.00/KG100.00/KG
	UFOS B/O	20.00/KG	40.00/KG75.00/KG
	OTHER TOYS B/O	20.00/KG	40.00/KG75.00/KG
	VR 1643	ADD ITEMS	
	ADD ITEMS NEW		
	BLOCKS	7.95/KG 42.00/KG	
	CAR HOUSE/GARGE/		
	RACING TRACKS OTHER PLAYING STRUETURES	12.00/KG100.00KG	
	DOLL HOUSE	50.00/KG	
	DOLL HOUSE WITH DOLL	200.00/KG	
	DOLL HOUSE WITH OUT DOLL	150.00/KG	
	DOLLS WITH PLAYING ACCESSORIES	70.00/KG120.00/KG	
	VR 1642		
	ADD ITEMS NEW		
	B/O HEAVY CARS	50.00/KG	150.00/KG

3. That the petitioner through the instant Revision petition agitate the issuance of impugned valuation rulings on the strength of arbitrariness, without reasoning and non-following step by step mandatory provisions in violation of Section 25 and 25-A of the Customs Act, 1969 inter alia on the following grounds amongst others:-

#### GROUNDS

- a) That it is the law as framed under WTO that the procedure envisaged under section 25-A can only be resorted to after following the procedure laid down in section 25 of the Customs Act, 1969. As per Section 25 of the Act, transaction value is the price actually paid or payable for the goods when sold for export to Pakistan. As per section 25(5) if the transactional value of the imported goods cannot be



determine under sub-section (1) it shall subject to rules be the transactional value of identical goods sold for export to Pakistan. As per sub-section (6) if the transaction value of imported goods cannot be determined under sub-section (5), it shall subject to rule be the transaction value of similar goods sold for export to Pakistan. If the aforesaid sub section (1), (5), (6) cannot be restored to for the purposes of determining the customs value of imported goods. But in utter disregard the respondent travelled beyond the boundaries as envisaged in sequential order, jumped at section 25(7) of the Act and determined the values under the impugned valuation rulings arbitrarily in an unlawful manner without associating the stake holders and from which market the values have been derived. The Valuation Department is bound to apply the aforesaid methods in a sequential manner after due application of mind and by giving reasons as to why the particular method chosen was adopted and the reasons why the preceding applicable methods were not applied. As bulk of evidential data under section 25 (5) is available on record. None of the ingredients are present in the instant case. The impugned Rulings are liable to be set aside on this ground alone.

- b) That the impugned valuation rulings are bereft of any reasons and violative of section 24-A of the General Clauses Act, 1897. Although the ruling purports to have applied the 'Deductive Method' under section 25(7), there is no indication as to how the same has been applied and whether any other preceding method was applicable, and if so, why it was not applied. The impugned ruling is clearly an attempt to transform the "determination" permissible under section 25-A to an impermissible "fixation" of value.



c) That the impugned Valuation Rulings are ex-facie illegal, discriminatory, sketchy and arbitrary, which alleges that transaction value method under sub-section (1) of section 25 of the ibid was found inapplicable because requisite information under the law was not available. Identical/similar goods valuation methods provided in sub-sections (5) & (6) of section 25 of the Customs Act, 1969 provided some reference values but due to wide variation and suppressed declaration, the same could not be relied upon; whereas a bulk evidential data of identical/similar goods in terms of sub-section (5) & (6) of section 25 and valuation under section 25-A was also in field but the respondent in utter disregard to the said evidential data/values available under section 25-A arbitrarily travelled to determine the values in terms of section 25(7) of the Customs Act, 1969 without associating the stake holders and without giving the reasons and without mentioning that from which market such values has been derived, in utter disregard to the valuation methods mentioned above and without following the dictum of law, as countrywide clearance data of identical goods was available when this unlawful valuation has been determined under section 25(7) of the Customs Act, 1969, however yet again the findings have not been disclosed for the reasons best known to the department. As is evident from the contents of said Valuation Rulings numbers, stakeholder/petitioner's based at Lahore was not summoned for any meeting to give their view point with record and samples and the whole exercised has been made on the back of the stakeholders/petitioners arbitrarily by the Respondent. This is obviously not enough for preparing a valuation ruling, which is most likely to be made applicable on dozens or hundreds of the importer. The discussion made in the valuation rulings are hypothetical, not a single reference has been given in support of the claim of compilation of inquires and calculation of necessary deductions etc. Further it speaks of the findings of the investigation but there is no specific mentioning as to what was the result of said investigation directly. The entire languages based upon general discussion without being particular and direct on issue. The valuation rulings speaks of non-acceptance of transportable values of identical and similar goods with discussion in one sentence that the data of identical/similar goods reflects an abnormal trend, which logically/legally not valid in the eye of law it should have been based upon proper discussion and reference to the value of said time keeping in view the determination of identical/similar goods under valuation ruling No.9916/2016 dated 14-12-2016. Neither the unit price has been mentioned nor its retail price in the market has been identified. The method in facts is against the same repetition. The Honourable Lahore High Court in the case of M/s. M.A.H Trades Vs. D.C. Customs set-aside the order based on such type of valuation ruling. PTCL 2010 CL 95.

- d) That the impugned valuation rulings issued by the Respondent offends the mechanisms postulated in Section 25(5) of the Customs Act, 1969 in that as is spelt out from the impugned valuation ruling is the most apt and appropriate mode in determining the customs value of the items as from his own showing



there was ample sufficient evidential data of identical goods available with the Respondent to arrive at a just invoking for the purposes of determining the customs value by invoking the parameters laid down in Clauses a, d, e and f of sub section 13, the customs value of the imported goods shall be the lowest such transaction value adjusted as necessary in accordance with Clauses b and c. Since the modalities as referred to above, duly caters for the contingency. Hence, without following the mandate of aforesaid provisions. The Respondent could not have by passed and parried the afore-noted sub section (5) by merely declaring that the said sub-section could not be relied upon. The subjective discretion exercised by the afore noted Respondent is violative of the mandate of the Section 24-A of the General Clauses Act, 1897, besides violative of the principles of natural justice. No mention, whatsoever, except, abnormal valuation trend" has been made in support of the observation and the no finding has been recorded to this effect. The said usage of the terms is alien to the afore noted sub-section and the Respondent could not have employed the same in the exercise of his executive power.

- e) That another observation made by the Respondent in declaring non-applicability of sub-section (5) & (6) of Section 25 of the Customs Act, 1969 is tantamount to perfunctory exercise of executive power in that neither the reference of the local market has been made nor the petitioner or the persons concerned were associated at the time of making the purported market survey. Likewise, the day, week, month has also not been mentioned. Similarly, it has also not been stated that the market survey was carried out by the Respondent himself or if any, through his subordinate. The survey report has also not been particularized, the different prices of the aforesaid items has also not been specifically mentioned or narrated, in material particular. To sum it all, the so called market price obtained during the local market survey has also not been specified. Similarly, the market price quotation (wholesaler and retailer) has also not been given but has determined the values of impugned goods arbitrarily under section 25(7) of the Customs Act, 1969 without disclosing the relevant details for arriving at such determined values, hence, the observation made by the Respondent while discarding the above said sub-section is illegal, arbitrary, unreasonable and perverse to the actual facts and figures in computing the customs value.
- f) That the current valuation rulings will open the gates of smuggling as it has been determined at very high value in unreasonable and arbitrary manner.
- g) That bulk of evidential data of identical/similar goods reflects that items (1 to 6) under both impugned Valuation Ruling No.1642/2022 and 1643/2022 dated 29.04.2022 is being assessed at Lahore and Karachi Appraisement Collectorates in light of identical/similar goods evidential data under section 25(5) and (6) of the Act further read with the previous Valuation Rulings issued under section 25-A of the Act. The said valuation rulings based on hypothetical values is on much higher side being issued arbitrary to punish the stakeholders that **no one attended the meeting hence is not valid/legal in the eye of law.** The said valuation ruling is without reasoning, without mentioning as to how they reached that conclusion and without giving opportunity of being heard to the petitioners the ruling cannot be sustained. CL 457 PTCL 2008 Book No.98 and PTCL 2008 CL 545.
- h) That Article (1) when read alongwith Article (8) creates the entire universe of method of determination of customs valuation through transaction value method. Customs Valuation based the transaction value method is largely based on documentary input from the importer. If the customs value of the imported goods cannot be determined under the provisions of article (1), the customs value shall be the transaction value of identical goods sold for export to the same country of importation and exportation at or about the same time as the goods being valued. If the customs value of the imported goods cannot be determined under the provisions of article (1) & (2), the customs value shall be the transaction value of similar goods sold or exported to the same country of importation and exported at or about the same time as the good being valued. If the customs value for the imported goods could not be yet determined under the provisions of articles 1 through 6, inclusive, the agreement requires that the customs values to be determined using reasonable means consistent with the principles and general provisions of the implementation agreement read with article vii of GATT, 1994 on the basis of data available in the country of importation. That it is brought to the kind notice of the Honourable Director General that the identical goods i.e. Sr.No.1 to 6 under both impugned valuation rulings as tabulated above are being



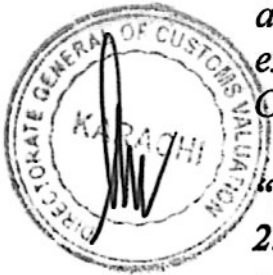


assessed countrywide under section 25(5) and (6) read with previous valuation rulings, but the respondent in deviation to the available data at his own determined the value of Sr.No.1 to 6 under both valuation rulings at abnormally higher side i.e. upto 700% arbitrarily in an unlawful manner without following the sequential order in terms of Section 25 & 25-A of the Customs Act, 1969 read with Customs Rules 2001. Reliance in this can also be placed in the case of Sadia Jabbar Vs. Federation of Pakistan PTCL 2014 CL 537, further reliance can be placed in the case of Danish Jehangir Vs. Federation of Pakistan 2016 PTD 702 and PTCL 2020 CL 492. All the evidences and arguments will be putforth before the Honourable Director General Valuation at the time of personal hearing.

### **PRAYER**

In view of the circumstances read with factual/legal aforementioned details, it is respectfully prayed that the titled revision petition may kindly be graced with acceptance and the impugned valuation ruling may be set-aside at the earliest in the best interest of natural justice.

It is further prayed that till the final decision on the titled revision petition and the finalization of the values by the Director General the consignments of the petitioner be allowed provisional release under section 81 of the Customs Act, 1969 under the provisions of law, as was earlier interim relief was accordingly extended by the Honourable Forum in many cases to safeguard petitioner from port expenses and demurrages and the Honourable Sind High Court vide Judgment reported as PTCL 2020 CL 492 has held:-



**“That in cases where a proper revision application has been filed by an importer in terms of section 25-D of the Customs Act, 1969 before the Director General Customs Valuation and pending such review/revision a consignment is imported then at the request of importer who has filed such revision/review the consignments in question shall be released in terms of Section 81 of the Customs Act, 1969 by the Director General Valuation without fail. Hence the directions may kindly be issued to the Clearance Collectorate for provisional release of consignments till decision of the titled revision petition in the interest of natural justice”.**

Any other relief as deemed appropriate in the circumstances of the title review petition may also be granted.”

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

### **“FACTS OF THE CASE**

Previous Valuation Ruling for Toys was issued vide Valuation Ruling No.991/2016 dated 14-12-2016. Meanwhile, an exercise was conducted to identify old valuation rulings with a purpose to revised them due to increase in prices and inflation. Accordingly, an exercise was initiated by this Directorate General to determine customs values of the subject goods in terms of Section 25A of the Customs Act, 1969. Meeting with stakeholders were convened on 30-11-2021, which was attended by different stakeholders & importers. All the stakeholders / importers were requested to submit following documents before or during the course of meetings 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 (excluding duty & taxes) to substantiate their contentions.

The importer did not submit required documents to prove their contention that their declared values are correct. Customs valuation methods given in Section 25 of the Customs Act, 1969, were followed / applied in sequential order to address the valuation of toys. Transaction value method under Sub-Section (1) of Section 25 *ibid* was found inapplicable because requisite information under the law was not available. Identical / similar goods valuation method provided in Sub-Section (5) & (6) of Section 25 of the Customs Act, 1969 provided some reference values but due to wide variation and suppressed declarations, the same could not be relied upon. In sequential order, this office then resorted to conduct a market inquiry and consequently, deductive value method under Sub-Section (7) of Section 25 of the Customs Act, 1969, was applied to arrive at the customs values of subject goods, being most appropriate for the purpose. All the information so gathered was evaluated and analyzed for the purpose of determination of customs values and notified in terms of Section 25A of the Customs Act, 1969, vide Valuation Ruling No.1643/2022 dated 29-04-2022, for uniform assessment at all customs stations of the country.

### **PARAWISE COMMENTS**

Para-(1) : Need no comments being introduction of the petitioners.

Para-(2) : Not Agreed. It is submitted that transaction value could not be accepted  
& (3) 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 of the case. Further, the said Valuation Ruling No.1643 / 2022 dated 29-04-2022, 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.1643 / 2022, dated 29-04-2022 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, market enquiry was also conducted and after gathering all information, the customs values have been determined in terms of Section 25(7) of the Customs Act, 1969, vide above referred Valuation Ruling. Further, it is submitted that Paras-(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 (7) 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 S.R.O. 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.*

### **G R O U N D S**

*Para-(a) : It is submitted that the contention of the petitioners is based on & (b)*

*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(7) 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. 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 readwith Section 25-A of the Customs Act, 1969. 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.*

*Para-(c) : Not Agreed. It is respectfully submitted that said Valuation Ruling has & (d)*

*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.1643/2022 dated 29-04-2022 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.1643 / 2022, dated 29-04-2022 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(7) of the Customs Act, 1969, vide above referred Valuation Ruling. However, concept of fixation of value no more exists in the Customs Tariff rather presently the customs values are determined in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the Customs Stations of the country.



Para-(e) : Not Agreed. It is submitted that while issuing the Valuation Ruling for  
& (f) 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 (1) 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 *ibid*, 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-(g) : Denied. It is submitted that the impugned Valuation Ruling issued after  
& (h) considering the representation of the petitioners and view point of all the stakeholders. The record of the impugned Valuation Ruling No.991/2016, dated 14-12-2016 and arguments put forward by the Appellant 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 them. No supporting documents / evidences have been provided by the Appellant to reject department's views and in support of their contention. It is submitted that para-(2)to(5) clearly states whole the process of issuance of said Valuation Ruling. Moreover, Para-(4&5) states that the said ruling has been issued in terms of Section 25(7) after conducting local market enquiry 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.

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 (7) 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. It is further submitted that the meetings with the stakeholders was 30-11-2021 which was 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*

*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.*



#### **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.1643 / 2022 dated 29-04-2022. The Respondent have acted lawfully and the Valuation Ruling No.1643 / 2022, dated 29-04-2022 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 this case was held on 02-06-2022 on which date both the petitioners and respondent department were heard in detail. The main contention of the petitioners was that the respondent department determined the Customs values of Toys of China origin at exorbitantly high prices which is detrimental for this trade sector. The petitioners stated that the respondent department while issuing the impugned Valuation Ruling (VR) also brushed aside the data available in the PRAL which reflects the goods regularly being cleared at \$1.2/Kg to \$ 1.5 Kg. Moreover, while issuing the VR, the respondent Director has also failed to take into account that the raw material used in manufacturing of toys, i.e. Polypropylene of three grades/ qualities is mixed to give the molding effect in toys. It was observed that the highest grade of pure poly propylene, is regularly imported/ cleared at a value ranging between US \$ 1560- US \$ 1600 PMT whereas the values of finished toys has been significantly increased which is inconsistent vis-à-vis of cost of raw material and manufacturing costs. Therefore, keeping in view the manufacturing cost along with the prices of raw material used in manufacturing toys, the values determined by the respondent department are in total/ complete negation to the actual cost of the product.

4. On the other hand, the department representative (D.R.) stated 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 impugned Valuation Ruling. The respondent department had acted lawfully and the Valuation Ruling No.1643 / 2022, dated 29-04-2022 has been correctly and justifiably issued in terms of Section 25A of the Customs Act, 1969. On the other side the petitioner failed to furnish requisite supporting documents particularly copies of Sales Tax returns/ Paid Invoices issued during the last four months to substantiate their contentions. Moreover, at the time of stakeholder consultations, under the Section 25A of the Act *ibid*, the petitioner did not provide requisite import documents in support of their stated positions.

5. After listening to the detailed discussion/ arguments of both the parties and perusal of the case record, it is apparent that the respondent department did not take into consideration the values of the input raw material. The D.R. was requested to clarify this aspect, but was unable to controvert this claim of the petitioners. Another aspect which merits consideration is that prices of parts has been fixed @ \$ 5.00/ Kg, which considering aforesaid value of input raw materials appears to be significantly higher than even cost of the complete toys. As regards the petitioners' contentions regarding the lack of objectivity in the market inquiry, the DR was called to elaborate on the whole survey as carried out by them and share the basis on which the Customs value had been determined. In response, the DR submitted the so called market survey report which was found to consist of a plain paper reflecting

values of different brands without any indication as to where these prices were obtained from, related quantities and who carried out the market survey. There were no visiting card(s) available in the file indicating any connection/linkage to prices. Moreover, even the prices reportedly obtained from different shops were not recorded separately during the market inquiry. On account of the foregoing irregularities, the process of determination of values suffers from procedural impropriety whereas the arguments of the petitioners carry weight. Accordingly, the impugned Valuation Ruling No.1643/2022 dated 29.04.2022 is, hereby, ordered to be set aside and the Director (Customs Valuation) Karachi directed to undertake fresh exercise under Section 25A of the Customs Act, 1969 to determine the values of Toys through issuance of new Valuation Ruling at the earliest, on merits and in accordance with law after giving a fair opportunity of hearing to the petitioner(s)/stakeholders. The instant revision petitions, filed in terms of Section 25D of the Customs Act, 1969, are disposed accordingly.

6. Being identical on facts and law point, this order shall apply mutatis mutandis on the (38) revision petitions as listed at (Annex-A).

  
(Dr. Fareed Iqbal Qureshi)  
Director General

Registered copy to:

1. M/s. Arslan Traders, 19-A, Abbot Road, 3<sup>rd</sup> Floor Tabarak Chamber, Data Gunj Bukhsh Town, Lahore.
2. M/s. Rehman Gift & Toys,  
10 A Bashir Centre, 2<sup>nd</sup> Floor, Shah Alam Market, Lahore.
3. M/s Miniso Lifestyle Pakistan (SMC-Pvt) Limited,  
10<sup>th</sup> Floor, Office # 1001,1012,1013 Haly Tower Sector R, Lalik Jan Chowk, DHA Phase 2  
Lahore.
4. M/s. Toy Centre,  
1<sup>st</sup> Floor, Madni Center, Near Madni Mosque, Shah Alam Market, Lahore
5. M/s. Malik International Traders,  
E-191-192, Shah Alam Market Lahore.
6. M/s. F T Traders, House # 45, Farooq e Azam Street, Tariq colony, Nawakot Lahore,  
Samanabad Town
7. M/s. DK Enterprises, Office No 60, Akbar Ground Floor, Empress Tower, 46 Empress Road,  
Data Gunj Buksh Town, Lahore.



8. M/s. Dewan Enterprises,  
785-E Koocha Teer Gran, Inside Mochi Gate, Lahore
9. M/s. Malik Traders,  
Shop # 152, 2<sup>nd</sup> Floor, Gul Plaza, M.A. Jinnah Road, Karachi
10. M/s. S.G Traders,  
Room No 41, 1<sup>st</sup> Floor, Hajveri Tower Chowk, Chuburgi, Lahore
11. M/s. T&A Enterprises  
88-T, Street No 7, Islam Colony, Coaper Store, Baghban Pura, Lahore.
12. M/s. Malik Traders,  
Havelly Pathra, Near Bukan Khan Mosque, I/S Mochi Gate, E-381, Shah Alam Market, Lahore
13. M/s. I.B Traders  
Shop No 9, Milad Market, 304-Bazar, Sadaqaran, I/S Mochi Gate, Lahore.
14. M/s. Asif Enterprises  
Shop No. W-54, 2<sup>nd</sup> Floor, Narankari Bazar, Rawal Town, Rawalpindi.
15. M/s. P.N.K International  
3-D 7/3, Nazimabad, Near Abbasi Shaheed Hospital, Karachi
16. M/s. Hameed & Co.  
1<sup>st</sup> Floor, Z.A Centre, 67-68, Shahlam Market, Lahore.
17. M/s. Bilal Baby Toys  
Shop # H-404,405,406, Al-Babar Plaza, China Market, College Road, Rawalpindi.
18. M/s. A to Z Hosiery  
Shop No 100-123, National Bara Bazar, Rawal Town, Rawalpindi
19. M/s. Farsha Traders  
160/E, 4<sup>th</sup> Floor, Al-Fatah Market, Shahlam Market, Lahore
20. M/s. Zain Brothers  
Kh No 899, Umer Park, Ibrahim Road, Lahore
21. M/s. Fit Brands International  
128/II, 33<sup>rd</sup> Street, Khayaban-e-Muhafiz, Phase 6, DHA, Karachi
22. M/s. Amir Shahzad International  
8-B, 1<sup>st</sup> Floor, Opposite Lal Masjid, Main Road, Shah Alam Market, Lahore
23. M/s. Rehan Enterprises  
House # D-524, D Block, Commercial Market, Satellite Town, Rawalpindi
24. M/s. Choudhry Brothers & Co.  
36<sup>th</sup> Street, 159 Chaman Park, Baghban Pura, Lahore.
25. M/s. Dream Toys International Company



2<sup>nd</sup> Floor, Shabbir Center, E-927, Shah Alam Market, Lahore

26. M/s. Hasan Trader

O/T, 9/75, 1<sup>st</sup> Floor, Haroon Manzil, Meetha Dar, Karachi

27. M/s. Toys & Toys

E-11, Block B, 14/G1+A1+1, Tibet Center, Shah Alam Market Lahore

28. M/s. A Traders

Shop No 11, Basement 1, Sohail Tower, New Anarkali Bazar, Lahore.

29. M/s. Danial International

E-172-173, 2<sup>nd</sup> Floor, Dubai Center, Shah Alam Market, Lahore.

30. M/s. AAA Traders

**OT 5/23 Opp Rampart Road Mithadar Karachi South Saddar Town**

31. M/s. AMAFHH Trading Co.

Office No.138, 2<sup>nd</sup> Floor, Gul Plaza Building M.A Jinnah Road Saddar Town Karachi

32. M/s. Bahoo Traders

Shop#30-31-G/F Al-Nazir Trade Center, Shahalam Chowk near Telephone Exchange, Lahore.

33. M/s. S.Zia & Sons

Suite #411, 4<sup>th</sup> Floor, Uni Tower, Main I.I. Chundrigar Road, Karachi

34. M/s. Global Trading

OT 5/18, Vishram Das Lane Rampart Road South Saddar Town Karachi

35. M/s. A J F Traders

B-3, 2<sup>nd</sup> Floor, Pak Chamber West Wharf Road, Karachi.

36. M/s. Shanjee Corporation,

8, Feroze Chamber, Marriot Road Karachi

37. M/s. Sial Enterprises

9<sup>th</sup> Floor, Jilani Tower, M.A Jinnah Road Karachi

38. M/s Chiragh Uddin & Sons,

39. M/s Zaheer Toys,

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 Appraisalment, (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, Appraisalment (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, (Appraisalment - West / Appraisalment - East / Appraisalment - Port Muhammad Bin Qasim / Enforcement / JIAP), Karachi / Hyderabad / (Appraisalment / Enforcement), Quetta / Gawadar / (Appraisalment / Enforcement / AIIA), Lahore / Appraisalment, Faisalabad / Appraisalment, 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) Deputy Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in One Customs & WEBOC Database System.
- 19) Deputy Director (Revision), Customs Valuation, Karachi
- 20) All Additions / Deputy Directors / Assistant Directors, Customs Valuation, Karachi
- 21) Guard File.



Annexure-A

1. M/s. Arslan Traders, Lahore.
2. M/s. Rehman Gift & Toys, Lahore.
3. M/s Miniso Lifestyle Pakistan (SMC-Pvt) Limited, Lahore.
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5. M/s. Malik International Traders, Lahore.
6. M/s. F T Traders, Lahore
7. M/s. DK Enterprises, Lahore.
8. M/s. Dewan Enterprises, Lahore
9. M/s. Malik Traders, Karachi
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11. M/s. T&A Enterprises, Lahore.
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29. M/s. AAA Traders Karachi.
30. M/s. AMAFHH Trading Co. Karachi
31. M/s. Bahoo Traders, Lahore.
32. M/s. S.Zia& Sons, Karachi
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