

**GOVERNMENT OF PAKISTAN
CUSTOMS APPELLATE TRIBUNAL
KARACHI BENCH-I
3RD FLOOR, JAMIL CHAMBERS
SADDAR, KARACHI**

Before: - **Mr. Abdul Basit Chaudhry, Member (Technical-I), Karachi**

Customs Appeal No. K-1566/2022

M/s. Moeed Enterprises.,

Enterprises, 4th Floor Makki Center, opposite Ghosia Masjid,
Shah Alam, Lahore.

..... **Appellant**

Versus

1. The Collector of Customs,

Model Collectorate of Customs-Appraisement-East,
Karachi.

2. The Collector of Customs (Appeals),

Karachi.

..... **Respondents**

Agha Shahid Majeed Khan, Advocate, present for the Appellant.

Mr. Fayyaz, A.O, present for the respondents.

Date of Hearing : 25.08.2022

Date of Judgment : 29.08.2022

J U D G M E N T

ABDUL BASIT CHAUDHRY, MEMBER (TECHNICAL-I),: By this judgment I intend to dispose of the instant appeal filed by appellant, against Order-in-Appeal No.1337/2022 dated 17.03.2022 passed by Collector of Customs (Appeals), Karachi.

Q2. Facts of the case are that the M/s. Moeed Enterprises imported a consignment declared "Perfumed Deco Roll On 50 ML, Packing 72 Pcs X 1467 Ctns 105624 Pcs Brand: Enchanter Origin: Vietnam" and tiled GD No. KAPE-HC-214246-22-05-2021, through their authorized clearing agent M/s. Utrade Logistics (Pvt.) Ltd, Karachi, (CHAL

No.KCUS-2929), under PCT beading 3307.2000, at the declared unit value of US\$ 13/PC and total value US\$139958

I. In order to check as to whether the importer has correctly paid the legitimate amount of duties and taxes, the under reference GD was selected for scrutiny in terms of Section 80 of the Customs Act, 1969, and was referred to examination for confirmation of description, quantity and other physical attribute of the goods. For case of reference examination report is re-produced as under:

CONTAINER NO: CCL U3525178 JC4PE-HC-214246-22-05-2021 NO COMMERCIAL IN VOICE FOUND INSIDE THE CONTAINER. GOODS EXAMINED AND DETAILED AS UNDER: DESCRIPTION: PERFUMED DEO ROLL ON 50 MIL X 72 PCS X 1467 CINS 105624 an ECS BRAND. ENCHAKIEUR, ORIGIN' VIETNAM CHECKED 100% WEIGHT AT PICT WEIGHURIDGE VIDE PICT SLIP NO: 1028470 DATED: 26-MAY-2021 FOUND CARGO WEIGHT. 18,275 KGS, GROUP IS REQUESTED TO CHECK ALL LEGAL ASPECTS INCLUDING CLASSIFICATION, VALUATION, IMPORTABILITY AS PER IPO/IPR CONDITION IN VOUGE (IMAGES ARE ATTACHED)

II. In the light of above examination report and images uploaded in the system, the assessment of goods was made under section 25 (5) and section 25 (6) of the Customs Act, 1969, on US\$4.48/kg (as per the 90 days WeBOC data for the instant item), since the order dated 16.04.2021, passed by the Honorable Islamabad High Court in W.P No. 4067/2020, wherein the Honorable Court had declared the Valuation Ruling No. 1456/2020 dated 13.07.2020 inapplicable as it had crossed the period of 90 days without having being revised. 'The importer did not accept the assessment made by the Group and filed a review to provisionally the instant GD under section 81 of the Customs Act, 1969, at a security against the differential amount, and GD was to be finalized once the Directorate General of Valuation issued a new VR on the item (which was expected to be issued in the succeeding months). The security amount that was initially secured from the importer was not as per the prevalent data, upon importer's request, but the Goods Declaration was then to assessed as per section 80(3) of the Customs Act, 1969, and prevalent data-based value was applied therein. The importer has refused to pay the differential amount in the form of a Manual Pay Order.

III. In the meantime, the Directorate General of Customs Valuation, Karachi has issued a fresh Valuation Ruling No. 1536/2021 dated 08.07.2021 wherein the value for Category-D type "Body Spray/Personal Deodorant/AntiPrespirant/Body Deodorant/Stick/Roll-on" has been determined on US\$4.01/kg.

IV. In view of the above Valuation Ruling, the provisional assessment of the imported goods consisting of Perfumed Deo Roll-On was finalized on US\$4.01/kg (net content weight) as per the value determined by the Directorate General of Customs Valuation, Karachi in VR No. 1536/2021 dated 08.07.2021, importer has refused to pay the amount due as per the final assessment of the GD, and has requested for an Assessment Order on the subject GD.



03. The Collector of Customs (Appeals) passed the impugned Order-in-Appeal No. 1337/2022 dated 17.03.2022. Operative part of the impugned Order-in-Appeal is reproduced as under:-

"I have examined the case record and the arguments of both the sides and have given careful consideration to the facts and legal position of the case. In the instant case, the assessment of goods was made under section 25 (5) and section 25 (6) of the Customs Act, 1969, on US\$4.48/kg (as per the 90 days WeBOC data for the instant item), since the order dated 16.04.2021, passed by the Honorable Islamabad High Court in W.P No. 4067/2020, wherein the Honorable Court had declared the Valuation Ruling No. 1456/2020 dated 13.07.2020 inapplicable as it had crossed the period of 90 days without having being revised. The Appellant did not accept the assessment and filed a review to provisionally assess the instant GD under section 81 of the Customs Act, 1969, at a security against the differential amount, which was done and the assessment was to be finalized once the Directorate General: of Valuation to issue a new VR on the item. The security amount that was initially secured from the Appellant was not as per the prevalent data, upon Appellant's request, There after, the Directorate General of Customs Valuation, Karachi issued a fresh Valuation Ruling No. 1536/2021 dated 08.07.2021 wherein the value for Category-D type "Body Spray/Personal Deodorant/Anti-Prespiran/Body Deodorant/Stick/Roll-on" has been determined on US\$4.01/kg. In view of the above Valuation Ruling, the provisional assessment of the imported goods was finalized on US\$4.01/kg (net content weight) as per the value determined by the Directorate General of Customs Valuation, Karachi. The orders of the Appellate authorities cited by the Appellants in support of their arguments are "Order-in-persona", hence, case specific and cannot be used as "Order-in-Rem" as a settled law in terms of Article 201 of the Constitution. Without prejudice even otherwise, it is a settled law that if there is conflict of reading between a citation and actually promulgated law than the law shall prevail. It is a settle law that if there is conflict of plain reading between a citation and actually promulgated law than the law shall prevail. It is noted that the department has made correct classification and assessment of value regarding subject goods. The provisional assessment, in the case has been made upon request by the Appellant, meaning thereby that it was under dispute till finalization by the concerned authorities.



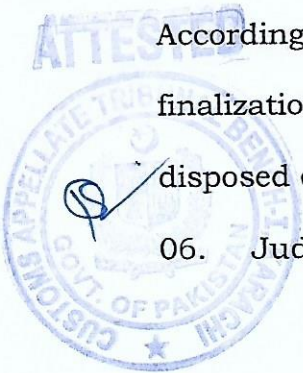
Once it was finalized, the same was applied in the instant case too in accordance with law. If the Appellant had any objection / reservation regarding any issue in the Valuation Ruling then they should have approached the Directorate General of Customs Valuation to resolve the issue. It was mandatory for the appellants to pay duty in accordance with the assessment done by the department which has been made correctly. No cogent reason has been offered to interfere with adjudication/Assessment order. The appeal is therefore rejected on merits and ordered accordingly”.

04. Being aggrieved with this order, this appeal has been filed, inter-alia, on the grounds given in the memo of appeal and placed on record. Respondent also submitted the comments, which are also taken on record.

05. Heard both the sides and examined the case record. The appellant contended that his consignment has been repeatedly re-assessed and a Valuation Ruling has been made applicable with retrospective effect. The DR contended that the an invalid Valuation Ruling was issued afresh containing the values of the invalid Ruling, therefore, the same were made applicable later. After examining the case, I hold the view that the department shall not have re-assessed the goods after the provisional assessment had been made final.

Accordingly, in the instant case, any re-assessment after the finalization of provisional assessment is set aside. The appeal is disposed off in above terms.

06. Judgment passed and announced accordingly.



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(ABDUL BASIT CHAUDHRY)
Member (Technical-I)
Karachi

ATTESTED



GOVERNMENT OF PAKISTAN
CUSTOMS APPELLATE TRIBUNAL
BENCH-2, KARACHI

C.A. No(s) K-1566/2022 dated 14-6-2022

M/s Moeed Enterprises

against Order-in-Original Order No. 1337/22 dt 17.3.2022

passed by Collector Customs Appeals Karachi

Copy forwarded to

1. M/s Moeed Enterprises

2. C/o Aghe Shahid Mojib Cans

3. Collector Customs Appeals Karachi (East-)

4. Collectorate of Customs M.C.C. H-1, F-10, Karachi

5. Directorate Customs & Excise, Karachi, P.O., Karachi

6. Directorate Customs & Excise, Investigation, Karachi, P.O., Karachi

7. Directorate General of Maritime Coast Guard, Karachi

8. Customs record

3947
01/09/22

Cus/1854/2020-21/A-East-1628

REGISTRAR
CUSTOMS APPELLATE TRIBUNAL
BENCH-2, KARACHI

31/8/2022