

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

File No. DG(V)Val.Rev/56/2022 / 1010

Dated 05th October, 2022

**Order in Revision No. 84 /2022 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1688/2022 Dated: 05-08-2022**

- This copy is granted free of charge for the private use of the person to whom it is issued.
- 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.
- An extra copy of appeal, if filed, should simultaneously be sent to this office for information and record.
- If an appeal is filed, the appellant should state whether he desires to be heard in person or through an advocate.

M/s. Diamond Leather Craft & Others

VERSUS

PETITIONERS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing

29-09-2022

For the Petitioners

Mr. Sheeraz
Mr. Sohail
Mr. Sher Muhammad

For the Respondent

Mr. Nadeem Shaikh, Valuation Officer

This revision petition was filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No. 1688/2022 dated 05.08.2022 issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"That we are reputed importer of luggage and suitcase (low end brand) since many years and having record of law abiding and tax compliance firm as we trust and believe in fair practice of business for the Felicity and Prosperity of our beloved Country.

Highly aggrieved and extremely dissatisfied with impugned valuation ruling issued by Director Valuation of Directorate of Valuation Department against the Values of Suitcases (Soft & Hard) for Low End Brand valuation Ruling no. 1688/2022 dated 05-08-2022 (Annex – 1) u/s 25 A of Customs Act 1969 which is incorrect, unjust and against the fair practice of determination of Valuation ruling.

Grounds for filing Review Petition

1- The directorate has determined the values in a hurry or in biased way as there was no letter of meeting received by any importer in Pakistan also I have not received any letter for meeting. Without meeting with stake holder how is possible to issue Valuation Ruling, as it is known principle of law that no man should be condemned without opportunity of hearing. Also I was one of petitioner in last VR

which was Set Aside by most respected DG valuation. So director valuation should send meeting notice before coming to any decision of VR.

2- The values determined in impugned VR are far higher than the Actual values of low end brands of suitcases.

3- The Valuation ruling must be equal to the transaction value method as per section 25 (1) which is most acceptable method for determination of values of goods. Directorate must provide chance to all stakeholders to provide substantial documents to prove transaction values.

4- The values determined as per impugned valuation ruling are far higher than values for that method also can check the consistency of declared prices in customs data since last years of similar origin.

5- While determining the value why was not possible for the directorate to determine the value under section 25 (5) or 25 (6) and they have most easy way to check values under deductive value method under section 25 (7) as the goods are imported In Pakistan are selling in same condition as imported and have the unit price value.

6- The point which is ignored while determining the values that the Travelling goods are most effected sector in Last few years due to Covid-19 restrictions by most countries which can also find while examining the past few years data of customs. That is one reason of decline in prices from the exporter countries instead of any increase.

INFLUENCE OF IMPUGNED RULING

As highly dissatisfied, have to file petition in front of Honorable Director General u/s 25-D of customs Act 1969 against the impugned Valuation Ruling.

Due to the reason of above mentioned ruling we have halted our all business and even shipments ready in exporting country have been stopped. Consignments on way cannot be get cleared as the value of goods determined by the Directorate is unjustified so unable to get cleared from customs due to big difference. Also in term this will put irrelevant pressure on general public who will in return have to bear higher price due to irrational and unjust valuation ruling.

PRAYER

As per above mentioned grievances it is prayed that valuation ruling no. 1688/2022 dated 05-08-2022 being the violation of custom Act 1969. And violates the fundamental right of general public as stated in constitution of Pakistan kindly SET ASIDE the invalid and unjust valuation ruling no. 1688/2022 immediately so petitioner/stakeholders should not suffer more loses.

It is requested that also intimate director valuation to arrange urgent meeting for the determination of appropriate valuation ruling. In the meantime valuation ruling no. 915/2016 dated 25-08-2016 (Annex-2) holds the field for assessment purpose till a fresh valuation ruling issued by Director, Customs Valuation on merits and in accordance with law after giving a fair opportunity of hearing to the petitioner. "

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

"FACTS OF THE CASE

Earlier, the Customs values of Suitcases (Soft & Hard) of low end brands were determined under Section 25A of the Customs Act, 1969, vide Valuation Ruling No.1637/ 2022 dated 26-04-2022. The Director General Customs Valuation set aside the said ruling vide Order-In-Revision No.58/2022 dated 28-06-



2022 under Section 25-D of the Customs Act, 1969, with the direction to determine afresh customs values of the subject goods. In view of foregoing, an exercise was undertaken by this Directorate General to re-determine the customs values of subject goods in terms of Section 25A of the Act. Consultation meeting with the stakeholders, including representatives of importers and clearance Collectorates were held on 28-07-2022. The importers / stakeholders were requested to submit their proposals / suggestions as well as following documents before or during the course of stakeholders' 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.

The importers contested that the values determined in the earlier V.R No. 1637/2022 dated 26-04-2022 were on the higher side and may be rationalized based on market inquiries from domestic and international sources including prices of constituent materials. The stakeholders' point of views were considered in detail to arrive at customs values of subject goods. Values of the goods hence determined, keeping in view the element of freight, import prices of raw materials and the values prevailing in the local and international market.

However, accordingly, after exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969, and evaluating / analyzing whole the information so gathered, customs values of under reference goods were determined in terms of **Section 25(9)** of the Customs Act, 1969, and notified in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country vide Valuation Ruling No.1688/2022 dated 05-08-2022.

PARAWISE COMMENTS

Para-(1&2)

Not Agreed. It is respectfully submitted that the impugned Valuation Ruling No.1688/2022 dated 05-08-2022 has lawfully and justifiably been issued by the Respondent in terms of Section 25A of the Customs Act, 1969, under vested powers upon him. The Director (Valuation) has been empowered by the Board to issue valuation rulings after exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969. No deviation from laws / rules has occurred while determining the customs values of under reference goods. Further, it is submitted that concept of "fixation of values" no more exists in the Customs Tariff rather Customs values are being determined in terms of Section 25 of the Customs Act, 1969. As far grievances of under reference petitioners are concerned, it is submitted that they seem to be not satisfied with any valuation ruling because they are continuously aggrieved with both Valuation Rulings No.1637/2022, dated 26-04-2022 & impugned Valuation Ruling No.1688/2022 dated 05-08-2022 and filing review petitions against the same. However, rulings are being issued law by considering record of previous rulings and taking all stakeholders on board. Respondent above named had determined minimum customs values although the same are being sold in the local market at higher prices. On the other hand the petitioners did not submit any import related documents such as copies of sales tax paid invoices, proforma Invoice etc. Therefore, the determined customs values are not exorbitantly increased rather

the same are based on ground realities of the case record. As such the Respondent has acted according to law and procedure.

Para-(3)

It is submitted that the contents of Para-(3) 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. In these paras petitioners have negated the impugned Valuation Ruling but did not give any substantive and cogent reason for not accepting the same while assessments are being made as per the same.

Para-(4&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 impugned Valuation Ruling No.1637 / 2022, dated 26-04-2022 and arguments put forward by the Appellants were duly considered during process of issuance of impugned Valuation Ruling No.1688/05-08-2022. However, petitioners still seem to be aggrieved despite two Valuation Rulings have been issued for under reference goods. 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. 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.1688/ 2022, dated 05-08-2022 has lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969.

Para-(6)

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.1688/2022, dated 05-08-2022 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 meeting with the stakeholders was held on 28-07-2022, which was duly attended by the commercial importers as well as local manufacturers of under reference goods and official bearers / representatives of 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 any required documents before meeting. Again during the meeting 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 the international market prices. They were repeatedly requested to furnish sales tax invoices along with 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 along with 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

In view of above narrated facts, it is submitted that the petitioner is required to get clear the goods as per Valuation Ruling issued under Section 25-A of the Customs Act, 1969, which is legal and lawful. The Valuation Ruling No.1688/2022, dated 05-08-2022 has lawfully been issued after considering all the facts and figures and after following valuation methods sequentially. As such the same may be allowed to hold field for uniform assessment all over the country. The assessments made on the basis of Valuation Ruling are correct and petitioners are liable to pay duty / taxes as per Valuation Ruling. 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 the case was conducted on 29-09-2022 on which date both the petitioners and the respondent department were heard in detail. The petitioners contended that vide para-3 of the impugned Valuation Ruling (VR), it has been stated that meeting of the stakeholders was held on 28-07-2022, however, none of the petitioners/importers received any such letter/intimation regarding the said meeting, besides agitating that the method adopted by the department was inconsistent with the sequential methodology prescribed under Section 25 of the Customs Act, 1969. Their main concern was that they had not been consulted in the stakeholder consultations conducted by the department prior to issuance of the impugned valuation ruling. Moreover, the Customs values determined in the impugned VR are far higher than the actual values of low end brands of suitcases.

4. The departmental representative (DR) stated that the prevailing market trends were fully observed and were considered during the exercise held under Section 25A of the Customs Act, 1969. Moreover, the D.R. elaborated the process of how each method was tested and finally reached to adopt Section 25(9) for the determination of the Customs value. However, to ascertain the findings of the market survey, the DR's record was checked which confirmed that no documented visits had been conducted to determine the prevailing market values and further there was no working sheets from which any conclusion could be drawn as to the Customs values. In response to the petitioners claim that they were not issued any notices to attend the stakeholder consultations, the DR's reply was inconclusive. To clarify the situation, the official record was called for and examined wherefrom it was apparent that the notices had not been issued to any of the petitioner or stakeholder.

5. After listening to the detailed discussions/ arguments of both the parties and perusal of the case record, it is apparent that the appellants were not heard by the competent authority while issuing the impugned Valuation Ruling under Section 25A of the Customs Act, 1969. It is well settled principle of law that an individual whose rights are being affected must be given adequate opportunity to defend his case. Since in the instant case, the appellants were not provided with a fair opportunity the ensuing proceedings thus suffer from procedural impropriety which is violative of the principles of natural justice. Accordingly, it is ordered that the impugned Valuation Ruling No. 1688/2022 dated 05-08-2022 is set aside with the directions to the Director of Customs Valuation for deciding afresh and re-determine the Customs values on merit and in accordance with law as well as giving the stakeholders, a fair opportunity of hearing in terms of Section 25A of the Customs Act, 1969 within the legal domain of Section 25 of the ibid Act. The petitions are accordingly disposed of.

6. Being identical on facts and law point, this order shall apply mutatis mutandis, to the following (10) revision petitions:-

<u>S.No.</u>	<u>Petitioners</u>
1	M/s. Bismillah Enterprises
2	M/s. Ahmad Brothers
3	M/s. Saleem Traders Industry
4	M/s. Golden Horse Luggage Factory SMC Pvt. Ltd.
5	M/s. Luggage House
6	M/s. Jumbo Traders

- 7 M/s. Rayyan Traders
8 M/s. Shayan Traders
9 M/s. Azeem Enterprises
10 M/s. Al-Hatim Impex



(Gul Rehman)
Director General

Registered copy to:

S.No.	Petitioners
1	M/s. Bismillah Enterprises, Shop No. 01, E-06, Shafi Center, Shahalam Market, Lahore. Cell : 03200196367 Email: bismillahenterp.765@gmail.com
2	M/s. Ahmad Brothers, Street No. 136A, House No. 14, Aman Park, Baghbanpura, Lahore. 042-37655619 Email: absoaib@hotmail.com
3	M/s. Saleem Traders Industry, 37-E, Alamghir Market, Shahalam Market, Lahore. Tel: 042-37657146 Email: traderssaleem@yahoo.com
4	M/s. Golden Horse Luggage Factory SMC Pvt Ltd, 4.5Km, Raiwind Manga Road, Lahore. Cell: 0315-3038888, Email: yu.chengyuan19@hotmail.com
5	M/s. Luggage House, First Floor, C-7/C283, Trunk Bazar, Rawalpindi. Cell 0334-5510929 Email: luggagehouse678@gmail.com
6	M/s. Jumbo Traders, Office No. 9020, 9 th Floor, Central Plaza, Marston Road, Near Gul Plaza, Karachi. Email: affanrawra04@gmail.com , Cell 0310-9991255
7	M/s. Rayyan Traders, Shop G-1, Gazyani Shopping Mall, Near Gul Plaza, Marston Road, Karachi. Cell: 0321-3409929, Off : 021-32710415
8	M/s. Shayan Traders, Factory No. A-5, Maryam Square, Plot No. 449, Business Recorder Road, Karachi. Email: sohail-ghani2010@hotmail.com , Cell : 0321-2148194
9	M/s. Azeem Enterprises, 249, Shadman1, Lahore. Email: mit.azeem@gmail.com . Tel: 042-35443263
10	M/s. Diamond Leather Craft, B-318, Trunk Bazar, Rawalpindi. Cell: 0300-5241970
11	M/s. Al-Hatim Impex, Office: 6B-5, Fakhri Trade Center, Karachi. Tel: 021-32601415. Email: info@alhatim.com.pk

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), Customs, Islamabad.
- 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, 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) All Additional Directors / Deputy Directors / Assistant Directors, Customs Valuation, Karachi
- 19) Assistant Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in One Customs & WEBOC Database System.
- 20) Guard File.

