

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

File No. DG (V) Val.Rev/04/2022/586

Dated 4th June, 2022

**Order in Revision No. 50/2022 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1587/2022 Dated: 05-01-2022**

- 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. R.K International & Others

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PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

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RESPONDENT

Date(s) of hearing

16-05-2022 & 01-06-2022

For the Petitioners

Mr. Adeel Rais Advocate
Mr. Saeed Abbas
Mr. Asmir Godil

For the Respondent

Mr. Shamaz Saqib Valuation Officer

This revision petition was filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No. 1587/2022, dated 05.01.2022, issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"2. Being aggrieved and dissatisfied with the impugned valuation Ruling dated 05.01.2022, the Petitioner above named prefer this petition against the said Valuation Ruling, on the facts and grounds stated here in below:-

3. **FACTS**

1) That the Director, Directorate General of Customs Valuation, Custom House Karachi issued Valuation Ruling No.1587/2022 dated 05.01.2022 and determined Customs value of Fresh Ginger classified under PCT heading 0910.1100 at value of US\$ 0.900/Kg from China.

2) That the value of impugned goods were previously determined vide Valuation Ruling No.1486/2016 dated. 13.11.2020 and the same being used for consumption of general public of Pakistan. Since the price of Fresh Ginger in international market reducing day by day, its price in market substantially reduced in Pakistan and due to upward price of valuation ruling traders of said commodity facing huge losses.

4) That the above named Petitioner imports Fresh Ginger from various suppliers of China through banking channel and have imported consignment vide invoice numbers ALMH22022 dated 13.01.2022, GF54215300004 dated 30.12.2021, GF54220100020 dated 30.12.2021, SS2021136 dated 22.12.2021. The Petitioners have got retired shipping documents from their concern banks, and the above mentioned invoices are duly signed and stamped from the Bank. The Petitioners above named have also procured copy of the amount transferred through their respective Banks. The above referred consignments of Fresh Ginger in the month of December, 2021 and January 2022 the consignments was shipped on months of December 2021 and January 2022 as indicated from the Bill of Lading.

5) That on retiring the documents from the Bank and on payment of the invoiced amount, the petitioners above named filed Goods Declaration through their nominated Clearing Agent, upon receiving the shipping documents their Clearing Agent informed petitioner that the petitioner has to pay duty & taxes according to fresh Valuation Ruling No.1587/2022 dated 05.01.2022. The Petitioners above named came to know the fresh Valuation Ruling issued on 05.01.2022 and is aggrieved of the said Valuation Ruling and Revision Petition before the Director General, Directorate General of customs Valuation on the following grounds:-

4. GROUNDS

A. That the learned Director, Directorate General of Customs Valuation, Customs House, Karachi has stated in para 4 that the valuation methods provided in Section 25 of the Customs Act, 1969 were duly applied in their regular sequential order to arrive at the Customs values of subject goods. The transaction value method as provided in sub-Section (1) of Section 25 of the Custom Act, 1969, was found inapplicable because requisite information was not available as per law. The wide variation of declared values displayed in the import data as available on record also strengthened the aforementioned fact. Hence requisite information under law was not available to arrive at the transaction value. Therefore, identical / similar goods value methods as provided sub-Sections (5) & (6) of Section 25 ibid were examined for applicability to the valuation issue in the instant case. The same provided some reference values but could not be exclusively and solely relied upon. In line with the statutory sequential order of Section 25, this office conducted market inquiries under sub-Section (7) of Section 25 of the Custom Act, 1969. All the information so gathered was analyzed and evaluated. Keeping all the above in view, customs values of Fresh Ginger and Fresh Garlic are determined under sub-Section (7) of Section 25 of Custom Act, 1969. It is submitted before the Honorable Director General that the data of Fresh Ginger import from China are available which indicated the transaction of the goods paid or payable to the Chinese suppliers. For instance, the Petitioners have their consignments are under clearance and have been imported through banking channel. The Petitioners above named has also furnished proof of payment indicating actually made between buyer and the seller. The contention of the learned Director, Directorate General of Customs Valuation that there was wide variation in the transaction value from China is not correct. All the other importers are also importing the identical goods from the China almost at the same value therefore; the statement of the Director, Directorate General of Customs Valuation is not based on facts. The learned Director, Directorate General of Customs Valuation further contended that methods as provided in sub-Section (5) and (6) of Section 25 of the Customs Act, 1969 are also not applicable these are not solely relied upon. The contention is not correct as the other importers are also importing the impugned goods directly from the well reputed suppliers who are charging the similar transaction value but the learned Director, Directorate General of Customs Valuation malafidely ignored identical/ similar goods value methods. The Director, Directorate General of Customs Valuation as envisaged in the para 4 of the Valuation Ruling contended that market inquiry were conducted under sub-Section (7) of Section 25 of the Customs Act, 1969 and the method could not be exclusively relied upon. Since the trading at wholesale stage being held at Fruits & Vegetable markets of Pakistan. The Director, Directorate General of Custom Valuation did not provide any bill of wholesaler The value determined by the Director, Directorate General of Customs Valuation is therefore, exorbitant, unfair, excessive and would wipe out the few importers left to import the goods in Pakistan.



B. That the transaction value in the Petitioner's consignment may be verified through Commercial in China and after verification, the Director, Directorate General of Customs Valuation may fresh Valuation Ruling for levy of customs duty and other taxes. The Petitioner therefore, requests the Honorable Director General, Directorate General Valuation to set aside the Valuation Ruling and direct the Directorate to re-determine the value after thoroughly verifying the import data and after conducting inquiry from the Commercial from China.

5. **PRAYER**

It is respectfully prayed before the Director General, Directorate General of Customs Valuation, Custom House Karachi to pass an order:-

- a. That the value determined in the Valuation Ruling No.1587/2022 dated 05-01-2022 is arbitrary, gossip, based on assumptions, and has been issued in violation of the method envisaged under sub-Section (1) (5) (6) and (7) of the Section 25 of the Customs Act, 1969 and therefore, the impugned valuation ruling may be set aside.
- b. That the respondent may be directed to re-determine the value considering customs value of similar / identical goods imported during the period of 90 days and available in the Valuation Data."

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:-

"PARAWISE COMMENTS



Para (1) Need no comments being mention of under reference valuation ruling.

Para (2) Denied. It is submitted that transaction value could not be accepted being on lower side and there was found wide variation in declared values of under reference goods. Moreover, the petitioners, on the other hand, did not submit requisite import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant. As per Rule-109 of the Valuation Rules issued under SRO No.450 (I)/2001, dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove the of transaction value shifts to the importers / applicants. As such the same is not against the principles of law rather the same is based on factual ground realities.

Para (3) Denied. It is respectfully submitted that the said Valuation Ruling No.1587/2022 dated 05-01-2022, 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.1587 / 2022, dated 05-01-2022 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(9) of the Customs Act, 1969, vide above referred Valuation Ruling. Further, it is submitted the Petitioners have simply claimed for the acceptance of their declaration but did not submit any tangible documents in support to justify their declarations disclosing full and accurate details relating to the value of the imported goods as per Para-108 of Customs Rules, 2001. As such the transaction value cannot be accepted in absence of any relevant import evidences and documents etc. in terms of Para-108 of the Customs Rules, 2001. The said Valuation Ruling No.1587 /2022 dated 05-01-2022 has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country. However, it is submitted that it is not mandatory for Customs to accept each and every transactional value.

Para (4) It is submitted that para-(2) to (5) clearly states whole the process of issuance of said Valuation Ruling. Moreover, Para-(4) states that the said ruling has been issued in terms of Sub-Section (7) by conducting local market enquiry after exhausting and following all the provisions of Section 25.

for the purpose of determination of Customs values. The petitioners, on the other hand, did not submit requisite import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant. As per Rule-109 of the Valuation Rules issued under SRO No.450(I)/2001,dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove correctness of transaction value shifts to the importers /applicants. Therefore, the petitioner's contention that their declared value is correct does not justify for merit consideration. Moreover, the customs values were determined after properly following and exhausting all the valuation methods in sequential manner and giving reasons for rejection therein and finally the customs values were determined in terms of Section 25(7) of the Customs Act, 1969, for uniform assessment purposes. As such the Respondent had acted in accordance with law and under powers vested upon him under the law.

GROUND S

A. Not agreed. However, it is submitted that customs values in the impugned Valuation Ruling has been determined sequentially by following all valuation methods as provided in Section 25 of the Customs Act, 1969, and giving reasons for rejection thereof. After exhausting Sub-Sections to (9) of Section 25 of the Act *ibid*, the customs values have been determined in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969, for uniform assessment all over the country. 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 impugned Valuation Ruling No.1587/2022, dated 05-01-2022 and arguments put forward by the Appellants and Respondents were considered during process of issuance of impugned Valuation Ruling. The Appellants were asked to furnish relevant documents so as to enable that forum to verify the truth and accuracy of their contentions but no corroboratory import documents were provided by any of them. No evidence was placed on record to indicate any deviation from the existing laws / provisions as envisaged in Section 25 read with Section 25-A of the Customs Act, 1969, has been occurred. The petitioners could not substantiate their claim with supporting documents on record. No supporting documents / evidences have been provided by the Appellants to reject department's views and in support of their contention. As such Valuation Ruling No.1587/ 2022 dated 05-01-2022 has lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969.

B. 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 previous Valuation Ruling No.1486/2020 dated 13-11-2020 and arguments put forward by the under reference Appellants and Respondent were duly considered during process of issuance of Valuation Ruling. The Appellants were asked to furnish the 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. As such Valuation Ruling No.1587/ 2022, dated 05-01-2022 has lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969. Further, it is submitted declared values were examined which were found under-invoiced, therefore, Valuation Ruling No.1587/2022, dated 05-01-2022 was issued. As such the said Valuation Ruling has correctly and lawfully been issued after fulfilling all the requirements and after extensive exercises in terms of Section 25-A of the Customs Act, 1969.

C. 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 customs values are not on higher side rather based on extensive exercises and determined after evaluating and analyzing whole information so gathered from the local market in terms of Sub-Section (7) of Section 25 of the Act *ibid* vide Valuation Ruling No.1587/2022, dated 05-01-2022. As such the same may be allowed to hold field for uniform assessment all over the country. The assessment 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 stakeholders did not provided requisite import documents to the Respondent in support to justify their contention which are essentially required for determination of customs values.

D. 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. The case was heard on 01-06-2022 on which date petitioners and the respondent department were heard in detail. The counsel of the petitioners contended that the Customs value of impugned goods were previously determined vide Valuation Ruling No.1486/2016 dated 13.11.2020 and the same were being used for consumption of general public of Pakistan. Since the price of Fresh Ginger in international market is decreasing, its price in market has also substantially decreased in Pakistan. However, due to higher prices determined in valuation ruling 1587/2022, traders of said commodity are facing huge losses. In support of their claim, the counsel submitted various invoices. The counsel stated that the petitioners are also in possession of retired shipping documents from their concerned banks, and the above stated invoices are duly signed and stamped from the Bank. The counsel further added that their clients import Fresh Ginger from various suppliers of China and transfer remittances through banking channel. In this regard, the petitioners also produced SWIFT copies of the amounts transferred through their respective Banks. The prices of Fresh Ginger shipped in the months of December 2021 and January 2022, as indicated from the Bill of Lading, are different than current international prices. Currently, due to bumper crop the international prices of Ginger have further declined and the customs values need a downward revision.

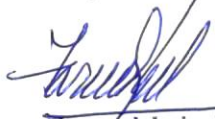
4. On the other hand, the departmental representative (DR) explained in detail the valuation methodologies adopted by them to arrive at the Custom values determined vide the impugned VR. In support of department's contention, the DR presented various details of the valuation exercise/working using the sequential methodology prescribed in Section 25 of the Act *ibid*.

5. After listening to the discussion/arguments of the petitioners, their counsels, respondent and perusal of the case record, it is apparent that besides the market visits, the trends in Customs values, as visible in the clearance data also needed to be taken into consideration for the value determination process in-line with the sequential methodology prescribed in Section 25 of the Customs Act, 1969. The survey was somewhat restrictive as value needed to be ascertained in a more broad-based manner, in major markets where such goods are traded in bulk/wholesale quantities and thereafter determine the Customs values using the most appropriate Method prescribed in the aforesaid statutory provision. Some petitioners agitated that they were not invited during meetings conducted under Section 25A of the Act, *ibid*, by the respondent department. Therefore, the consultations process needs to be more interactive to make the value determination process Naturally Just. Accordingly, Valuation Ruling No. 1587/2022 dated 05-01-2022 is set aside and Director Valuation Karachi is directed to issue a fresh ruling within sixty days of the issuance of this order, based on the sequential methodology provided for

in Section 25 of the Customs Act, 1969 read with the relevant Rules. The revision petitions are disposed off accordingly.

6. Being identical on facts and law points, this order shall apply, *mutatis mutandis*, to following (53) petitions.

M/s. Bhatti Brothers, M/s. M.A. Sons, M/s. Afzal International, M/s. Crown International Trading Est, M/s. Shahmir Impex, M/s. A.K. & Sons, M/s. Inayat Enterprises, M/s. Grand Asia Trading Company, M/s. Souvenir Trading Company, M/s. Ahmed Enterprises, M/s. Al-Mehmand Enterprises, M/s. Hamid & Sons, M/s. S.M. Traders, M/s. M.M. Traders, M/s. Bashir Shabbir & Co, M/s. Sheikh Impex, M/s. Vege Traders, M/s. Yahya and Brothers, M/s. Global Fruit & Vegetable Impex, M/s. Ayaan Enterprises, M/s. AAZ Enterprise, M/s. Kasim Sons, M/s. Punjab Agricultural Farms, M/s. Tradesol International, M/s. Bhatti Enterprises, M/s. AAG Impex, M/s. ASY International, M/s. Chairman & Sons, M/s. Adnan Enterprises, M/s. Baawa House, M/s. Sajid & Yousuf Impex, M/s. SY International, M/s. Godil Cold Chain (Pvt) Ltd, M/s. LEFRES, M/s. Vinica Biofoods (Pvt) Ltd, M/s. SK International, M/s. Salman & Co, M/s. Wali & Co, M/s. Al-Saeed Enterprises, M/s. Tareen Enterprises, M/s. Faisal & Co, M/s. Saleem Jan & Sons, M/s. ATS Al-Fattah Enterprise (Pvt) Ltd, M/s. Ilyas Traders, M/s. Zahoor Trading Corporation, M/s. Al-Hamd Corporation, M/s. Khalida Hussain International, M/s. Ibrahim Brothers, M/s. Shehroz & Imran Sons, M/s. Afzal Sons, M/s. AAZ Enterprises, M/s. Naveed Ahmed Mustafai and M/s. H.E. Traders.


(Dr. Fareed Iqbal Qureshi)
Director General

Registered copy to:

M/s. R.K International, M/s. Bhatti Brothers, M/s. M.A. Sons, M/s. Afzal International, M/s. Crown International Trading Est, M/s. Shahmir Impex, M/s. A.K. & Sons, M/s. Inayat Enterprises, M/s. Grand Asia Trading Company, M/s. Souvenir Trading Company, M/s. Ahmed Enterprises, M/s. Al-Mehmand Enterprises, M/s. Hamid & Sons, M/s. S.M. Traders, M/s. M.M. Traders, M/s. Bashir Shabbir & Co, M/s. Sheikh Impex, M/s. Vege Traders, M/s. Yahya and Brothers, M/s. Global Fruit & Vegetable Impex, M/s. Ayaan Enterprises, M/s. AAZ Enterprise, M/s. Kasim Sons, M/s. Punjab Agricultural Farms, M/s. Tradesol International, M/s. Bhatti Enterprises, M/s. AAG Impex, M/s. ASY International, M/s. Chairman & Sons, M/s. Adnan Enterprises, M/s. Baawa House, M/s. Sajid & Yousuf Impex, M/s. SY International, M/s. Godil Cold Chain (Pvt) Ltd, M/s. LEFRES, M/s. Vinica Biofoods (Pvt) Ltd, M/s. SK International, M/s. Salman & Co, M/s. Wali & Co, M/s. Al-Saeed Enterprises, M/s. Tareen Enterprises, M/s. Faisal & Co, M/s. Saleem Jan & Sons, M/s. ATS Al-Fattah Enterprise (Pvt) Ltd, M/s. Ilyas Traders, M/s. Zahoor Trading Corporation, M/s. Al-Hamd Corporation, M/s. Khalida Hussain International, M/s. Ibrahim Brothers, M/s. Shehroz & Imran Sons, M/s. Afzal Sons, M/s. AAZ Enterprises, M/s. Naveed Ahmed Mustafai.
C/o Mr. Adeel Rais
Room No.904, 9TH Floor, Jilani Tower, M.A. Jinnah Road, Karachi.

M/s. H.E. Traders,
Momin Manzil, Rambharti Street, Jodia Bazar, Karachi.

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 Appraisement, (Central), Custom House, Lahore.
- 10) The Chief Collector of Customs, Baluchistan, Custom House, Quetta.
- 11) The Chief Collector of Customs, Khyber Pakhtunkhwa, Custom House, Peshawar.
- 12) The Chief Collector of Customs, Appraisement (South), Custom House, Karachi.
- 13) The Chief Collector of Customs, Enforcement (South), Custom House, Karachi.
- 14) The Directors, Intelligence & Investigation, Karachi / Lahore / Islamabad / Quetta / Peshawar / Faisalabad.
- 15) The Director, Directorate of Customs Valuation, Lahore.
- 16) The Collector of Customs, Collectorate of Customs, (Appraisement - West / Appraisement - East/
Appraisement - Port Muhammad Bin Qasim / Enforcement / JIAP), Karachi / Hyderabad / (Appraisement /
Enforcement), Quetta / Gawadar / (Appraisement / Enforcement / AIIA), Lahore / Appraisement,
Faisalabad / Appraisement, Sambrial (Sialkot) / Enforcement, Multan / Islamabad / Gilgit -Baltistan /
(Appraisement / Enforcement), Peshawar / Enforcement, Dera Ismail Khan/ Exports (Port Muhammad Bin
Qasim / Custom House), Karachi.
- 17) The Secretary (Valuation & Audit), Federal Board of Revenue, Islamabad.
- 18) 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 & WEOC Database System.
- 20) Deputy Director (Revision), Customs Valuation, Karachi
- 21) Guard File.

