

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

File No. DG(V)Val.Rev/13/2022/969.

Dated 20th September, 2022

**Order in Revision No. 78 /2022 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1602/2022 Dated 23-02-2022**

- 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 Ahmed Enterprises & Others

.....

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

.....

RESPONDENT

Date(s) of hearing

17-08-2022 and 13-09-2022

For the Petitioners

Mr. Arshad Shinwari for M/s Shinwari Global Enterprises

For the Respondent

Mr. Shahdad Khan Mari, Principal Appraiser

This revision petition was filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No. 1602/2022 dated 23.02.2022, issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"FACTS"

- 1) The Director Customs Valuation issued Valuation Ruling No.1602/2022 dated 23.02.2022 for assessment of customs value of above commodity.*
- 2) That in past above goods were assessed and released in the light of Valuation Ruling No.1241/2018 Dated 04.01.2018 accordingly.*
- 3) That we were not invited to appear in meeting.*

That above proposed customs value for assessment seriously harms the interest of the applicant. The above fresh valuation ruling is required to be revised further in the light of facts furnished below:

- 1. That the value of above commodity of all origins enhanced to the tune of 10% whereas the prices of goods of INDONESIA, MALAYSIA, KOREA & THAILAND ORIGINS enhanced to the tune of 70%.*

2. That the subject cited valuation ruling is issued on the basis of clearance data, raw material prices and international prices which is not a proper method.
3. That no any market enquiry conducted.

GROUND

01. That fresh valuation ruling stands at higher side and not comparative to prices of above commodity currently prevailed in international markets.
02. That the prices of above commodity have set a downfall trend and prices thereof decreasing day by day in international markets.
03. That in the event if subject cited valuation ruling may be implemented, the goods of INDONESIA, MALYSIA, KOREA & THAILAND ORIGINS will not be capable to compete in the markets before goods of other origins.

PRAYER

Keeping in view of the INFIRMITIES and deviation from practices of PAST VALUATION RULING, the Applicant prays as follows:

- a) That the meeting may be held with the importers and stakeholders afresh to discuss valuation matter in length regarding issuance of valuation ruling at fair level.
- b) That above valuation ruling should be set-aside and customs value may be re-finalized in the light of proposals to be furnished by the importers and stakeholders in meeting otherwise OLD VALUATION RULING NO. 1241/2018 DATED: 04.01.2018 may be restored.
- c) That we have already been paid huge amounts of demurrage and detention charges which ratio stands in millions. It is therefore, requested that decision towards this revision petition may be taken as early as possible so that the importers may be able escape from un-necessary burden of demurrage and detention charges as well as to flow completion of assessment smoothly in future and oblige.
- d) That the consignments of above commodity may allow to be released provisionally under Section 81 of the Customs Act, 1969 until revise of subject cited valuation ruling."



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 Glass Wares / Porcelain Wares were determined vide Valuation Ruling No.1241/2018 dated 04-01-2018. As the Valuation Ruling was more than four years old, this Directorate General initiated an exercise for the determination of customs values of subject goods under Section 25A of the Customs Act, 1969, Meetings with all stakeholders, trade bodies including representatives of clearance Collectorates were held in this Directorate General on 06-01-2022 and 27-01-2022. 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 meetings were attended by importers and other stakeholders including the local manufacturers. Their views were heard in detail to arrive at customs values of subject goods. The local manufacturer contended that the valuation ruling is more than four years old which should be revised upward in accordance with the current price trend in international market. On the other side, importers contended that the values in the existing Valuation Ruling are already higher, therefore, customs values of subject goods may further be rationalized. The viewpoints of stakeholders were heard in detail and considered to arrive at customs values of the subject goods.

However, after exhausting and examining all valuation methods, online prices, market survey and analyzing and evaluating whole the information so gathered, Customs Values were determined in terms of Section 25(9) and notified under Section 25A of the Customs Act, 1969, for uniform assessment all over the country vide Valuation Ruling No.1602 / 2022 dated 23-02-2022 accordingly.

PARAWISE COMMENTS

Para-(1): Need no comments being introduction of the importer and their imports.

Para-(2): Not Agreed. 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-LX), 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, it is submitted that record of previous Valuation Ruling No.1241/2018 dated 04-01-2018 was also duly considered and after exhausting and examining all the valuation methods as envisaged under Section 25, Customs values were determined in terms of Sub-Section (9) of the Customs Act, 1969, by giving reasons for rejecting the previous Sub-Sections of Section 25 of the Customs Act, 1969.



Para-(3)&(4): Denied. It is respectfully submitted that the said Valuation Ruling No.1602 / 2022 dated 23-02-2022, 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.1602 / 2022, dated 23-02-2022 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 and local market surveys were analyzed and evaluated and after gathering all information, the Customs values of under reference goods have been determined in terms of Section 25(9) of the Customs Act, 1969, vide above referred Valuation Ruling No.1602/2022 dated 23-02-2022 for uniform assessment all over the country. It is submitted that the Director Customs Valuation has been empowered to issue Valuation Rulings by exercising his powers in terms of Section 25A of the Customs Act, 1969, through applying valuation method as best suited to the determination of customs value of any imported goods into Pakistan. As such the Respondent had acted according to law and procedure as laid down in Section 25 of the Customs Act, 1969.

Para-(5): It is submitted that Paras-(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 (9) 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 the 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 in the under-reference valuation ruling have been determined in terms of Section 25A of the Customs Act, 1969, by following all valuation methods as envisaged under Section 25 of the Customs Act, 1969, for uniform assessment all over the country.

GROUND S

Para-(1)&(2): 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.1602/ 2022, dated 23-02-2022 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 meetings with the stakeholders were held on 06-01-2022 and 27-01-2022 which were 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 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.

Para-(3)&(4): Not Agreed. It is submitted that while issuing the Valuation Ruling for 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, 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-(5): Denied. It is respectfully submitted that the customs value of under reference goods had been determined strictly in accordance with the provisions of Section 25 of the Customs Act, 1969. Moreover, the petitioners, on the other hand, did not submit the requisite corroboratory import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant As per Rule-109 of the Valuation Rules issued under SRO No.450(I)/2001, dated 18-06-2001(Chapter-IX), in the absence of valid import documents, the burden to prove the of transaction value shifts to the importers / applicants. As such the same is not against the principles of laws rather the same is based on factual ground realities. Moreover, record of the previous Valuation Ruling No.1241/2018 dated 04-01-2018 was also brought into account while determining the customs values in the under reference Valuation Ruling No.1602 / 2022 dated 23-02-2022.



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.1602 / 2022 dated 23-02-2022. The Respondent have acted lawfully and the Valuation Ruling No.1602 / 2022, dated 23-02-2022 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 showing the values of suppliers (excluding duty & taxes) to substantiate their contentions which are essentially required for the process of determination of customs values of any imported goods.

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 and under reference petition being not maintainable is liable to be dismissed and rejected accordingly."

ORDER

3. Hearings in the case were scheduled on 17-08-2022 and 13-09-2022 where both the petitioners and respondent department were heard in detail. The petitioners (M/s Shinwari Global Enterprises, Lahore) contended that the values of above commodity of all origins were enhanced to the tune of 10% whereas the prices of goods of Indonesia, Malaysia, Korea and Thailand origins enhanced to the tune of

70%. They stated that no market enquiry was conducted and impugned Valuation Ruling (VR) No.1602/2022 dated 23-02-2022 was issued on the basis of clearance data, raw material and international prices which is not a proper method. They further agitated that the Customs Values determined vide impugned VR were on higher side and were not prevalent in the international markets. Furthermore, prices in the international markets depicted a downward trend.

4. On the other hand, the departmental representative (DR) explained in detail the valuation methodologies adopted by them to arrive at the customs values determined vide the impugned VR. In support of department's contention, the DR presented various details of the valuation working using the sequential methodology prescribed in Section 25 of the Act *ibid*, which has already been elaborated in para-5 of the impugned valuation ruling. The DR added that the meetings were attended by importers and other stakeholders including the local manufacturers. Their views were heard in detail to arrive at customs values of subject goods. The local manufacturer contended that the Valuation Ruling is more than four years old which should be revised upward in accordance with the current price trend in international market. On the other side, importers contended that the values in the existing Valuation Ruling are already high, therefore, customs values of subject goods may further be rationalized. The viewpoints of stakeholders were heard in detail and considered to arrive at customs values of the subject goods. The DR explained that the Customs Values notified for porcelain-ware for Indonesia origin in the previous VR were lower than China origin goods, therefore, the same was rationalized and clubbed with Far East countries in the impugned VR.

5. After listening to the detailed discussions/arguments of both the parties and perusal of the case record, it is apparent that the department had duly consulted the stakeholders while issuing the impugned VR. The importers were given sufficient time and opportunity to give their inputs including documentary proof/evidence to substantiate their transaction value but they failed to provide any material documentary proof in support of their declared values. On the other hand, the DR provided details of market inquiry reports and samples as available on record to substantiate the values determined by them. It is apparent that the Importers (petitioners) are unable to shed the burden of proof in terms of Rule 109 of Chapter-IX of Customs Rules, 2001 (SRO 450(I)/2001 dated 18-06-2001). Therefore, there is no reason to interfere with the impugned Valuation Ruling No.1602/2022 dated 23-02-2022. The revision petitions are, accordingly, rejected.

6. Being identical on facts and law points, this order shall apply, *mutatis mutandis*, to following (03) revision petitions.

1. M/s. Shinwari International Trading Company
2. M/s. Ahmed Enterprises
3. M/s. Selection Plus



(Gul Rehman)
Director General

Registered copy to:

M/s. Shinwari Global Enterprises,
Hussain Centre, Block-B, 2nd Floor, Shahalam Market, Lahore.

M/s. Shinwari International Trading Company,
No.5/6, Ground Floor, Block-B, Shah Shopping Centre, Jamrod Road, Peshawar.

M/s. Ahmed Enterprises,
1, 2nd Floor, SS Plaza, Jamrod Road, Peshawar.

M/s. Selection Plus,
MF-78, Gul Plaza, M.A. Jinnah Road, 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)-FBR, Islamabad.
- 4) The Director General, PCA & Internal Audit, Islamabad
- 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, Karachi / Lahore / Quetta / Peshawar.
- 16) The Collector of Customs, Collectorate of Customs, (Appraisalment - West / Appraisalment - East/
Appraisalment - Port Muhammad Bin Qasim / Enforcement / JIAP), Karachi / Hyderabad /
(Appraisalment / Enforcement), Quetta / Gwadar / (Appraisalment / Enforcement / AIIA), Lahore /
Appraisalment, Faisalabad / Appraisalment, Sambrial (Sialkot) / Enforcement, Multan / Islamabad /
Gilgit -Baltistan / (Appraisalment / Enforcement), Peshawar / 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.

