

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

File No. DG(V)Val.Rev/23/2022/1543.

Dated 27th May, 2022

Order in Revision No. 45/2022 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1619/2022 Dated: 25-03-2022

- 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 Sy'ah Impex
M/s Pharma Supply Corporation

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing

19-05-2022

For the Petitioners

Barrister Asad Khan
Syed Omer Ahmed
Mr Sheeraz Siddiqui

For the Respondent

Mr.Nadeem Shaikh, Valuation Officer

These revision petitions were filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No.1619/2022 dated 25.03.2022, issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"Being aggrieved and dissatisfied with the subject Valuation Ruling No. 1619 of 2022 dated 25.3.2022, passed by the Respondent Director, the Petitioner prefers this Revision Petition under Section 25D of the Customs Act, 1969, before this Hon'ble Authority on the following facts and grounds, namely"

FACTS

1. That the Petitioner is a proprietorship concern engaged in the business of, inter alia, importing and supplying a variety of medical equipment, including Disposable and Auto-disable Syringes with Needles (hereinafter collectively referred to as "the imported Syringes") for the past 28 years across Pakistan. Through years of hard work, commitment to professional excellence and by providing highest quality products at reasonable cost to the leading Government and private hospitals across the Country, the Petitioner and its brand "SHIFA" has earned the trust and confidence of millions

all over the country. As a result, the Petitioner has established itself as by far the largest importer of such Syringes; imports by the Petitioner have accounted for 42% of the imported syringes in 3ML and 5ML Auto-Disable category and, naturally, the Petitioner is responsible for the largest contributions to the National Exchequer in this respect.

2. That, whereas, the Respondent Director of Customs Valuation has been entrusted by the Legislature through the enactment of section 25A of the Customs Act, 1969, to diligently, efficiently and properly exercise the powers contained therein for the lawful determination of customs values of goods imported into or exported out of Pakistan, which values are then used and applied for calculation of leviable Customs duties as well as allied taxes.
3. That in spite of its obligations under the law, the Respondent Director has unlawfully, arbitrarily, and in dire contradiction and violation of Section 25A of the Customs Act, 1969, and the Customs Rules, 2001, framed there-under, purportedly 'determined' the values of the imported Syringes of various sizes (1ML, 3ML, 5ML, and 10ML) vide the impugned Valuation Ruling No. 1619 of 2022 dated 25.3.2022 (hereinafter referred to as 'the impugned Valuation Ruling').
4. That as submitted herein, the Respondent Director has acted in violation and excess of the powers conferred thereupon under the Customs Act, 1969, and the issuance of the impugned Ruling has resulted in serious harm and loss to the Petitioner as well as other stakeholders. The actual prices paid / payable for the impugned goods remains significantly lower than the value unlawfully fixed through the impugned Valuation Ruling, however, despite the patent illegalities therein, the Respondent Director has deemed the impugned Ruling fit for the purposes of assessment of imported consignments of the impugned goods. The Petitioner submits a brief background to the issue as follows.
5. That in due course of its' business, the Petitioner conducts imports of various types of Syringes, whereas a large proportion of such imports are of 3ML and 5ML auto-disable syringes with needles. The prices paid / payable for the imported Syringes purchased for import into Pakistan by the Petitioner, as low as, over the previous ninety (90) days prior to issuance of the impugned Valuation Ruling.

As such, in terms of Section 25 of the Act, 1969, the actual price paid / payable for the said goods at the time of import into Pakistan remains significantly lower than those fixed / notified through the impugned Valuation Ruling.

6. That it is pertinent to note at this stage that the Petitioner purchases the imported Syringes from its supplier in China, namely M/s Changzhou Health Import and Export Company Limited, and all payments to the said supplier are made thereto through banking channels, such as Letters of Credit.
7. That under the scheme of the Customs Act, 1969 (hereinafter 'the Act, 1969'), the assessment valuation of imported goods is carried out either under Section 25 of the Act, 1969, or under Section 25A r/w Section 25 of the Act, 1969. Assessment + valuation is carried out under Section 25A of the Act, 1969, where customs / assessable values of imported goods are **determined** in advance by the Respondent Director through the issuance of a valuation ruling issued after strict adherence to the methods of valuation laid down in Section 25 of the Act, 1969, and the Customs Rules, 2001, framed thereunder.
8. That in the recent past, the assessment of the imported Syringes has been subject to Valuation Ruling No. 888 of 2016 dated 27.7.2016 issued under Section 25A of the Act, 1969, by the Respondent Director / its predecessor. The said Valuation Ruling was issued after taking onboard all stakeholders and the prices / values contained therein remained at or about the same level for most of its subsistence.

9. That it must be noted that whenever the Petitioner has purchased and imported the said Syringes at a value higher than the values contained in the earlier Valuation Ruling No. 888 of 2016, the Petitioner has made declarations as such and has paid higher amounts of duties and taxes compared to those leviable on assessments carried out as per the said earlier Ruling. This is verifiable both from the import data of the imported Syringes as well as the documents appended herewith.
10. That in spite of the foregoing and to the surprise and dismay of the Petitioner, the Respondent Director initiated proceedings for re-determination of values under Section 25A of the Act, 1969, for the imported Syringes. In this regard, a meeting was held on 23.2.2022 for, inter alia, the Petitioner and other importers of the said Syringes, and the following documents were sought, namely:
- Invoices of imports during last three months,
 - Websites, names, e-mail address of known foreign manufacturers,
 - Contracts made / LCs opened during the last three months, and
 - Sales Tax Invoices issued during the last four months showing difference in price.
11. That accordingly, the Petitioner furnished detailed submissions and documentary evidences. Such documents submitted by the Petitioner demonstrated the customs assessable values of the imported Syringes and included but were not limited to the following, namely:
- Goods Declarations along with Invoices, Packing Lists, Bills of Lading, and FTA Certificates,
 - Proforma Invoices and Letters of Credit for the foregoing imports,
 - Sales Tax Invoices,
 - Tenders awarded to the Petitioner for sale and supply of the imported syringes,
 - Contact details, website, etc. of foreign manufacturer, and
 - Goods Declarations filed at the time of export with the General Administration of Customs (GAC) of China. Copies of Import Documents, including both import and export GDs, Invoices, PLs, BLs, LCs and FTA Certificates, are attached as Annex C/1 to C/.
12. That the Petitioner made incontrovertible and irrefutable submissions on, inter alia, what the current values should be while supporting the same with irrefutable documents and the fact that the earlier values contained in Valuation Ruling No. 888 of 2016 are still valid in view of the prevailing values for the said Syringes, whereas any purchases made on the higher said are accordingly declared. Some of the crucial points submitted by the Petitioner at the said meeting are summarized below for ease of reference, namely:
- That the values determined through the earlier Ruling are at or about the same price as the imported Syringes are presently available, and any increment for the newer items is marginal at best, which is duly declared by the Petitioner at the time of import.
 - That while freight charges have faced a recent hike, any higher values than those determined in the earlier Ruling have been correctly declared and duties and taxes were paid accordingly by the Petitioner.
 - That in the very recent past, the freight charges have started to come down and, at the time of filing the instant petition, such freight charges have reverted and normalized to earlier prices.
 - That the import of Syringes is crucial to the healthcare industry and the provision of medical services in Pakistan, as local manufacturers are direly unable to meet even a small proportion of such demand. Two further points must be made:



- i. Firstly, imported syringes account for more than 50% of the total consumption of syringes in Pakistan.
 - ii. Secondly, due to the various tax exemptions, the only revenue generation on syringes is on account of import.
- E. That the Petitioner is the biggest stakeholder of such imports of Syringes, and, consequently, is also the biggest supplier thereof in Pakistan.
- F. That since a portion of sales / supplies made by the Petitioner are through Tenders / Government Procurement and evidences thereof have been duly submitted, the actually price of the imported Syringes is easily verifiable through such evidences combined with Sales Tax Invoices.
- i. It is also pertinent to note that, in respect of such supplies, the Petitioner remains bound by the price commitment given at the time of succeeding in the tender process and, as such, not only is the adverse impact of the impugned Valuation Ruling self-evident but the values at which the said Syringes are being supplied is also established beyond any doubt
- G. That the demonstrated evidences submitted before the Respondent Director by the Petitioner irrefutably even showed evidence of declarations made at the export stage by the Chinese Supplier through GIDs filed with the GAC.

It may also be added that in addition to the foregoing, the Petitioner repeatedly invited the Respondent Director to utilize the information of exporters / manufacturers in China presented before it by the Petitioner and to contact such exporters / manufacturers to conduct any independent inquiry to verify the facts being submitted by the Petitioner.

That it is pertinent to note that three (03) consignments imported in the months of August and December by M/s Mehran International (NTN 0826331) were cited as the sole example of the Respondent Director of values being much higher (nearly two times) than those contained in the said earlier Ruling. However, it is pertinent to note that such imports and consequent declarations made by M/s Mehran International were nothing but an attempt to discredit the actual prices paid for the imported Syringes by other importers, evidently with the connivance of local manufacturers. This is further confirmed by the fact that the imports have been conducted at such times when the Federal Government had waived import tariffs on the import of Syringes.

13. That it may also be added that irrespective of the tariff structure, i.e. whether or not beneficial and exemption notifications were in field, the Petitioner has continued to import the said Syringes. Whereas, as stated hereinabove, the record of imports shows that M/s Mehran International has only conducted import of the aforementioned three (03) consignments throughout the relevant period.
14. That thereafter the Petitioner was confronted with indeterminate silence by the Respondent Director and no further steps vis-à-vis determination of fresh values in accordance with the law were taken.
15. That however, after the passage of more than a month without any further clarification being sought or otherwise, the Petitioner was suddenly confronted with the impugned Valuation Ruling No. 1619 of 2022 issued on 25.3.2022, whereby the values of, inter alia, the said Syringes were increased by abhorrent and unsustainable margins.
16. That the Respondent Director proceeded to issue the impugned Valuation Ruling whereby the entirety of the exercise conducted and discussions held on 23.2.2022 was rendered obsolete and values without any basis in the law were issued / fixed.

17. That the impugned Valuation Ruling utterly fails to consider the submissions made by the Petitioner both in terms of the arguments raised and issues highlighted, as well as the irrefutable documents relied upon. Before turning to the method of valuation adopted for the issuance of the impugned Ruling, it is submitted that the Respondent Director has stated at Paragraph 4 that

"The meeting was attended by stakeholders and their points of view were heard in detail to arrive at customs values of subject goods. The some importers submitted documents in support of their contention."

Then, at Line 5 of Paragraph 5, the Respondent Director states:

"... Transaction value method as provided in sub-section (1) of Section 25 of the Customs Act, 1969 was found inapplicable because no substantial documents were provided by the stakeholders to prove that their declared values were true transactional values ..."

Then, further, at Line 6 of Paragraph 5, it is stated:

"Moreover, different values were declared by different importers for same product according to different origins

In view of the foregoing quotation, the following questions naturally arise:

- i. In what manner were the points of view and documents submitted by the Petitioner considered for purportedly determining the impugned values?
- ii. If the documents submitted by the Petitioner supported its contention, then how come the value is so significantly higher than the actual price paid / payable by the Petitioner at the time of import into Pakistan?
- iii. What constitutes "substantial documents"?
- iv. Whether the documents listed in and sought through the Meeting Notice were **insubstantial**?
- v. Whether the Respondent Director even examined the documents submitted by the Petitioner?
- vi. If so, on what ground were such documents rendered "insubstantial"?
- vii. If not, why did the Respondent Director ignore such documents?
- viii. What origins did the values pertain to as claimed in Line 6 of Paragraph 5?
- ix. Even if such different origins were on display, how did it effect the values being determined for **China origin**?
- x. Whether the Respondent Director was attempting to force a certain conclusion and merely gave bald statements to achieve such conclusion?

18. That nonetheless, the impugned Ruling is self-evident of high-handed, unlawful, illegal and mala fide acts, whereby the Respondent Director has failed to carry out any determination of values and, instead, has given stereotypical statements in an attempt to justify the imposition of unrealistic and unlawful values on the imports of the said Syringes.

19. That while acknowledging that the Petitioner sought the values of the earlier Ruling to be kept intact, the Respondent Director, at paragraph 5, proceeded to make general statements as to the methodology adopted in arriving at the values for, inter alia, the imported Syringes in the impugned Valuation Ruling.

20. That no reason whatsoever has been given for rejection of the submissions of the Petitioner, whereby, inter alia, the Export GDs as mentioned in Paragraph 11 *ibid* and other documents have been rejected, with the result that values for the imported Syringes contained in the impugned Valuation Ruling are unreflective of the actual price paid / payable for the imported Syringes at the time of import into Pakistan. As stated hereinabove at paragraph 5, the values of the said Syringes

are incredibly and substantially lower than the values which have been unlawfully fixed through the impugned Ruling.

21. That it is an indisputable fact that the Petitioner has submitted incontrovertible documents in the shape of demonstrated evidences, in support of its contentions, including Export GDs as mentioned in Paragraph 11ibid, proofs of payment for such purchases having been made through proper banking channels and, as such, no question as to the bona fide of such documents has either arisen or can arise. The Petitioner also declares the actual price paid / payable for the imported Syringes at the time of import into Pakistan in the Goods Declarations filed before the respective Collectorates. Furthermore, the Tenders and Sales Tax Invoices of the Petitioner also reflect the price at which such imported Syringes are sold by the Petitioner, which can be utilized in order to verify the claims of the Petitioner.
22. That the Respondent Director, however, completely ignored all of the submissions made before it and grossly abused the powers conferred upon it in order to issue an arbitrary list of values which is not permissible under the law.
23. That the Respondent Director must be invited to show the manner in which the values contained in the impugned Ruling have been arrived at. Mere cyclostyle statements regurgitated from other rulings issued in the past are not sufficient as an exercise under Section 25A of the Act, 1969, is mathematical in nature and is regulated by the law as contained in Sections 25 and 25A of the Act, 1969, read with Chapter IX of the Customs Rules, 2001. In spite of the foregoing, the Respondent Director has refused to place on record such exercise and, instead, has reiterated the bald statements that are reproduced in paragraph 5 of the impugned Valuation Ruling.
24. That however, the Respondent has asserted that a market survey was conducted independently and to the exclusion of the Petitioner, however, it has been claimed that the "... item was not readily available in the market ...". Again, the Respondent department, in an effort to keep the determination process obscure and riddled in uncertainties, fails to contextualise the said market survey and does not provide any details as to when this market survey was conducted. This deliberate concealment leads to the conclusion that any such survey was not conducted at all.
25. That furthermore, a market survey can very easily be carried out with the assistance of the Federal Inspector of Drugs and the Division of Medical Devices and Medical Cosmetics of the Drug Regulatory Authority of Pakistan (DRAP), who are the regulatory authority for all such goods and, as such, remain well versed in the ability to undertake market surveys.
26. That in continuation of the above, even if such a survey was conducted by the Respondent, the willful exclusion of the concerned stakeholders in the process, including the Petitioner, raises suspicion about the substantive content of the survey and the manner in which it was conducted. This, coupled with the lack of any evidence or details pertinent to the survey, raises suspicion about whether the survey was actually conducted in the first place or whether it is being used to justify the Respondent's arbitrary and capricious customs values.
27. That paragraph 5 further lends credence to the above. The Respondent states that the transaction value, the similar goods value, inquiries from markets and even the conversion value of goods at the country of export could not be applied to the goods at hand as they were either too varied or unavailable.
28. That given the nature of the instant proceedings, it is prayed of this learned Authority that the Respondent Director / its officers be mandated to place on record details of the entire exercise undertaken purportedly to arrive at the values contained in the impugned Ruling and to substantiate the same through documentary proof.

29. That, moreover, the Respondent has acknowledged by way of receiving the listed documents that it was in possession of the documents listed hereinabove, the Respondent has attempted to distance itself from its legal responsibilities by stating that they did not submit "substantial documentary evidences to prove that their declared values were true transactional value". However, this is a blatant falsehood and it is submitted that documents exhibiting the actual prices paid / payable for the said Syringes at the time of import into Pakistan were submitted to Respondent Director and discussed in exhaustive detail by the Petitioner.
30. That however, these irrefutable instruments and demonstrated evidences such as certified payment evidences and goods declarations filed at the time of export, were rendered of no value and entirely ignored by the Respondent without any justification. It is submitted that it is impossible for the Petitioner to be protected from the whims of the Respondent Director when all documents sought from them have been submitted and, yet, the same have been unilaterally ignored.
31. That as can be demonstrated, the price actually paid / payable for the said Syringes remain significantly lower than the value unlawful, illegally and arbitrarily fixed through the impugned Ruling by the Respondent Director, and the demonstrated value is the determinable and correct value for the purposes of assessment of consignments of the said Syringes imported by the Petitioner.
32. That without prejudice to the foregoing, it is submitted that the impugned Valuation Ruling is not sustainable on a legal plane in addition to being, inter alia, misconceived on the factual plane in light of the foregoing submissions. While it is an undisputed fact that the Respondent Director has not carried out any determination for the said Syringes, it is submitted that the Respondent Director has acted in dire contradiction to and has flouted the provisions of Section 25 of the Act, 1969; the Respondent Director has given unlawful reasons while refusing to adhere to the sequentially provided methods of valuation in Section 25 and has invoked sub-section (9) thereof only in order to justify values which have been arrived at in an arbitrary manner which is alien to the Act, 1969.
33. That, under the Act, 1969, and the Customs Rules, 2001, the Respondent Director was required to act in a strict manner while considering the application of each method of valuation provided under Section 25 of the Act, 1969. Further, as required by the aforesaid provision, the Respondent Director needed to state lawful grounds for rejecting any particular method of valuation as being not applicable as given under the Act, 1969, whereas the Respondent Director has failed to provide any such grounds.
34. That firstly, it is submitted that there is no lawful reason to ignore the contentions and documents submitted by the Petitioner, which irrefutably establish the actual prices paid / payable for the said Syringes in terms of sub-section (1) of Section 25 of the Act, 1969.
35. That the Respondent Director has incorrectly rejected the methods of valuation contained in Section 25 of the Act, 1969. As to sub-section (1) of Section 25 of the Act, 1969, the Respondent merely deemed it inapplicable without any cogent reasons having been provided therefor. The Respondent utterly and miserably failed to consider the declared values in the imports over the previous ninety (90) days, which evidence the actual prices payable / paid for imports.
36. That without prejudice to the foregoing, it is submitted that as to sub-sections (5) & (6) of Section 25 of the Act, 1969, the Respondent Director has refused to apply the same in spite of the fact that irrefutable evidences created thereunder and fully applicable for the purposes of determination are in the knowledge and possession of the Respondent Director. It is evident from the contents of the impugned Valuation Ruling that the Respondent Director did not have any lawful reason to reject application of methods of valuation contained in sub-sections (5) and (6) of Section 25. Firstly, the Respondent Director has failed to appreciate that sub-sections (5) and (6) envisage two separate



independent methods of valuation, wherein sub-section (5) requires consideration of identical goods being assessed by the respective Collectorates, evidence whereof is provided hereinabove. Concomitantly, where no identical goods are available as envisaged in sub-section (5), the Respondent Director must invoke sub-section (6) of Section 25 of the Act, 1969, where under similar goods and values thereof have to be considered.

37. That instead, however, the Respondent Director has given a bald statement to the effect that the said sub-sections could not be "...solely relied upon." While the Respondent Director has made the foregoing bald statement, it has absolutely failed to state as to what the actual information / data was and how the same would lead to inapplicability of sub-sections (5) and (6) of Section 25 of the Act, 1969. Without prejudice to the foregoing, the Respondent has failed to refer to even one specific item covered by the impugned Ruling wherein such issue was faced, or that what the found values were.
38. That furthermore, the Respondent has failed to highlight the specific provisions of sub-sections (5) and (6) which make application of the same redundant in the absence of such information, which is evidently available.
39. That, without prejudice to the preceding, the Respondent Director has excluded the occasion to consider market surveys purportedly carried out by him / his officers in order to justify the fixation of values which are otherwise unlawful and highly prejudicial to the Petitioner through subsequent invocation of sub-section (9) of Section 25 of the Act, 1969. Even if the existence of such a market survey is accepted for the sake of argument, it is submitted that a market survey conducted without the association of any independent party and/ or the stakeholders is a nullity in the eyes of the law.
40. That the market survey purportedly conducted had to be conducted in violation of the principles of natural justice and equity, as well as the Act, 1969, and the Rules, 2001. The provisions of Section 25(7) itself state that the unit price at which the imported goods are sold in the "greatest aggregate quantity", which has to, firstly, be in respect of the items actually imported by, inter alia, the Petitioner both in terms of quality as well as nature thereof and, secondly, be at least at par with the quantities of sale of the Petitioner, as well as other importers, dealing on a wholesale basis. Whereas, the Respondent Director has failed to produce any evidence in support of its contention that a lawful market survey was conducted. It is, indeed, a fact that no such market survey has been conducted.
41. That the phrase "greatest aggregate quantity" has been further explicated in Rule 119 of the Rules, 2001, wherein it has been stated that such quantity, in addition to being the greatest aggregate, also needs to be the greatest number in units sold at the first commercial stage after importation. Further, the provisions of Rule 119(3) also necessitate the involvement of the importers, including the Petitioner, in the process of market survey and determination in consequence thereof.
42. That the Respondent has also erred in relying upon the provisions of Section 25(7) of the Act, 1969 to purportedly 'determine' the values of the said Syringes under the impugned Valuation Ruling. Firstly, the Respondent has not provided any lawful reasons for not following the methods of valuation contained in the preceding provisions of Section 25 of the Act, 1969. Secondly, the Respondent has wrongly applied the provisions of Section 25(7) of the Act, 1969.
43. That without prejudice to the preceding, the Respondent Director had a positive obligation to ensure that market survey was conducted, and values and categories of goods generated in the manner found in a lawful survey. A lawful survey would, of course, be one which is strictly compliant with the law, including conduct of stakeholders, at the same commercial level and quantities at the first stage after import, etc.



44. That it is reiterated that the Respondent has failed to provide reasons in conformity with Section 25 of the Act, 1969, as to why the methods of valuation laid down in sub-sections (1), (5), and (6), were not followed. As to sub-section (7), the Respondent has not even attempted to state why determination proceedings were limited thereto. This by itself is an incurable defect in the impugned Valuation Ruling, which is, therefore, liable to be immediately set aside.
45. That, in addition to the foregoing failings evident from the impugned Ruling, the Respondent has also gravely erred in applying the provisions of Sections 25A and 25 of the Act, 1969. The Respondent has purportedly issued the impugned Ruling under sub-section (9) of Section 25 of the Act, 1969, whereas the Respondent has failed to provide any lawful and / or cogent reasons for failing to adhere to the preceding sub-sections of Section 25.
46. That while 'determining' values under the impugned Ruling, the Respondent ignored the sequential methods of valuation contained in Section 25 of the Act, 1969, and, in a patently arbitrary and whimsical manner, chose Section 25(9) of the Act, 1969, as the appropriate instrument of 'determination' of values. It is submitted that the Respondent has utterly failed to adhere to the provisions of the Act, 1969, and has failed to elucidate any cogent reasons for not applying following the methods of valuation preceding sub-section (9) of Section 25 the Act, 1969.
47. That, without prejudice to the foregoing, it is submitted that the Respondent has even failed to properly follow the dictates of Section 25(9) of the Act, 1969, and has misused the provisions thereof in an attempt to justify unlawful fixation of values of the imported Syringes. The Respondent has, in fact, used sub-section (9) of Section 25 of the Act, 1969, in order to issue a list of values which is neither reflective of the actual transaction values at which the imported Syringes are available in the international market, nor is permissible under the law in such a manner.
48. That, although sub-section (9) of Section 25 of the Act, 1969, permits a flexible application of the preceding methods of valuation, the Respondent has implemented the same in order to fix arbitrary values which are alien to the prices paid / payable for the imported Syringes at the time of import into Pakistan. The Respondent has failed to elaborate the 'flexible manner' in which the valuation methods were supposedly applied. The Respondent was under a positive duty to identify the provisions of Section 25, which were flexibly applied in arriving at the values purportedly determined in the impugned Valuation Ruling.
49. That in view of the foregoing, it is submitted that the values for the said Syringes fixed through the impugned Ruling by the Respondent Director are absolutely unsustainable, being, *inter alia*, contradictory, unreflective and motivated / monopolistic / exploitative on the factual plane while being highly illegal and unlawful on a legal plane. The values of said Syringes have been fixed by the Respondent Director without any determination whatsoever.
50. That the actions of the Respondent including issued of the impugned Valuation Ruling are in stark contrast to and in utter disregard for, *inter alia*, the fundamental rights of the Petitioner as enshrined in the Constitution of Pakistan, 1973, including Articles 4, 8, 10A, 18, 19A and 251 thereof.
51. That, in light of the preceding narration, the Petitioner prefers the instant petition on, *inter alia*, the following grounds, namely:

GROUNDS

- A. That the impugned Valuation Ruling is unlawful, illegal and liable to be set aside.

- B. That irrefutable evidences submitted by the Petitioner have been utterly ignored and set aside without any cogent and lawful reasoning, which renders the impugned Ruling in dire violation of Article 10A of the Constitution of Pakistan, 1973, as well as the Act, 1969, and the Rules, 2001.
- C. That the Respondent Director has failed to adhere to the methods of valuation laid down in the Act, 1969, and the Rules, 2001.
- D. That the Respondent Director has merely given cyclostyle and bald statements in paragraph 5 of the impugned Ruling, which are evidently copied from numerous previous instruments / rulings issued under Section 25A of the Act, 1969. This alone renders the proceedings nugatory.
- E. That the impugned Valuation Ruling has been issued without carrying out any determination as envisaged by the law, including but not limited to Section 25 of the Act, 1969, and the Customs Rules, 2001, framed there under. In fact, the values for the imported Syringes have merely been fixed for the purposes of assessment, and are in dire contrast to the law.
- F. That the documents submitted by the Petitioner leave no room for ignoring the provisions of sub-section (1) of Section 25 of the Act, 1969, i.e. reliance could not have been placed on any other method of valuation than the transaction value, insofar as the Petitioner is concerned.
- G. That in light of submission of all relevant documents, including but not limited to GDs filed at the time of export of consignments to Pakistan, Letters of Credit, as well as furnishing of Tenders and Sales Tax Invoices for local sales, no other conclusion could have been drawn but to accept the transaction values of the Petitioner.
- H. That it is submitted that there is no lawful reason to ignore the contentions and documents submitted by the Petitioner, which irrefutably establish the actual prices paid / payable for the said Syringes in terms of sub-section (1) of Section 25 of the Act, 1969.
- I. That the Respondent Director has incorrectly rejected the methods of valuation contained in Section 25 of the Act, 1969. The Respondent merely deemed sub-section (1) of Section 25 inapplicable without any cogent reasons having been provided therefor. The Respondent utterly and miserably failed to consider the declared values in the imports over the previous ninety (90) days, which evidence the actual prices payable / paid for imports.
- J. That the Respondent Director has failed to attribute any lawful reasons as to why the transaction values / actual prices paid or payable for the Syringes at the time of import into Pakistan have been disregarded. The Respondent Director has acted in ignorance in spite of being in possession of irrefutable evidences in the shape of, inter alia, the Export GDs, and proofs of payment through banking channels. As enumerated hereinabove, the Respondent Director, in addition to the foregoing, remains in possession of import data of the past ninety (90) days which includes imports conducted by local manufacturers as well as others.
- K. That, in addition to the foregoing failings evident from the impugned Ruling, the Respondent has also gravely erred in applying the provisions of Sections 25A and 25 of the Act, 1969. The Respondent has purportedly issued the impugned Ruling under sub-section (9) of Section 25 of the Act, 1969, whereas the Respondent has failed to provide any lawful and / or cogent reasons for failing to adhere to the preceding sub-sections of Section 25.
- L. That while 'determining' values under the impugned Ruling, the Respondent ignored the sequential methods of valuation contained in Section 25 of the Act, 1969, and, in a patently arbitrary and whimsical manner, chose Section 25(9) of the Act, 1969, as the appropriate instrument of 'determination' of values. It is submitted that the Respondent has utterly failed to



adhere to the provisions of the Act, 1969, and has failed to elucidate any cogent reasons for not applying / following the methods of valuation preceding sub-section (9) of Section 25 the Act, 1969.

- M. That, without prejudice to the foregoing, it is submitted that the Respondent has even failed to properly follow the dictates of Section 25(9) of the Act, 1969, and has misused the provisions thereof in an attempt to justify unlawful fixation of values of the imported Syringes. The Respondent has, in fact, used sub-section (9) of Section 25 of the Act, 1969, in order to issue a list of values which is neither reflective of the actual transaction values at which the imported Syringes are available in the international market, nor is permissible under the law in such a manner.
- N. That, although sub-section (9) of Section 25 of the Act, 1969, permits a flexible application of the preceding methods of valuation, the Respondent has implemented the same in order to fix arbitrary values which are alien to the prices paid / payable for the imported Syringes at the time of import into Pakistan. The Respondent has failed to elaborate the 'flexible manner' in which the valuation methods were supposedly applied. The Respondent was under a positive duty to identify the provisions of Section 25, which were flexibly applied in arriving at the values purportedly determined in the impugned Valuation Ruling.
- O. That without prejudice to the foregoing, even sub-sections (5) and (6) have been rejected in an unlawful manner. The Respondent Director admits that the said sub-sections provided some reference values, however, without elaborating on why the same are unreliable proceeded to reject the same. In fact, when sub-section (7) was considered, the Respondent Director has not claimed that the same was found to be inapplicable or otherwise improper, and has merely made unsubstantiated statements vis-à-vis some market inquiry.
- P. That without prejudice to the foregoing, it is reiterated that market surveys / enquiries, if conducted, have been done so on an ex-parte basis and without associating the necessary stakeholders thereto. As such, it is not reliable evidence by any measure and is liable to be struck down.
- Q. That, as to the first submission, it is submitted that the Respondents have failed to provide reasons in conformity with Section 25 of the Act, 1969, as to why the methods of valuation laid down in sub-sections (1), (5), (6), (7), (8) and (9) were not followed as per law. This by itself is an incurable defect in the impugned Valuation Ruling and, hence, the impugned Order which fails to appreciate the same.

That the Petitioner craves leave of this learned Authority to prefer further grounds at the time of arguments

PRAYERS

In light of the preceding narrations, the Petitioner prays of this Hon'ble Authority that this petition may graciously be allowed, and

- I. Set aside / quash the impugned Valuation Ruling No. 1619 of 2022 dated 25.3.2022 as being unlawful, illegal and contrary to the Customs Act, 1969, the Customs Rules, 2001, and the Constitution of Pakistan, 1973, and having been issued in dire contradiction to the Judgments of the Hon'ble Superior Courts.
- II. Declare that the impugned Valuation Ruling No. 1619 of 2022 dated 25.3.2022 is unsustainable for the purposes of assessment of any imported consignments of Disposable and Auto-Disposable Syringes with Needles.

- III. Declare that the Respondent Director has failed to provide any cogent reasons justifying the issuance of an instrument / valuation ruling under Section 25A of the Customs Act, 1969.
- IV. Direct that the Petitioner's imports be assessed in accordance with Section 25(1) of the Customs Act, 1969.
- V. Restrain the officers of the Respondent and all the clearance Collectorate of the goods from applying the impugned Valuation Ruling No. 1619 of 2022 dated 25.3.2022, and the values contained therein for any purposes, including but not limited to assessment.
- VI. Suspend the operation of the impugned Valuation Ruling No. 1619 of 2022 dated 25.3.2022 till final disposal of the title petition.
- VII. Grant any other relief deemed just and appropriate in the circumstances of the case.
- VIII. Grant cost of the petition."

M/s Pharma Supply Corporation

"The Valuation Department issued the Valuation Ruling No. 1619/2022, Dated 25.03.2022 with too much on lower side.

In this connection we hereby to say that we are the regular Importer of the imported item and we are submitting the copies of Invoices confirming the actual unit value of the imported item sold by the Shipper. We are below giving the following details of the imported item for your kind perusal.

1. Auto Disposable Syringes with Needles 3ml.
2. Auto Disposable Syringes with Needles 5ml.

We further to say that due to this discrepancy we are facing problem in selling of the goods in the local market as other Consignees / Importers are selling their goods with too lesser value as compared to the International Market Price and we are facing a big loss and also the Customs will also loose their revenue in the Government treasury.

We are also submitting the past evidences of the same identical goods alongwith relevant documents for your kind perusal.

Being a Citizen of Pakistan and Filer we request your kind honour to please re-issue the Fresh Valuation Ruling and / or Order-in-Revision in accordance of the evidences provided by ourselves to enable us to get release / clear the consignment in a smooth way."

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:-

"Summary of the Case

Brief history of the case is that customs values of Disposable / Auto Disable Syringes with needles were determined under Section 25A of the Customs Act, 1969. Vide Valuation Ruling No.888/2016 dated 27-07-2016. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2.5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It was therefore, essential to determine afresh the customs values of

Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.

9. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
10. It is stated that this para related to meeting schedule including providing the relevant documents so needs no comments.
11. It is stated that this para related to meeting schedule including providing the relevant documents so needs no comments.
12. It is stated that this para related to earlier Valuation Ruling 888/2016 dated 27-07-2016 and on the other hand to clearance Collectorate.
13. Needs no comments being not related to the respondent.
14. Needs no comments being not related to the respondent.
15. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
16. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
17. Needs no comments being related to meeting held in this Directorate General regarding syringes.
18. Needs no comments being not related to the Respondent.
19. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
20. Needs no comments being related to earlier Valuation Ruling No.888/2016 dated 27-07-2016.
21. Needs no comments being not related to the Respondent.
22. Needs no comments being related to supply of corroboratory documents
23. Needs no comments.



the subject goods. Accordingly, an exercise was initiated in this Directorate General to determine the customs values of different types of syringes in terms of Section 25A of the Customs Act, 1969.

Parawise Comments

1. Needs no comments being introduction of the petitioner.
2. It is stated that National Legislature has empower the Director Customs valuation may determine the customs value of any goods or category of goods imported into or exported out of Pakistan under Section 25 A of the Customs Act, 1969.
3. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
4. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
5. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
6. Needs no comments being related to supplier of the impugned goods in China.
7. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2, 2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
8. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2, 2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including



24. Needs no comments.
25. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods
26. Needs no comments being not related to the respondent.
27. Needs no comments being not related to the respondent.
28. Needs no comments being not related to the respondent.
29. Needs no comments.
30. Needs no comments.
31. Needs no comments.
32. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2.5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
33. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2.5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
34. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2.5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
35. Needs no comments being not relating to the respondent.
36. Needs no comments being not related to the respondent.
37. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods
38. Needs no comments.
39. Needs no comments.
40. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods
41. Needs not comments.
42. Needs no comments.
43. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods
44. Needs no comments being related to survey of market.



45. No comments being related methodology of determination of the impugned goods.
46. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods
47. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods
48. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods
49. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods
50. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
51. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
52. Needs no comments being related to grounds.



GROUNDS

- A. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.
- B. It is stated that Valuation Ruling No.888/2016 dated 27-07-2016 has revised being not reflecting the current price trend in the international market and on the other hand huge revenue loss to the national exchequer. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(1) 2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2,2,5,3 and 5ML. As a result auto disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.

- C. Needs no comments.
- D. Needs no comments.
- E. Needs no comments.
- F. Needs no comments being not related to the respondent.
- G. Needs no comments being not related to the respondent.
- H. Needs no comments being not related to the respondent.
- I. Needs no comments being not related to the respondent.
- J. Needs no comments being not related to the respondent.
- K. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods.
- L. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods.
- M. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods.
- N. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods.
- O. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods.
- P. Needs no comments being related to market survey.
- Q. Needs no comments being related to methods adopted for determination of the impugned goods.
Finally Valuation Methods under Section 25(9) were adopted for determination of impugned goods.



PRAYER

In the light of grounds of Valuation Ruling No.1619 dated 25-03-2022 has based on cogent reasons therefore narrations of the petitioner are capable to be rejected."


ORDER

3. Hearing in this case was conducted on 19-05-2022 on which date both the Counsel/petitioners and the Respondent Department were heard in detail. The petitioners filed petitions on the facts and grounds incorporated in their memo of petitions. The counsel of the petitioner M/s Sy'ah Impex stated that his client imports various types of Syringes, in which a large quantum consist of 3ML and 5ML auto-disable syringes with needles. The Petitioner procured / imported Syringes from their regular supplier in China, namely M/s Changzhou Health Import and Export Company Limited, and all payments to the said supplier are made through banking channels. The counsel added that in spite of the fact that in the previous Valuation Ruling (No.888/2016), the transaction value of their imported products were lower than that prescribed in the said superseded VR, they declared the higher bonafide transaction value for clearance of their goods; this is verifiable from Petitioner's import data of the Syringes. The Petitioner furnished detailed submissions and documentary evidences demonstrating the bonafide of his transaction values including Tenders (awarded to the Petitioner) for sale and supply of the imported syringes, export documents, contact details of foreign manufacturer etc. It was also informed that at time of filing the instant petition, freight charges have witnessed a downward trend. The import of Syringes is crucial to the healthcare industry and the provision of medical services in Pakistan, as local manufacturers are barely able to supply a small proportion of such demand. The Petitioner is the biggest stakeholder of such imports of Syringes, and, consequently, is also the biggest supplier thereof in Pakistan. Since a portion of sales / supplies made by the Petitioner are through Tenders / Government Procurement and evidences thereof have been duly submitted, the

actual price of the imported Syringes is easily verifiable through such evidences combined with Sales Tax Invoices. The counsel requested to set aside the impugned Valuation Ruling No.1619 of 2022 dated 25.3.2022 as being unlawful, illegal and contrary to the Customs Act, 1969 and the Customs Rules, 2001. Contrary to this position, the representative of M/s Pharma Supply Corporation stated that Customs value determined by the respondent department was on lower side and that such lower values were creating challenges, in selling their goods in the local market.

4. On the other hand, the departmental representative (D.R) explained that Valuation Ruling No.888/2016 dated 27-07-2016 was revised considering the current price trend in the international market. Moreover, the Ministry of National Health Services, Regulations and Coordination Drugs Regulatory Authority of Pakistan vide its letter No.SRO No. 483(I)/2021 dated 16-04-2021 has restricted the import and sale of conventional disposal syringes 2, 2.5, 3 and 5ML. As a result auto-disable syringes are now being imported in the mentioned categories. It is also mentioned that the exercise were made after calling all stakeholders including Karachi Chamber of Commerce and Industry and Federation of Pakistan Chamber of Commerce and Industry.

5. After having considered the views of the petitioners, the D.R. and the documents available on record, it is observed that the steps taken to determine the customs value of the impugned goods (i.e. Disposable and Auto-disable Syringes with Needles) reveal certain short-comings. At the outset, the contention of the petitioners, namely M/s Sy'ah Impex, that due to the quantum of their procurement, their suppliers are able to offer competitive prices is normal market behavior duly supported by the documents on record. In addition, the departmental contention, in para-5 of impugned V.R, that *"...item was not readily available in market..."* is not within the realm of possibility considering that the impugned items are freely available in the domestic market as they are basic tools for the healthcare sector i.e. clinics, hospitals, dispensaries, testing laboratories etc and there appears to be no such information in the public domain. On account of the foregoing discussion, Valuation Ruling No.1619/2022 dated 25-03-2022 suffers from procedural impropriety and is hereby set aside with the direction to determine afresh the Custom values of Disposable/ Auto Disposable Syringes in terms of Section 25A of the Customs Act, 1969 by recourse to the valuation methodology elaborated in Section 25 of the Act *ibid*. This exercise is to be completed by the Director (Valuation), Karachi, 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 off accordingly.


(Dr. Fareed Iqbal Qureshi)
Director General

Registered copy to:

M/s Sy'ah Impex,
C/O G.A. Jahangir & Associates
Office No.401, 4th floor, Clifton Centre,
Block-5, Clifton, Karachi

M/s Pharma Supply Corporation
49/J, Block-6, PECHS, Nursery,
Shahrah-e-Faisal, 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), 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) 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 & WEBOC Database System.
- 20) Guard File.

