

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

File No.DG(V)Val.Rev/29/2022/1024.

Dated 11th October, 2022

**Order in Revision No. 85 /2022 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1624/2022 Dated 31-03-2022**

- 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 Pak Traders Lahore

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

14-09-2022

For the Petitioners

Mr. Jamshed Raza alias Ahmed Danish
Consultant

For the Respondent

Mr. Iqbal Ali, Principal Appraiser

This revision petition was filed under Section 25D of the Customs Act, 1969, against customs values determined vide Valuation Ruling No. 1624/2022 dated 31-03-2022, issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"Being aggrieved and dis-satisfied with the impugned Valuation Ruling No.1624/2022 dated: 31-03-2022 issued by the Director, Directorate General of Customs Valuation, Customs House, Karachi the Applicant (importer of the specific goods) being affected is filing this Review Application against the above impugned Valuation Ruling No.1624/2022 dated 31-03-2022 under section 25D of the Customs Act, 1969. The Respondent had issued impugned Valuation Ruling No. 1624/2022 dated 31-03-2022 without considering merits, data and the market. The above noted valuation ruling is issued on the whims and one sided The Hon'able authority may be pleased to check and call all the Records & Proceedings of Respondent's staff in exercise of revision. The applicant negates the impugned Valuation Ruling on the following facts and grounds amongst others:-

FACTS

1. That the applicant is a registered importer, stockiest, general order supplier, wholesaler and retailer of goods i.e. HARDWARE NUTS & BOLTS, PVC, STEEL WIRE HOSE, LAY FLAT HOSE, CANVASS DELIVERY HOSE, FIRE FIGHTING HOSE, CASTER WHEELKNOB & and has been affected from impugned Valuation Ruling No: 1624/2022 dated: 31-03-2022 under section 25-D of the Customs Act, 1969 hence, this review petition is being filed in proprietary and upon vest rights to challenge virus of the impugned determinations under section 25-A for the subjected goods on the grounds hereunder. That on the consequences of the Valuation ruling, actual transaction value of the goods imported by the applicant, declared under Section 79(1) read with Section 2KKa of the Customs Act, 1969 is not accepted and enhanced for assessment of duties & taxes. This action had increased the cost of the said goods and resulting in severe damage and injury to the applicant.
2. The applicant through his association being stakeholders makes documentary & evidential submissions on record regarding the negotiated 30% to 45% discount in lower quality, non-popular brands and unbranded commodities for determination of value and urges strongly for deduction of such discount in the determination of value in the Valuation Ruling.
3. The stakeholder's submissions deliberately have neither been considered nor have the data evidences been taken into account.
4. That the methodology adopted in the customs value determination under Section 25-A is contrary to the law and against the guide lines given by the Hon'able High Court in C.P: D -5173/2013. The determined values of subject goods of low quality, unknown brands and unbranded has no justifiable difference as compared to values of similar branded goods.
5. That neither evidence of data nor any price of the identical goods have been mentioned or used in impugned determination of values in the impugned Valuation Ruling No. 1624/2022. However, the very strong and reliable evidence is the export data of various origins at ZUBA.COM of last 90 days as per rule 107 of Customs Rule 2001 has been deliberately ignored and manipulated which apparently discloses down trend in prices percentages in the international market. The Respondent has to examine the material of subject goods relevant for valuation placed on record instead of any consensus between importer and local manufacturers whose activities and tax levies are totally different from each other.
6. That in consequences of impugned valuation ruling determined under unacceptable and illegal exercise, a number of consignments, involving huge financial investments are held/blocked at the port of shipment. It is not commercially viable for the members of association to seek clearance of their consignments at such arbitrarily determined value of the impugned valuation ruling which are much higher than the actual transactional values.

GROUND

That being aggrieved and dis-satisfied with the above cited Valuation ruling issued by the Director* of Directorate General of Customs Valuation, Custom House, Karachi is unjust, improper, baseless, unlawful, against the established departmental practice, and not maintainable in the eyes of Law. The Applicant most respectfully and very humbly prefers this review application Under Section 25(D) of the Custom Act, 1969, on the following grounds amongst others.

- A. The value has arbitrarily been enhanced without cogent basis and evidence in contravention of law and guide lines of the Hon'able High Court of Sindh, Karachi through hallmark judgment C.P D-2673/2009, therefore, the legality and propriety of the same is being challenged in review petition under section 25-D of the Customs Act, 1969.
- B. The impugned Valuation Ruling has been issued wherein it has been disclosed that valuation is being determined as per current prices trend of these goods in the international

market which is factually reflect down trends in the complete last year due to the pandemic Covid-19 situations.

C. That in a number of cases your Honorable authority had supported the value determined in various Valuation Rulings that were determined in accordance with the law and as per material evidences available on record, therefore, said values may be revised with decrease percentage in the light of previous 90 days as per Rule 107 of Customs Rules 2001.

D. That methodology adopted in the impugned Valuation Ruling is contrary to the law, provision of section 25 and against the guidelines given by the Hon'able High Court of Sindh, Karachi in its hallmark judgment D-5173/2011. The provisions of section 25 have not been applied in sequential order and application of sub-section (9) of Section 25 is applied on the basis of arbitrary and un-sustainable reason. Therefore, impugned Ruling and determination is ab-initio, arbitrary, void, illegal and without jurisdiction and of no legal effect.

F. That there is no evidence used in the determination which could support the value determined in the impugned Ruling. Therefore, the impugned Valuation Ruling is ab-initio, arbitrary, void, illegal and without jurisdiction and of no legal effect.

G. That in the aforesaid impugned Valuation ruling the Director Valuation has determined the Customs Value of some other items, Under Section 25(7) of the Customs Act, 1969, (Deductive Methods) ignoring all the other methods sequential manner.

H. That the above said determined Customs values are quite unjustified and abnormal which cannot be proved at any forum. The values determined by the respondent are not acceptable to us as such Valuation order is required to be reviewed on the following grounds.

I. That information and data of all the imported consignments especially about the declared and assessed value is available in under Section 155G, 155L & 155Q of the Customs Act, 1969 and the Respondent has excess to check under Section 25(5) and Section 25(6) of the Customs Act, 1969 and cannot be ignored.

J. That it is an admitted fact about the subject goods that foreign suppliers allow 30% to 40% negotiable discount on the low brands quality goods, therefore, such discount should have been reasonably deducted and account for in the determination of values.

K. The Respondent has to determined the values under section 25-A on the basis of material on record relevant for the determination instead of consensus between importers and local manufacturers which cannot be made as the local manufacture is not importer of subject goods and paid very nominal tax on subsequent stage, whereas, the importer has to pay 50% (approximately) taxes in advance at importer stage and consequences if impugned determination of values shall cause severe injury and business damage to the importer.

L. That there is no reasonable and justified difference in the determined values of subject goods which are secondary as compare to similar goods of prime quality. Therefore, it apparent that impugned determination is arbitrary and unjustified and liable to be set aside.

M. Under the law section 25-A cannot be used for the wholesale determination of customs value which transform the "determination" permissible under Section 25-A to an impermissible "fixation" of value. In the instant matter, the Respondent in contrary to the provision of Section 25-A has fixed the customs value of the impugned goods which is impermissible as held by the Hon'able High Court of Sindh, Karachi in C.P No. 2673 of 2009 as such Customs Department instead of determine the value under section 25-A in sequential order has made mal practice of assessing the impugned goods on predetermined values on the basis of valuation ruling time to time issued u/s 25-A of the Customs Act, 1969.

N. That the impugned ruling is clearly contrary to the provision and mandate of section 25-A, as it has been issued essentially on the basis of some understanding arrived at between the Customs Collectorates and some group of local manufacturers and without considering the facts and submissions of the applicant being stakeholder. The method is no permissible under Section 25A of the Customs Act, 1969.

O. That is established principle of interpretation of the tax is that the plain language of the law is to be applies. A bare perusal of section 25 shows that it is specifically provided in sub-section (1) of the section 25 that the customs value of the imported goods, subject to the provisions of this section and rules shall be transaction value. Hence, the provisions



contained in section 25(1) to (4) contain primary method of valuation and in the first stance the primary method of valuation is mandatory and required to be adopted in each case of valuation. But in the impugned ruling the Respondent admittedly has not applied this transactional value method on the basis of some assumption or presumption by stating that historically this method was never considered. Hence, the impugned ruling is arbitrary, illegal, void, ab-initio and without jurisdiction and authority.

P. That nothing has been stated / disclosed in the impugned ruling for non-application of identical and similar goods methods provided under sub-section (5) & (6) of the Customs Act, 1969 which clearly establishes that impugned ruling is arbitrary and has been issued in contravention of 25-A of the Customs Act, 1969.

Q. That no any enquiry as envisaged under sub-section (7) of the section 25 was conducted as the differentiation between the prices of prime and secondary quality of impugned goods is easily identifiable which has not been done intentionally, on the other hand the Respondent No. 1 has deliberately not considered the submission of the Petitioner being stakeholder representing the importers/ wholesalers/ retailers and has malafidely ignored its own conclusion/findings given regarding issue of discount on impugned goods in the subject matter of determination u/s 25-A dated: 25-03-2010 and determined arbitrary customs values of low brands quality vide valuation ruling by only preferring the business interests of the local manufacturers which establish the determination being on favoritism.

R. That the impugned ruling refers to some of the methods of section 25 of the Customs Act, 1969 but it does not disclosed any evidence obtain either from the producer of the imparted goods nor from the commercial market. It appears that no exercise of any enquiry was carried out and the method has been applied essentially on the basis of information supplied by the local manufacturers which is for their interests.

S. That the Respondent Authority has to show that invoice price of the disputed goods is not genuine and did not state the real price or payable by the members of the Petitioner. Provision contained in section 25 of Customs Act, 1969 and rule framed there under are code in themselves, so far, the Customs Valuation of the imported goods is concerned, which are required to be applied and acted upon strictly in the manner and method contained therein and no room exists for any deviation from these rules on the part of Customs Authority.

T. That by denying the customs clearance of imported consignment provisionally, the Customs Collectrates and their officer is committing gross illegally, when the importers are prepared to deposit security of differential amount under protest.

U. That the Petition is being filed within the prescribed limitation period prescribed u/s 25-D of the Customs Act, 1969.

PRAYER

It is accordingly prayed that this Authority in exercise of review jurisdiction may kindly be pleased to:-

- a) Declare the impugned determined values vide impugned Valuation Ruling being illegal, arbitrary, and invalid and without jurisdiction and lawful authority.
- b) The values of subject goods i.e. would be revised and re-determined in accordance with the law as per guidelines given by High Court in C.P and after adjustments of reasonable discount and down trend of price upto 15% in the international market as per permanently and pending disposal of the review allow provisional release to the importer u/s 81 in the disputed matter.
- d) Grant any other relief deemed fit in the circumstances.


The authority may be pleased to direct the Collectorate for the provisional assessment till final considerations of the material and input from all stakeholders would result in a fresh valuation ruling."

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:-

"FACTS OF THE CASE"

Earlier, the Customs values of PVC Hose Pipes (PCT: 3917.2100, 2200, 2390, 2900 & 3990) were determined vide Valuation Ruling No.1010/2017 dated 12-01-2017. Representations was received that the price of PVC Hose Pipe has increased in the international market. The said valuation ruling was more than five years old. In view of the foregoing position, an exercise for fresh determination of customs values of subject goods under Section 25A of the Customs Act, 1969, was initiated. Meeting with all stakeholders, trade bodies including representatives of clearance Collectorates was held in this Directorate General on 03-03-2022. 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 meeting was attended by the stakeholders. Their views were heard in detail to arrive at the customs values of subject goods. The importers contended that the values in the existing Valuation Ruling are already higher in the existing Valuation Ruling; therefore, Customs values of subject goods may further be rationalized accordingly. None of the importers submitted any documents in support of their contention. The viewpoints of stakeholders were heard in detail and considered to arrive at Customs values of the subject goods.

Valuation methods provided in Section 25 of the Customs Act, 1969, were duly applied in their regular sequential order to arrive at customs values of the subject goods. The 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. Moreover, different values were declared by different importers for same product according to different origins. Identical / similar goods value methods provided in Section 25(5) & (6) *ibid* were examined for applicability to determine customs values of subject goods. The data provided some references; however, it was found that the same could not be solely relied upon due to absence of absolute demonstrable evidence of qualities and quantities of commercial level etc. In line with statutory sequential order of Section 25, this office conducted numbers of market inquiries from various markets. Finally, reliance had to be made on Sub-Section (7) of Section 25 of the Customs Act, 1969, to determine the customs value of PVC Hose Pipes to arrive at the assessable customs values and notified under Section 25A of the Customs Act, 1969, for uniform assessment all over the country vide Valuation Ruling No.1624 / 2022 dated 31-03-2022 accordingly.

PARAWISE COMMENTS

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

Para-(2)& (3): 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-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 of the case. Further, it is submitted that record of previous Valuation Ruling No.1624/2022 dated 31-03-2022 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 (7) of Section 25 of the Customs Act, 1969, by giving reasons for rejecting the previous Sub-Sections of Section 25 of the Customs Act, 1969. As such the impugned valuation ruling is not unlawful or otherwise rather it is based on ground realities of the case. Assessments are being made as per said ruling but only under reference Petitioner seems to be aggrieved with the same.

Para-(4&5): Denied. It is respectfully submitted that the said Valuation Ruling No.1624/2022 dated 31-03-2022, 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.1624 / 2022, dated 31-03-2022 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(7) of the Customs Act, 1969, vide above referred Valuation Ruling No.1624 / 2022 dated 31-03-2022 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-(6)&(7): It is submitted that Paras-(2) to (5) clearly states whole the process of issuance of said Valuation Ruling. Moreover, Para-(5) states that the said ruling has been issued in terms of Sub-Section (7) 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, it is submitted that concept of "fixation of value no more exist in the Customs Tariff rather customs values are presently being 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.



G R O U N D S

Para-(A)to(C): Denied. It is submitted that the impugned Valuation Ruling issued after considering the representation of the petitioners and view point of all the stakeholders. The record of the all-previous Valuation Rulings and arguments put forward by the Appellants and Respondents were considered during process of issuance of 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. Further, the Respondent has

properly followed all valuation methods sequentially by rejecting and giving reasons of rejection thereof.

Para-(D)to (G): 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 asper 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.1624/ 2022, dated 31-03-2022 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 03-03-2022 which was 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 along with monthly sales tax return filed with Inland Revenue Department as sales tax invoices are authentic document to ascertain local market price and as the Customs has authority in terms of Sub-Section (11) of Section 25 of the Customs Act, 1969, to call any documents to satisfy themselves about the truthfulness or accuracy of any information or declaration made to Customs for valuation purpose. None of them submitted sales tax invoices along with monthly sales tax return, on one excuse or the other. Since the matter was lingering on, it was decided to proceed on merits in the light of available record as well as local market enquiry conducted by the Department.

Para-(H)to (J):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. As such the impugned valuation ruling is not illegal or arbitrary rather the same is based on ground realities of the case and has lawfully been issued for assessment purpose only under reference petitioner seems to be aggrieved otherwise assessments are being made as per the same.

Para-(K)to (M): 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 tenable 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.1010/2017 dated 12-01-2017 was also brought into account while determining the customs values in the under-reference Valuation Ruling No.1624/2022 dated 31-03-2022.However, citation of court case does not relate to the under-reference case being of different nature and circumstances of the case.

Para-(N)to (P):It is submitted that the contention of the petitioners is based on presumptions as in support of the claim no tangible documents have been submitted as required under Para-(108) of the Customs Rules, 2001. A declaration disclosing full and accurate details relating to the value of imported goods as claimed by the petitioner. Further, customs value have been determined after all the information so gathered was evaluated and analyzed in flexible manner applying the provisions of Section 25(7) of the Customs Act, 1969. Contrary to above, the petitioner has even not disclosed the import data or local selling prices of imported goods neither submitted any import documents i.e. sales tax paid invoices etc. in support of their contention. As such the said valuation ruling has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, only under reference petitioner seems to be aggrieved otherwise all the assessments are being made as per the impugned valuation ruling.



Para-(Q)&(R): In this regard it is submitted that this Directorate General has determined the minimum customs values in the Valuation Ruling No.1624 / 2022, dated :31-03-2022 for level playing field and for uniform assessment all over the Customs Stations of the country. 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(7) of the Customs Act, 1969, vide above referred Valuation Ruling. Further, it is submitted that all valuation methods as envisaged under Section 25 of the Customs Act, 1969, were duly exhausted and examined while determining the Customs values of under reference goods. Moreover, it is submitted that this Directorate General convened meetings for the determination of impugned goods and all stakeholders were duly invited. They were asked to provide import documents such as copies of Sales Tax Paid Invoices to justify their transactional value but no one submitted the said documents etc. As such Respondent has acted according to law while issuing the said ruling.

Para-(S)&(T): It is submitted that the concept of "fixation of value" no more exist in the Customs Tariff rather Customs values are being determined in terms of Section 25A of the Customs Act, 1969. It is submitted that the Petitioner has 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. As such transaction value cannot be accepted in absence of any relevant import evidences and documents etc. All the participants of meeting including Association were requested to provide following documents: -

- (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. As such the Respondent has acted according to law by issuing the said Valuation Ruling for uniform assessment all over the country.

Para-(U): Relates to the time of hearing before the competent authority.

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.1624 / 2022 dated 31-03-2022. The Respondent have acted lawfully and the Valuation Ruling No.1624 / 2022, dated 31-03-2022 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. Hearing in the case was conducted on 14-09-2022 where both the petitioner and respondent department were heard in detail. The counsel of the petitioner contended that the applicant through his association being stakeholders makes documentary & evidential submissions on record regarding the negotiated 30% to 45% discount in lower quality, non-popular brands and unbranded commodities for determination of value and urges strongly for deduction of such discount in the determination of Customs value in the impugned Valuation Ruling (VR) but his submissions neither been considered nor the data evidences been taken into account. The counsel stated that the provisions of Section 25 have not been applied in sequential order and application of sub-Section (9) of Section 25 is applied on the basis of arbitrary and un-sustainable reason. Therefore, impugned VR and determination is ab-initio, arbitrary, void, illegal and without jurisdiction and of no legal effect. The counsel stressed that there is no reasonable and justified difference in the determined values of subject goods

which are secondary as compared to similar goods of prime quality; therefore, the impugned determination is arbitrary and unjustified.

4. On the other hand, the departmental representative (DR) explained that the Customs values of PVC Hose Pipes were determined earlier vide Valuation Ruling No.1010/2017 dated 12-01-2017. Representation was received that the prices of PVC Hose Pipes has increased in the international market. The VR dated 12-01-2017 was also more than five years old, therefore it was imperative to revise its Customs value and commensurate with its prevalent prices in the local and international markets. In view of the foregoing position, an exercise for fresh determination of Customs values of subject goods under Section 25A of the Customs Act, 1969, was initiated. Meeting with stakeholders, trade bodies including representatives of clearance Collectorates was held on 03-03-2022. The importers / stakeholders were requested to submit their proposals / suggestions as well as supporting documents before or during the course of stakeholders' meeting so that Customs values could be determined. The meeting was attended by the stakeholders and their views were heard in detail to arrive at the Customs values of subject goods. However, none of the importers submitted any documents in support of their contention. The DR further 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 Rule-108 of Customs Rules, 2001. As such the transaction value cannot be accepted in absence of any relevant import evidences and documents etc. Therefore the impugned Valuation Ruling No.1624/2022 dated 31-03-2022 issued lawfully and justifiably in terms of Section 25A of the Customs Act, 1969, for uniform assessment across the country.

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 as available on record to substantiate the Customs values determined by them. It is observed that the importers (petitioner) 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) and failed to substantiate their claim. Therefore, there is no reason to interfere with the impugned Valuation Ruling No.1624/2022 dated 31-03-2022. Hence, the revision petition is accordingly rejected.


(Gul Rehman)
Director General

Registered Copy to:

M/s Pak Traders,
C/o Mr. Jamshed Raza alias Ahmed Danish, Consultant,
Suite No 315, 3rd Floor, Trade Avenue, Hasrat Mohani 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), 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 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) Assistant Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in One Customs & WeBOC Database System.
- 20) Guard File.

