

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

File No. DG(V)Val.Rev/30/2022 /997

Dated 29th September, 2022

**Order in Revision No. 81 /2022 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1625/2022 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. Noor Traders & Others

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PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

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RESPONDENT

Date(s) of hearing

20-09-2022 and 28-09-2022

For the Petitioners

None

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.1625/2022 dated 31.03.2022, issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"2. Being highly aggrieved by and dissatisfied with the Valuation Rulings issued by the Respondents, the Appellant above named file this review application with the submissions that the Respondent has issued the subject Valuation Ruling for Shoe Polish and importing all over the World nullity to the provision of Section 25 of the Customs Act, 1969 read with Chapter IX of Customs Rules, 2001 and without evaluating the nature of the goods in question and the dictum laid down by Superior Courts of Pakistan, hence this review before the Honorable Review Authority for decision after consideration of the facts and grounds enumerated herein below.

3. FACTS

1) That the Appellant is a commercial Importer of Shoe Polish and mostly importing from all over the world including China.

- 2) That the applicant desires to Import the said product from different countries and when the respondent was determining the value, the applicant attended different meetings with the Suppliers and local buyers and the Suppliers have agreed to supply the product at different values very less than the value as determined in the Valuation Rulings as referred above.
- 3) That the respondents have bluntly refused to accept the transaction value other than the above referred Valuation Ruling despite of the fact that there are substantiate evidences of value of the goods which act on the part of the respondent is absolutely against the norms of natural justice and so also against the true spirit of provision Section 25(1) of the Customs Act 1969 and Rule 13 of the Customs Rule, 2001.
- 4) That the Transaction Values of the applicant are absolutely in accordance with law, fair, just, proper and covering the all aspects of the goods and even the same cannot affect the Government Revenue.
- 5) That it is pertinent to mention here that the Valuation Rulings as referred above have been determined without consideration of recent market situation and without giving any opportunity of meeting of stake holders and as such the same have been determined on the back of the Importers and the same are liable to be reviewed forthwith in the great interest of justice and particularly keeping in view the legitimate revenue of National exchequer, hence this review application, inter-alia on the following grounds:
- 6) That the Valuation Department fixed the value of the imported item with additional of Essential Packing whereas it should be on Essential Weight instead of Packing (without inclusion of the Tin weight).
- 7) That in the international market prices of these items are going downward and the Valuation Department issued the Valuation Ruling without conduct of proper market inquiry and did not review our contention.

4. GROUNDS

- A. That the Valuation Rulings as referred above does not cover the present fluctuation of prices of International Market which have been reduce to about half of the prices and the product of the applicant completely based on International Prices.
- B. That in support of his stance, it is appropriate of the applicant to add further that the provision of Section 25 of the Customs Act, 1969 are to be followed in sequential manner baring certain exceptional cases which massive group under invoices is rampant. It is not possible without exhausting and unfettered indicated in Section 25(13) (a) does not give unbridled and unfettered authority to customs administration to play havoc with redundant. Discretions has to be exercised within limits based on reason, rationale and fair play which is specifically provided by the legislature in sub Section (10) of Section 25 of the Customs Act, 1969 sub-Section (1) (5) (6) (7) (8) at the Importers request if so agreed by the Collector of Customs as held in Judgments.
- C. That for the sake of arguments without conceding that the determination made in the ruling is legal, the applicant state that is nullity to the fact and expression and procedure given in the relevant provisions of the Customs Act, 1969 and this validated from the working of Valuation for determination of applicant to Import the different kind of Fabrics by deducting the different margins of respective heads which the applicant has to bear prior to selling the goods

rendering the contracted price as transactional value within the meaning of Section 25(1) of the Customs Act, 1969.

5. **PRAYER**

It is therefore, humbly prayed that this Revisional Authority may be pleased to allow the review application by declaring / order that:

- a. *The Valuation Ruling No. 1625/2022, dated 31.03.2022 have been issued on forced construction of Section 25 of the Customs Act, 1969, hence ab-initio, null and void and is liable to be withdrawn forthwith.*
- b. *The Transactional/declared value of the applicant to the imported goods is deemed to be fair and answer to the expressions of Section 25(1) of the Customs Act, 1969, in Rule 113 of Chapter of the Customs Rules 2001.*
- c. *Any other relief (s) which this Honorable Revisional Authority may deem fit and proper in the circumstances of the case may also be granted.*

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:-

"BRIEF OF THE CASE"

Earlier, the customs value of Shoe Polish was determined vide Valuation Ruling No.1177/2017 dated 08-06-2017 under Section 25A of the Customs Act, 1969. Representations were received from the stakeholders for fresh determination of customs values in this Directorate General. The Valuation Ruling was more than four years old. In view of the foregoing, an exercise for the determination of customs values under Section 25A of the Customs Act, 1969, was initiated. Meeting was held on 02-12-2021 with the stakeholders, trade bodies including representatives of clearance Collectorate in this Directorate General. 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.*

During the meeting stakeholders were of the view that the values of the subject goods in the international market have shown mixed trend and the values of the subject goods may be determined on the basis of imported brands being sold in the local market. The stakeholders also requested that the aspect of tare weight of essential packing may also be clarified in the upcoming valuation ruling. The stakeholders' view points were heard in detail to arrive at the customs values of the subject goods. However, no any importer / stakeholder furnished requisite import documents as mentioned above.

However, after exhausting and examining all the valuation methods as envisaged under Section 25 of the Customs Act, 1969, finally, customs values of under reference goods were determined in terms of Section 25(7) i.e. Deductive Value Method of the Customs Act, 1969 for uniform assessment all over the country vide Valuation Ruling No.1625 / 2022 dated 31-03-2022 accordingly.

PARAWISE COMMENTS

In reply to the contents of the instant petition, parawise comments on behalf of Respondent above named are submitted as under: -

Comments on Facts

Para-1 Need no comments being mention of imports made by the petitioners.

Para-2 It is submitted that the contents of Para-(2) are denied to the extent declared value of the consignment is not reliable and not acceptable in terms of Section 25 (1) of the Customs Act, 1969, in presence of Valuation Ruling available under Section 25-A of the Customs Act, 1969. The Valuation Ruling is exhaustive which is always taken for assessment purpose in cases where the declared value is on lower side. The Valuation Ruling has been issued under Section 25-A of the Customs Act, 1969, which always prevails upon the declared value, which in turn is not proof of exact transactional value. Assessments are being made as per said Valuation Rulings all over the country but only the under reference petitioners seem to be aggrieved. As such the said Valuation Ruling No.1625/2022 dated 31-03-2022 is not arbitrary or exorbitant and has correctly and justifiably been issued in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969, for uniform assessment all over the country.

Para-3 Denied. It is 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 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. As such the impugned Valuation Ruling has lawfully and correctly been issued in terms of Section 25(7) of Section 25 of the Customs Act, 1969, for assessment of under reference goods.



Para-4&5 Denied. It is submitted that the impugned Ruling was issued after considering the representation of the petitioners and view point of all the stakeholders. The record of Valuation Ruling No.1177/2017, dated 08-06-2017 and arguments put forward by the Appellants were duly 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 that any deviation from the existing laws/ provisions as envisaged in Section 25 readwith 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, proper local market enquiry was conducted in terms of Section 25(7) of the Customs Act, 1969, as the declared values seem to be on lower side. As such after examining & exhausting all valuation methods sequentially by giving reasons of rejection of previous methods, customs values were determined in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969. As such Valuation Ruling No.1625/ 2022, dated 31-03-2022 has lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969.

Para-6

Not Agreed. It is submitted that the petitioners have simply claimed for the acceptance of their declaration but did not submit any tangible documents in support to justify their declarations disclosing full and accurate details relating to the value of the imported goods as per Para-108 of Customs Rules, 2001. As such the transaction value cannot be accepted in absence of any relevant import evidences and documents etc. However, the said Valuation Ruling No.1625/2022, 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. Further, 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. Market enquiries were conducted in this case which revealed higher prices of under reference goods in the local markets and international market.

GROUNDS

Para-1

It is submitted that the meetings with the stakeholders were held on 02-12-2021. It was attended by commercial importers as well as local manufacturers of under reference goods and official bearers / representatives of concerned Association. The participants as well as the Association were requested to provide 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 meeting the participants were requested to submit : -



- (i) Invoices of imports made during last three months showing factual value
- (ii) Websites, names and E-mail addresses of known foreign manufacturers of the item in question through which the actual Current value can be ascertained.
- (iii) Copies of contracts made / LCs opened during the last three months showing value of item in question and ;
- (iv) Copies of Sales Tax paid Invoices issued during last four months showing the difference in price to substantiate that the benefit of difference in price was passed on to the local buyers.

Instead of furnishing any documentary evidence about downfall in prices in international market, they relied upon their rhetoric of decline in international market prices. They were repeatedly requested to furnish sales tax invoices alongwith

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

Para-2&3

In this regard it is submitted that this Directorate General has determined the minimum customs values in the Valuation Ruling No.1625 / 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 and conducting market enquiries, Customs values have been determined in terms of Section 25(7) of the Customs Act, 1969, vide above referred Valuation Ruling. It is submitted that this Directorate General convened meetings for the determination of impugned goods and all stakeholders were invited. As such the Respondent has acted according to law while issuing the said ruling. Valuation Ruling in terms of Section 25A was based on factual grounds of the case. It is submitted that the said Valuation Ruling has lawfully been issued in terms of Section 25-A by the Respondent after extensive exercises and holding meetings with relevant stakeholders of the said goods. As such the Respondent has acted in accordance with law and under powers vested upon him under the law.




PRAYER

In view of above narrated facts, it is submitted that the petitioner is required to get the goods cleared as per Valuation Ruling issued under Section 25-A of the Customs Act, 1969, which is legal and lawful. The Valuation Ruling No.1625/2022, dated 31-03-2022 has lawfully been issued after considering all the facts and figures and after following valuation methods sequentially as per law. As such the same may be allowed to hold field for uniform assessment all over the country. The assessments made on the basis of Valuation Ruling are correct and petitioners are liable to pay duty / taxes as per Valuation Ruling. On the other side, the petitioner failed to furnish the requisite import documents particularly copies of Sales Tax Paid Invoices issued during the last four months showing the values of suppliers (excluding duty & taxes) to substantiate their contentions which are essentially required for determination of customs values.

In view of above, it is respectfully prayed that the said Valuation Ruling may be allowed to hold field for assessment being lawful and valid. As such no relief is warranted to be given to the petitioners and assessments are liable to made as per said Valuation Ruling. In the light of above submissions and factual position, the under reference petition being not maintainable is liable to be dismissed and rejected accordingly."

ORDER

3. Hearings in this case were scheduled on 20-09-2022 and 28-09-2022. The petitioners did not attend the hearings, so fixed, which shows that they are not interested in proceeding further with their revision petitions. Accordingly, the same are rejected for non-prosecution.


(Gul Rehman)
Director General

Registered copy to:

M/s. Noor Traders,
Shop No.03, Meelad Market, Shahalam, Lahore.

M/s. A.S. & Company,
Plot No.97, Sector 23, Korangi Industrial Area, 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) Assistant Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in
One Customs & WEBOC Database System.
- 20) Guard File.