

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

File No.DG(V)Val.Rev/48/2022

Dated 31st October, 2022

**Order in Revision No. 92/2022 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1662/2022 Dated 16-06-2022**

- This copy is granted free of charge for the private use of the person to whom it is issued.
- An appeal against this Order-in-Revision lies to the Appellate Tribunal, Customs having jurisdiction, under section 194-A of the Customs Act, 1969, within stipulated period as prescribed under the law. An appeal should bear a court fee stamp of Rs.1000/- (Rupees one thousand) only as prescribed under schedule-II item 22 of the Court Fee Act, 1870 and must be accompanied by a copy of this Order.
- An extra copy of appeal, if filed, should simultaneously be sent to this office for information and record.
- If an appeal is filed, the appellant should state whether he desires to be heard in person or through an advocate.

M/s Swift Trade International
M/s Multiple Trading House

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

04-10-2022

For the Petitioners

Mr. Salman Yousuf Advocate
Mr. Younus Soomro
For M/s Swift Trade International

For the Respondent

Mr. Iqbal Ali, Principal Appraiser

These revision petitions were filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No.1662/2022 dated 16-06-2022, issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

M/s Swift Trade International

1. "That the Applicant is a commercial Importer of various products including "Empty Plastic Bottles" from worldwide sources and enjoys good name and reputation in the local market. The Appellant has, through sheer hard work and untiring efforts, developed a sizeable clientele all over the country and enjoys trust and confidence of the business community all over. The Appellant has always lawfully discharged his legal obligations and has always conducted in accordance with law and has regularly contributed a huge amount to the exchequer in terms of revenue.

2. That the Appellant is regularly getting its imported materials cleared at Karachi and the values declared were never disputed and were being accepted by the clearance collect-orates.
3. That however, the prices of "Empty Plastic Bottles" of China origin were determined previously in terms of section 25A of the Customs Act 1969 vide VR No 1129 of 2017 dated 17-04-2017. That, although the values which were determined vide VR dated 17-04-2017, were slightly on the higher side than the actual prices of the said product available in the international market, but was acceptable for the purpose of valuation.
4. That, however, to the utter surprise and dismay to the Applicant and other importers of the said product, the Respondent re-determined the values for the "Empty Plastic Bottles" of "China and other origin", and instead of reducing the values as per international prices, the Respondent without considering any of the submissions made on behalf of the Applicant and other stockholders, issued the impugned Ruling whereby the values for the "Empty Plastic Bottles" have been further enhanced to a very high proportion which is totally against the law and the prevailing prices in the international market. The values have also been fixed without adhering to the principles laid down in Valuation Cases decided by the Superior Courts as well as Section 25 of the Customs Act 1969. This has prejudiced the Applicant and others who are the importers of the said product as the values determined by the Respondent vide the said Valuation Ruling without considering the Transactional Value of the Applicant under section 25(1) of the Customs Act 1969, and determined the Values by resorting directly to Section 25(7) which is unlawful, illegal and wholly without jurisdiction.
5. That since the Valuation Ruling issued is patently illegal, without any justification, arbitrary, discriminatory, completely against the law, and in violation of, the mandatory provisions of the Customs Act 1969 and the directions/interpretations of the Honorable Courts from time to time and much higher than the actual transactional values of the subject goods hence the Applicant prefers this Review Application without prejudice to his right to contest the same before any other forum available in law, on the following grounds:-



GROUND

1. That at the outset it is submitted that the values determined by the Respondent vide the impugned Ruling in terms of section 25-A of the Customs Act 1969 and being applied on the importation of the consignments being imported regularly by the Applicant, are illegal, arbitrary, unjust, mala fide and without jurisdiction, as Valuation Ruling has been issued in complete violation of the provisions of Section 25 of the Customs Act 1969 read with the Valuation Rules notified vide Chapter IX of SRO 450(I)/2001.
2. That the learned Respondent issued the impugned Valuation Ruling under sub-section (7) of section 25 of the Customs Act 1969 directly, skipping all previous sub-sections. The learned Respondent giving justification in this regard observed that subsections (1) to (6) cannot be complied with due to various reasons whereas no explanation has been given in this regard. The learned Respondent has failed to provide any reason 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) are not followed as per law.

3. That the observation to the effect that "the transactional value method as provided in sub-section (1) of section 25, 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." is completely denied as so far as the present Applicant is concerned, it is submitted that the Applicant submitted import documents before the Respondent to prove the actual values of the product but the same was refused to consider without any valid reason. In the presence of this vital fact and incriminating evidence, no occasion either was available with the Respondent to discard the transaction value as expressed in Sub Section (1) of Section 25 (1) of the Act. If the Respondent had any reasonable doubt about the truth and accuracy of the declared value and he is of the view that the value of the goods cannot be determined under Section 25(1) of the Act, recourse to a secondary method of valuation has to be adopted, they had to communicate in writing as to why the evidences and documents so provided by the importers/stake holders were insufficient and it was mandatory to provide an opportunity to the importers to clarify or provide further evidence or documents required to substantiate the transactional value as enumerated in rule 109 of the Customs Rule, 2001.
4. That, as apparent from paragraph 5 of the impugned Valuation Ruling, the Respondent utterly failed in applying the provisions of the Act, 1969, in a lawful manner, the Respondent failed to provide any lawful or even plausible reasons for rejecting the valuation methods contained in section 25 of the Act, 1969. Instead, however, the Respondent has attempted to justify the unlawful fixation of values through an arbitrary application of the provision of section 25(7) of the Act, 1969.
5. That the Respondent totally ignored the price actually paid/payable for the import of the product into Pakistan. As it is apparent from the import documentation of the Applicant the value of "Empty Plastic bottles" remains much lower than the value purportedly determine/fixed by the Respondent.
6. That it is further submitted that in terms of section 25 (1) of the Customs Act 1969, an invoice price cannot be routinely discarded except on the strength of clear evidence that the invoice is not genuine and it does not show the real price as has been transacted between the Applicant and foreign supplier, and that something else has passed clandestinely between the Applicant and the foreign supplier. Unfortunately, none of such exercises have been carried out in that case as the Applicant has imported the subject consignments from reputed concerns through a firm contract and with complete transparency of documentation.
7. That the Impugned Ruling further mentions that the market inquiry was conducted where a number of items sold in the local market were obtained and Customs Values were worked out using the deductive method of valuation. In this regard, it is submitted that the Respondent did not take into account the provisions of sub-section (7) of section 25 of the Act, pertaining to the deductive value method which lays down that the Customs Values of the imported goods shall be based on the unit price at which the imported good or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued to persons who are not related to the persons from whom they buy such goods. The



Valuation Ruling does not share any detail of such market inquiry that had been conducted prior to issuance of this Impugned Ruling.

8. That without prejudice to the above, it is further submitted that the Learned Respondent has also failed to consider the vital aspect of the price of raw material while determining the values of the subject product. The subject product i.e. "Empty Plastic Bottle" is being manufactured by "Polyethylene Terephthalate" (PET or PETE) and the international prices of the said raw material is ranging between US\$ 1.20/Kg to US\$ 1.30/Kg. The value of the same can be easily ascertained/verify from the import record/data of the said raw material i.e. "Polyethylene Terephthalate" (PET or PETE).
9. It has been mentioned in para 5 of the Impugned Ruling that the "price of the raw material and other ingredients were also examined for valuation, but the same could not be applied due to no availability of conversion and processing cost of the exporting country". In this regard, it is submitted that no other ingredient is required for the manufacturing of "Plastic Bottles" except "Polyethylene Terephthalate" (PET or PETE) which is being imported into the Country at the rates between US\$ 1.20/Kg to US\$ 1.30/Kg as mentioned above, and if 100% manufacturing cost be added for the manufacturing of the "Empty Plastic Bottles" even then the cost of the finished "Empty Plastic Bottles" will be ranging between US\$ 2.40/kg to US\$ 2.60/Kg, however, the Impugned Ruling is totally silent as how the learned Respondent arrived at to current determination of the values of "Empty Plastic Bottles" at the arbitrary rates fixed in the Impugned Ruling which are very high as compared to the prevailing international prices of the said product.
10. That even otherwise the said Ruling is in complete violation of the guidelines issued by the Honorable High Court of Sindh in the judgment dated 5.3.2011 in CP No. 2673 of 2009 (Sadia Jabbar vs Federation of Pakistan & others), 2014 PTD 176 (Goodwill Traders vs Federation of Pakistan & others) and number of other cases, wherein several Valuation Rulings have been found to be illegal under similar and identical circumstances and have been accordingly set aside and the Respondents have been directed to act in accordance with law while issuing the Rulings under section 25A of the Customs Act 1969. Therefore the said Ruling is also liable to be set aside on the touchstone of the said observations of the Honorable High Court.
11. That if the law has a prescribed method for doing a thing in a particular manner such provisions of the law are to be followed in proper letter and spirit while the same is not permitted to be done in a manner other than provided by law. The power of legislation is very wide while framing the fiscal law, but the substantive right of the citizen should not be crucified on the altar of some procedural or administrative instructions.
12. That it is submitted that the Respondent has failed to make an actual determination of values of "Empty Plastic Bottles" under the law, including but limited to sections 25 and 25(A) of the Act, 1969, and, instead, the Respondent has issued arbitrary and highly prejudicial values which are causing serious loss and harm to the lawful operated business of the Applicant.
13. That it is also needless to say that determination of such arbitrary and excessive valuation will only promote smuggling of the subject goods which is already going on in the garb of Afghan Transit and will cause loss to the exchequer as the Applicant and



others are paying duties and taxes in millions. Therefore it is requested to look into this aspect of the matter as well as the trade is already in a very depressing situation coupled with numerous other factors and cannot bear any other cost increasing element in it.

14. That the Applicant craves leave of this Honorable Forum to raise any further grounds at the time of hearing of this application.

PRAYER

It is, therefore, prayed by the Applicant above named that the Honorable Director General Valuation by virtue of powers vested under section 25D of the Customs Act 1969 may be pleased to pass orders as follows:-

- a) Declare that the impugned Valuation Ruling being No 1662 of 2022 dated 16-06-2022 in terms of section 25-A of the Customs Act 1969 is illegal, unlawful, and alien to the provisions of section 25 of the Customs Act 1969 and hence be set aside.
- b) Declare that the action of the Valuation Department by resorting to assessment in terms of subsection (7) of section 25 of the Customs Act 1969 directly without first exhausting the methods of assessment provided under subsections (1), (5) & (6) of section 25 of the Customs Act 1969, and without associating the Applicant in such an exercise is illegal and liable to be set aside;
- c) Direct the Department to assess the goods of the Applicant strictly in terms of section 25(1) of the Customs Act 1969.
- d) Direct the department to release/finalize the pending and future imports of the Applicant under section 81 of the Customs Act 1969 pending this Review, in terms of Section 81 of the Customs Act 1969 applying the Judgment of the Honorable High Court in CP D-6918 of 2015 (Danish Jahangir case).
- e) Such other relief as this appellate authority may deem fit and proper in the circumstances of the case."



2. **M/s Multiple Trading House, Lahore**

"With reference to the Valuation Ruling No. 1662/2022, dated 16.06.2022, we beg to respectfully disagree with the Customs values determined for the mentioned items, with PCT Code, 3923.3010 and 3926.9099.

Previously, the items mentioned in subject Valuation Ruling were valued vide Valuation Ruling No. 1129/2017 and determined at a price of USD 3.05/Kg for Food Grade Empty Plastic Bottles and USD 2.85/Kg for Empty Plastic Bottles for cosmetics packaging.

Through the new Valuation Ruling No. 1662/2022, Customs values were increased by 80% and 124%, for Empty Plastic Bottles of Food Grade and Empty Plastic Bottles of Cosmetics packaging, respectfully.

We declare that such a high increase in Customs Values is unreasonable, considering the true and actual cost incurred for import of these goods. Therefore, the mentioned Customs Values in the subject Valuation Ruling are incorrect.

In view of the above, you are requested to revise the Customs value of items mentioned in Valuation Ruling No. 1662/2022, under Section 25D. Also let us know the related import documents which you require in order to proceed with such revision."

3. The respondents were asked to furnish comments to the arguments submitted by the petitioners in the case. Para-wise comments on the petition are given as under:-

"FACTS OF THE CASE"

Earlier, the Customs values of Empty Plastic Bottles was determined vide Valuation Ruling No.1129/2017 dated 17-04-2017. As the Valuation Ruling was more than four years old, this Directorate General initiated an exercise for fresh determination of customs value of subject goods under Section 25A of the Customs Act, 1969. Meetings with all stakeholders, trade bodies including representatives of clearance Collectorates were held in this Directorate General on 17-03-2022 and 02-06-2022. The importers / stakeholders were requested to submit their proposals / suggestions as well as following import related documents before or during the course of stakeholders' meeting so that Customs value 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 points of view of stakeholders were heard in detail. The participants were requested to provide the related imports documents but no one submitted the requisite documents.

However, after exhausting and examining all the valuation methods as envisaged under Section 25 of the Customs Act, 1969, finally, reliance had to be made on Sub-Section (7) of Section 25 of the Customs Act, 1969, to determine the Customs value of Empty Plastic Bottles 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.1662/2022 dated 16-06-2022 accordingly.

PARAWISE COMMENTS

- Para-(1)** Need no comments being introduction of the petitioners and imports made by them as importers of under reference goods
- Para-(2&3)** Not Agreed. It is submitted that the 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. The customs values in impugned valuation ruling have lawfully been determined after examining the circumstances surrounding the imports. Assessments are being made as per said Valuation Rulings all over the country but only the under reference petitioners are aggrieved. It is respectfully submitted that the impugned Valuation Ruling No.1662 / 2022 dated 16-06-2022 has lawfully and justifiably been issued by the Respondent in terms of Section 25A of the Customs Act, 1969, under vested powers upon him. The Director (Valuation) has been empowered by the Board to issue valuation rulings after exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969. No deviation from laws / rules has occurred while determining the customs values of under reference goods. However, rulings are being issued lawfully by considering record of previous rulings and taking all stakeholders on board. Respondent above-named had determined minimum customs values although the same are being sold in the local market at higher prices. On the other hand the petitioners did not submit any import related documents such as copies of sales tax paid invoices, proforma Invoice etc. Therefore, the determined customs values are not exorbitantly increased rather the same are based on ground realities of the case record. As such the Respondent has acted according to law and procedure.

Para-(4&5)

Denied. It is respectfully submitted that the said Valuation Ruling No.1662 / 2022 dated 16-06-2022, 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.1662 / 2022, dated 16-06-2022 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.1662 / 2022 dated 16-06-2022 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 impugned valuation ruling is not illegal, arbitrary or discriminatory as the same has been issued after thoroughly after examining the factors surrounding the import and Respondent had acted according to law and procedure as laid down in Section 25 of the Customs Act, 1969.

G R O U N D S

Para-(1&2)

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. As such the same is not arbitrary, unjust, malafide or without justification rather the same has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969.

Para-(3&4)

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. 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. As such the Respondent had acted according to law and procedure as laid down in Section 25 of the Customs Act, 1969, while determining customs values in the under reference valuation ruling.

Para-(5&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.1662/ 2022, dated 16-06-2022 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 17-03-2022 & 02-06-2022 which were duly attended by the commercial importers as well as official bearers / representatives of the concerned Association. The participants as well as the Association were requested



to provide the documents like copies of contracts made / LCs, Sales Tax Paid Invoices to substantiate their contention of decrease in market prices. As they did not provide required documents before meeting. Again during the meetings the participants were requested to submit requisite documents.

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-(7&8)

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. Customs values in under reference valuation ruling have been determined in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969, after properly conducting local market enquiries. 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-(7&8)

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. Customs values in under reference valuation ruling have been determined in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969, after properly conducting local market enquiries. 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-(7&8)

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. Customs values in under reference valuation ruling have been determined in terms of Sub-Section (7) of Section 25 of the Customs Act, 1969, after properly conducting local market enquiries. 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-(13)

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 requisite documents.

However, no stakeholder / importer submitted the requisite import related documents which are essentially required in the process of determination of customs values of any commodity imported into Pakistan.

Para-(14)

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.1662 / 2022 dated 16-06-2022. The Respondent have acted lawfully and the Valuation Ruling No.1662 / 2022, dated 16-06-2022 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

4. Hearing in the case was conducted on 04-10-2022 on which date the counsel/ petitioners and the respondent department were heard in detail. The petitioners contended that the prices of "Empty Plastic Bottles" of China origin were determined previously in terms of Section 25A of the Customs Act, 1969 vide Valuation Ruling (VR) No.1129/2017 dated 17-04-2017, although the values which were determined vide VR dated 17-04-2017, were slightly on the higher side than the actual prices of the said product available in the international market, but was acceptable for the purpose of valuation. However, to the utter surprise and dismay to the applicant and other importers of the said product, the respondent department re-determined the values for the "Empty Plastic Bottles" of "China and other origin", and instead of reducing the values as per international prices, the respondent department without considering any of the submissions made on behalf of the applicant and other stockholders, issued the impugned Valuation Ruling whereby the values for the "Empty Plastic Bottles" have been further enhanced to a very high proportion which is totally against the law and the prevailing prices in the international market. This has prejudiced the applicant and others who are the importers of the said product as the values determined by the respondent department vide impugned VR without considering the transactional value of the applicant under Section 25(1) of the Customs Act 1969, and determined the values by resorting directly to Section 25(7) which is unlawful, illegal and wholly without jurisdiction. The counsel of the petitioner (M/s Swift Trade International) further submitted that without prejudice to the above, it is further submitted that the Respondent department has also failed to consider the vital aspect of the price of raw material while

determining the values of the subject product. The subject product i.e. "Empty Plastic Bottle" is being manufactured by "Polyethylene Terephthalate" (PET or PETE) and the international prices of the said raw material is ranging between US\$ 1.20/Kg to US\$ 1.30/Kg. The value of the same can be easily ascertained/verified from the import record/data of the said raw material i.e. "Polyethylene Terephthalate" (PET or PETE). Further, it has been mentioned in para-5 of the impugned VR that the price of the raw material and other ingredients were also examined for valuation, but the same could not be applied due to non availability of conversion and processing cost of the exporting country. In this regard, it is submitted that no other ingredient is required for the manufacturing of "Plastic Bottles" except "Polyethylene Terephthalate" (PET or PETE) which is being imported into the country at the rates between US\$ 1.20/Kg to US\$ 1.30/Kg as mentioned above, and if 100% manufacturing cost be added for the manufacturing of the "Empty Plastic Bottles" even then the cost of the finished "Empty Plastic Bottles" will be ranging between US\$ 2.40/kg to US\$ 2.60/Kg, however, the impugned VR is totally silent as how the department arrived at to current determination of the values of "Empty Plastic Bottles" at the arbitrary rates fixed in the impugned VR which are very high as compared to the prevailing international prices of the said product.



5. On the other hand, the departmental representative (DR) explained that the Customs values of Empty Plastic Bottles was determined earlier vide Valuation Ruling No.1129/2017 dated 17-04-2017. As the VR was more than four years old, this Directorate General initiated an exercise for fresh determination of Customs values of subject goods under Section 25A of the Customs Act, 1969. Meetings with all stakeholders, trade bodies including representatives of clearance Collectorates were held on 17-03-2022 and 02-06-2022. The importers / stakeholders were requested to submit their proposals / suggestions as well as import related documents but no one submitted the requisite documents. The points of view of stakeholders were heard in detail. However, after exhausting and examining all the valuation methods as envisaged under Section 25 of the Customs Act, 1969, finally, reliance had to be made on sub-Section (7) of Section 25 of the Customs Act, 1969, to determine the Customs value of Empty Plastic Bottles to arrive at the assessable Customs values and determined in terms of Section 25A of the Customs Act, 1969, for uniform assessment across the country vide Valuation Ruling No.1662/2022 dated 16-06-2022 accordingly. The DR further stated that clearance data, raw materials prices including international prices were examined thoroughly and the information so gathered was utilized and analyzed and finally local market prices were taken into account as provided in the deductive value method for determination of customs values of Empty Plastic Bottles under Section 25(7) of the Customs Act, 1969.

6. Following the petitioner's discussion/arguments and scrutiny of the case record, it is apparent that with a view to satisfy the percept of Natural Justice, the department sought to consult the relevant stakeholders while issuing the impugned Valuation Ruling. Moreover, the explanation of DR and facts of the case elaborated as well as described vide para-5 of the

impugned VR No.1662/2022 dated 16-06-2022, the departmental recourse to determine the Customs values in terms of Section 25 and 25A of the Customs Act, 1969 has been conducted within the legal domain of the ibid Act.

7. Furthermore, the values determined in the impugned VR have been widely accepted by the entire traders, and clearances have been made on such values by all concerned, except these two petitioners. The counsel for the petitioner (M/s Swift Trade Int.) was confronted with the discrepancies which emerged as a result of scrutiny; however, he was unable to provide any plausible explanation. On the other hand, the DR explained in detail about their working regarding determination of Customs values through impugned valuation ruling. I, therefore, find no reason to interfere with impugned Valuation Ruling No.1662/2022 dated 16-06-2022. The petitions are hereby rejected accordingly.



(Gul Rehman)
Director General

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Copy to:

- 1) The Member Customs (Policy/Operations), Federal Board of Revenue, Islamabad.
- 2) The Director General, Intelligence and Investigation (Customs)-FBR, Islamabad.
- 3) The Director General (Reforms & Automation Customs)-FBR, Islamabad.
- 4) The Director General, PCA & Internal Audit, Islamabad
- 5) The Director General, IOCO, Custom House, Karachi.
- 6) The Director General, Transit Trade, Custom House, Karachi.
- 7) The Chief Collector of Customs (North), Custom House, Islamabad.
- 8) The Chief Collector of Customs Enforcement (Central), Custom House, Lahore.
- 9) The Chief Collector of Customs Appraisalment, (Central), Custom House, Lahore.
- 10) The Chief Collector of Customs, Baluchistan, Custom House, Quetta.
- 11) The Chief Collector of Customs, Khyber Pakhtunkhwa, Custom House, Peshawar.
- 12) The Chief Collector of Customs, Appraisalment (South), Custom House, Karachi.
- 13) The Chief Collector of Customs, Enforcement (South), Custom House, Karachi.
- 14) The Directors, Intelligence & Investigation, Karachi / Lahore / Islamabad / Quetta / Peshawar / Faisalabad.

- 15) The Director, Directorate of Customs Valuation, Karachi / Lahore / Quetta / Peshawar.
- 16) The Collector of Customs, Collectorate of Customs, (Appraisement - West / Appraisement - East/ Appraisement - Port Muhammad Bin Qasim / Enforcement / JIAP), Karachi / Hyderabad / (Appraisement / Enforcement), Quetta / Gwadar / (Appraisement / Enforcement / AIIA), Lahore / Appraisement, Faisalabad / Appraisement, Sambrial (Sialkot) / Enforcement, Multan / Islamabad / Gilgit -Baltistan / (Appraisement / Enforcement), Peshawar / Exports (Port Muhammad Bin Qasim / Custom House), Karachi.
- 17) The Secretary (Valuation & Audit), Federal Board of Revenue, Islamabad.
- 18) All Additional Directors / Deputy Directors / Assistant Directors, Customs Valuation, Karachi
- 19) Assistant Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in One Customs & WEBOC Database System.
- 20) Guard File.

