

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

File No. DG(V)Val.Rev/57/2022/1025.

Dated 11th October, 2022

**Order in Revision No. 86 /2022 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1677/2022 Dated 22-07-2022**

- 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 Onyx Industrial Works

VERSUS

PETITIONERS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing

05-10-2022

For the Petitioners

Mr. Adnan Moton, Advocate
Mr. Ahmed Sheikh

For the Respondent

Mr. Shamaz Saqib, Valuation Officer

This revision petition was filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No. 1677/2022 dated 22.07.2022 issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

- 1) "That this Review Petition is being filed by M/s. ONYX INDUSTRIAL WORKS against Valuation Ruling No.1677/2022 dated 22.07.2022 which is marked as(Annexure-A) (the "Impugned Ruling") issued by the Director of Customs Valuation in terms of section 25A of the Customs Act, 1969. That the aggrieved person namely "M/s.ONYX INDUSTRIAL WORKS" as an individual having NTN No. 5453388-0, having tax office RTO Lahore with affect from 22.06.2019 and registered for Sales Tax with affect from 23.08.2019, having principal activity Manufacturing/Manufacture of other fabricated metal products; metalworking service activities/Manufacture of other fabricated metal products N.E.C. Copy of NTN which is marked as (Annexure-A-I).
- 2) That, stated briefly, the relevant facts are that customs values of Hose Clamps (PCT Code 7326.9060) were determined under Section 25-A of the Customs Act, 1969. An exercise was conducted by the Directorate General of Customs Valuation for identification of new commodities on which no Valuation Ruling exist and which are prone to international price fluctuations. Therefore, an exercise was initiated for determination of Customs values of Hose Clamps according to trends prevailing in the international market in terms of Section 25-A of the Customs Act, 1969.

- 3) In this regard meeting with stakeholders was held on 09.06.2022. The imports contended that the goods are sold at both industrial and retail level. They claimed that the material is manufactured through a very simple manufacturing process that does not involve complicated steps in production. The importers contended that declared values of the goods may be accepted. The importers were requested to submit the following documents so that correct customs values could be determined.
- 4) Valuation methods given in Section 25 of the Customs Act, 1969 were applied sequentially to address the valuation issue at hand. Transaction value method provided in Section 25(1) of the Act *ibid* was found inapplicable because the required information under the law was not available. Identical and Similar goods valuation methods provided some reference values but could not be relied upon due to variation in data. Market enquiry as envisaged under Sub-Section (7) of Section 25 of the Customs Act, 1969 was conducted but could yield no results as prices varied accordingly to selling point in the market. Online values were also checked. Since, the manufacturers costs and raw material prices of producing the goods in question in country of exportation were not available. Computed value method as provided in Section 25(8) could not be applied for valuation of the aforesaid goods. London Metal Exchange (LME) prices of CRC were checked from the London Metal Bulletin (LMB), within the meanings of proviso to sub-Section (1) of Section 25A *ibid*, inserted vide Finance Act, 2021. Finally, PRAL database, market information and international prices through Web were examined thoroughly. All the information so gathered was analyzed for determination of Customs Value of the subject good. Consequently, the Fall Back Method as provided under section 25(9) of the Customs Act, 1969 was applied to arrive at assessable customs value of Hose Clamps.
- 5) Hose Clamps hereinafter specified shall be assessed to duty / taxes at the following Customs Value:

S. #	Description of Goods	PCT Code	Proposed PCT Code for WeBOC	Origin	Customs Value (C&F) US\$/Kg
(1)	(2)	(3)	(4)	(5)	(6)
1	Hose Clamps	7326.9060	7326.9060.1000	China	0.916
			7326.9060.1100	Other Origins	1.100

- 6) That the impugned Valuation Ruling No. 1677/2022 dated 22.07.2022 also stated that the assessing officers shall take into account first proviso to the subsection 2 of Section 25A of the Customs Act, 1969 which states "provided that where the value declared in a goods declaration, filed under section 79 or section 131 or mentioned in the invoice retrieved from consignment, as the case maybe, is higher than the value determined under subsection (1), such higher value shall be the customs value". In case of consignments imported by air, the assessing officer shall take into account the differential between air freight and sea freight while applying the Customs values determined in this Ruling.
- 7) That the impugned Valuation Ruling No. 1677/2022 dated 22.07.2022 also mentioned the validity of this impugned Valuation Ruling by stating that the values determined vide this Ruling shall be the applicable Customs value for assessment of subject imported goods until and unless it is rescinded or revised by the competent authority in terms of Sub-Section (4) of Section 25A of the Customs Act, 1969, read with Rule 107(a), Chapter IX, of the customs Rules, 2001.
- 8) That the impugned valuation ruling also mention that a revision petition may be filed against this ruling as provided under Section 25-D of the Customs Act, 1969 within (30) days from the date of issue of this ruling before the Director General, Directorate General of Customs Valuation 7th Floor, Custom House, Karachi.
- 9) That the Impugned Ruling No. 1677/2022 dated 22.07.2022 is illegal, improper, incorrect and not representative of the actual value of the items in question on account of the following:-

GROUND

A. We would like to assail the impugned Valuation Ruling No. 1677/2022 dated 22.07.2022 due to the following important factors which are mentioned herein under:-

- i. That the subject goods in question namely Hose Clamps are made from CRC steel sheets and the price in China is USD 1000 / ton. So how can a product that consists of 75 % CRC steel be lower than the basic raw material. Reliance is placed upon Proforma Invoice No. WDF-2205 dated: 25.05.2022 issued to M/s. Onyx Industrial Works by Chinese exporter / supplier M/s. NINGBO WODAFENG HARDWARE TECHNOLOGY CO., LTD, having registered office in China which is marked as **(Annexure-B)** along with Price List effective from 28.07.2022 of local manufacturers of COLD ROLLED COILS Primary Grade namely M/s. Hadeed Pakistan (Pvt.) Ltd, Sheikhpura, Pakistan, along with M/s. International Steels Limited Price List effective from 28.07.2022 and 22.03.2022 which are marked as **(Annexure-C to C-II)** along with Sales Tax Invoices reflecting local procurement from M/s. MID Pakistan Coil Center (Pvt.) Ltd, having Sales Tax Invoice No. IV19-0003228 dated: 11.09.2019, and also bearing Sales Tax Invoice No. IV19-0003231 dated: 11.09.2019 and also local procurement from M/s. International Steels Limited bearing Sales Tax Invoice No. SC20-0102228 dated: 04.09.2019 and also bearing Sales Tax Invoice No. SC20-0102227 dated: 04.09.2019 which are marked as **(Annexure-D & D-I)**.
- ii. Even the Customs Values of Non-Alloy Steel Strips have been determined under Section 25-A of the Customs Act, 1969 vide Valuation Ruling No. 1526/2021 dated: 29.03.2021. It has also been mentioned in the Valuation Ruling No. 1526/2021 dated: 29.03.2021 that during the meeting the representative of M/s. Abid Industries contended that they are one of the biggest importers of Prime Quality Cold Rolled Non-Alloy Steel Strip from Europe under PCT 7211.9090 and Prime Quality Cold Rolled Non-Alloy Steel Strip from China and the prices of the subject goods have increased in the international market. Hence, the price for Non-Alloy Steel Strip under HS Code 7211.2920 from China is US\$ 1.125/Kg. Hence, this proves that the impugned Valuation Ruling for Hose Clamps have been calculated in correctly at a very low price. This valuation ruling has not been rescinded or revised by the competent authority in terms of Sub-Section (4) of Section 25-A of the Customs Act, 1969 read with Rule 107(a), Chapter IX, of the Customs Rules, 2001 and is still in field for all practical and legal purposes. Copy of Valuation Ruling No. 1526/2021 dated: 29.03.2021 which is marked as **(Annexure-E)**.
- iii. The Nut/Bolt used in Hose Clamps consists of almost 35% to 45% of the total weight of the finished clamps. Nut/Bolts already have a Valuation Ruling 1548/2021 dated: 31-08-2021 and the price is US\$ 1.47/Kg from China. Again this proves that the Valuation Ruling for Hose Clamps have been calculated in-correctly. The Valuation Ruling No. 1548/2021 dated: 31.08.2021 was issued since there was a considerable increase in the price of this commodity and therefore, Valuation Ruling needed revision. In this regard representations were also received from traders/stakeholders that there is an increase in the prices of this commodity and therefore, Valuation Ruling needs revision. Thus, Directorate General, therefore initiated a fresh exercise for determination of Customs Values of the subject goods in terms of Section 25-A of the Customs Act, 1969. The valuation method adopted was under Section 25(9) of the Customs Act, 1969. This valuation ruling has not been rescinded or revised by the competent authority in terms of Sub-Section (4) of Section 25-A of the Customs Act, 1969 read with Rule 107(a), Chapter IX, of the Customs Rules, 2001 and is still in field for all practical and legal purposes. Copy of Valuation Ruling No. 1548/2021 dated: 31.08.2021 which is marked as **(Annexure-F)**.



- iv. *The average wastage in each Hose Clamp is around 30% to 50% and this should be taken into consideration while revising the Valuation Ruling by the Directorate General of Customs Valuation, Custom House, Karachi.*
- v. *The Hose Clamps are then galvanized and the average cost of galvanizing in china market is around US\$ 400/ton.*
- B. *The Impugned Ruling No. 1677/2022 dated 22.07.2022 is therefore illegal and does not reflect the true market prices of the items mentioned therein above.*
- C. *That the Impugned Ruling No. 1677/2022 dated 22.07.2022 is contrary to section 24A of the General Clauses Act, 1897 which provides that any person conferred with the power to make any order or give any direction under any law shall exercise such power reasonably, fairly, justly and shall also give reasons for making the order or issuing the direction. Reliance in this regard is placed on judgments reported as 2007 SCMR 1759, PLD 1970 SC 158, PLD 1970 SC 173 and 2009 SCMR 1407.*
- D. *That the Impugned Ruling No. 1677/2022 dated 22.07.2022 has purportedly been issued by adopting fall back method under section 25(9) of the Customs Act, 1969, without following the other provisions of Section 25 of the Customs Act, 1969 which is against the essence and spirit of Section 25 of the Customs Act, 1969 read with relevant Chapter IX of valuation and also valuation methods given under Customs Rules, 2001, notified vide SRO 450(I)/2001 dated: 18.06.2001.*
- E. *That the Impugned Ruling neither provides any reasons for the customs values determined therein nor provides any information on how the powers under section 25(9) were exercised, without following the other provisions of Section 25 of the Customs Act, 1969. Rule 119 of the Customs Rules, 2001 were complied with, or the decision as regards valuation was reached. As such, it has been issued in a highly non-transparent manner and is against the principles of natural justice and fair play. The Impugned Ruling is therefore illegal and a nullity in the eyes of the law. Reliance in this regard is placed on, inter alia, judgments reported as 2020 PTD 585, 2020 PTD 877, 2020 PTD 172, 2019 PTD 1562, 2019 PTD 1786, 2019 PTD 1242, 2019 PTD 1129, 2018 PTD 1480, 2018 PTD 854, 2018 PTD 69, 2018 PTD 2282 and 2017 PTD 244.*
- F. *That the values determined in the impugned Valuation Ruling No. 1677/2022 dated 22.07.2022 needs upward revision so as to maintain consistency vis-à-vis current price trend of the raw material in the international market as well as the enhanced freight element. It is also stated that the prices of raw material used for the manufacturing of subject goods in question namely Hose Clamps were on a higher side.*
- G. *Needless, to mention that determination of Customs values using cost of domestic manufacturing falls within the domain of prohibited methods as provided for in Rule 110 of the Customs Rules, 2001. However, in order to thrash out the valuation issue regarding market situation i.e. import values and domestic sale prices (for both locally manufactured and imported variants), keeping in view adjustments provided for in Section 25 of the Act ibid, a sectorial study needs to be carried out by the Director (Valuation), Karachi in association with all relevant stakeholders.*
- H. *That in view of the high input cost of materials / accessories used in manufacturing of Hose Clamps, the higher values as determined in the impugned Valuation Ruling 1677/2022 dated 22.07.2022 still do not reflect the international market prices.*
- I. *The value was determined under fall back method in terms of Section 25 (9) of the Customs Act, 1969 which necessitated that the survey exercise should have been adequately reflective of the prices at which the impugned items are available in the domestic market. In this case the survey, on which findings, were based was somewhat restrictive as it needed to be ascertained in a more broad-based exercise, in major markets where such similar or identical goods are sold and thereafter determine the customs values.*



- J. Another aspect which needs consideration is that only a single hearing was held and was attended by only one person. It is observed that such a manner of working, with minimal involvement of the businesses (involved in this import) will erode the confidence of the business community in the department's output i.e. the determined Customs values. It would have been in the fitness of things to issue at least one (if not two more) hearing notice, to the importers and thereafter, if the same had gone by without attendance the stakeholders could not claim any grievance on account of not having been accorded adequate opportunity of hearing.

PRAYER

In view of the foregoing, it is humbly prayed that the Impugned Ruling No. 1677/2022 dated 22.07.2022 may kindly be held to be illegal, void ab-initio, and may immediately be suspended, and a fresh determination of customs values of the items may kindly be made after taking into account the arguments and evidences provided by the Petitioner and after consulting with the Petitioner and all other stakeholders as required by law.

The Director Valuation shall issue a fresh Valuation Ruling based on the sequential methodology provided for in Section 25 of the Customs Act, 1969. In this exercise consultation shall also be taken from Director Valuation, Lahore to provide requisite details / data of the market positions in respect of goods of similar / identical nature as are been sold in the relevant local markets."

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"

An exercise was conducted in this Directorate General of Customs Valuation for identification of new commodities on which no Valuation Ruling exists and which are prone to international price fluctuations. Therefore, an exercise was initiated for determination of Customs values of Hose Clamps according to trends prevailing in the international prices, in terms of Section 25A of the Customs Act, 1969. Meeting with stakeholders was held on 09-06-2022. The importers contended that the goods are sold at both industrial and retail level. They claimed that the material is manufactured through a very simple manufacturing process that does not involve complicated steps in production. The importers contended that declared values of the goods may be accepted. The importers were requested to submit the following documents 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.

However, accordingly, after exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969, customs values of under reference goods were determined in terms of Section 25(9) of the Customs Act, 1969, for uniform assessment all over the country vide Valuation Ruling No.1677/2022 dated 22-07-2022, for uniform assessment all over the Customs Stations of the country.

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) Need no comments being facts of the under reference case and mention of issuance of impugned Valuation Ruling.

Para-4&5) Need no comments being mention of determination of customs value of under reference goods and valuation methods applied in this case.

Para-(6&7) 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.1677 / 2022 dated 22-07-2022 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 correct customs values. 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 correct and lawfully determined and are based on ground realities of the case record. As such the Respondent has acted according to law and procedure.



Para-(8&9) Denied. It is respectfully submitted that the said Valuation Ruling No.1677 / 2022 dated 22-07-2022, was issued after thorough investigation and all aspects were considered. In this regard it is submitted that this Directorate General has determined the correct customs values vide Valuation Ruling No.1677 / 2022, dated 22-07-2022 for level playing field and for uniform assessment all over the Customs Stations of the country. Provisions of Section 25(1) to 25(9) were duly exhausted while issuing the said Valuation Ruling. Import data of previous 90 days and local market surveys were analyzed and evaluated and after gathering all information, the Customs values of under reference goods have been determined in terms of Section 25(9) of the Customs Act, 1969, vide above referred Valuation Ruling No.1677 / 2022 dated 22-07-2022 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.

GROUNDS

Para-(A&B)

It is submitted that Paras-(2) to (5) clearly states whole the process of issuance of said Valuation Ruling. Moreover, Para-(4) states that the said ruling has been issued in terms of Sub-Section (9) by exhausting and following all the provisions of Section 25, for the purpose of determination of Customs values. The petitioners, on the other hand, did not submit the requisite import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant. As per Rule-109 of the Valuation Rules issued under SRO No.450(I)/2001, dated 18-06-2001 (Chapter-IX), in the absence of valid import documents, the burden to prove correctness of transaction value shifts to the importers / applicants. Moreover, 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. The customs values in the impugned Valuation Ruling have not been determined on lower side rather the same are based on ground realities of the case. As such the same is not illegal and has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country and only under reference petitioner seems to be aggrieved.

Para-(C&D)

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 readwith 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-(E&F)

Not Agreed. It is submitted that all the valuation methods as envisaged under Section 25 of the Act ibid have properly and sequentially been followed and by giving reasons for rejection of previous valuation methods customs values have been determined in terms of Section 25(9) of the Customs Act, 1969. The Petitioners are simply aggrieved by the Valuation Ruling 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. However, the said Valuation Ruling No.1677/ 2022, dated 22-07-2022 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 was held on 09-06-2022 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. Yet they did not provide required documents before meeting. Again during the meetings the participants were requested to submit the required documents.

But no import documents were provided by the importers in support of their contention to increase the customs values in the impugned valuation ruling in the international market. 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-(G&H)

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-(I&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. Customs values in under reference valuation ruling have been determined in terms of Sub-Section (9) 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.

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.1677 / 2022 dated 22-07-2022. The Respondent have acted lawfully and the Valuation Ruling No.1677 / 2022, dated 22-07-2022 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 05-10-2022 on which date both the petitioner/ counsel of the petitioner and the respondent department were heard in detail. The petitioner contended that the subject goods i.e. "Hose Clamps" are made from CRC steel sheets and the price in China is USD 1000/ton. So how can a product that consists of 75% CRC steel be lower than the basic raw material. The petitioner further stated that even the Customs values of Non-Alloy Steel Strips have been determined under Section 25A of the Customs Act, 1969 vide Valuation Ruling No. 1526/2021 dated 29.03.2021. The petitioner further contended that Prime Quality Cold Rolled Non-Alloy Steel Strip from Europe and China increased in the international market and the prices for Non-Alloy Steel Strip in China is US\$ 1.125/Kg. Hence, this proves that the impugned Valuation Ruling for Hose Clamps have been calculated incorrectly at a very low price. Moreover, in view of the high input cost of materials / accessories used in manufacturing of Hose Clamps, the higher values as determined in the impugned Valuation Ruling No.1677/2022 dated 22.07.2022 still do not reflect the international market prices.

4. On the other hand, the departmental representative (DR) explained that an exercise was conducted in Directorate General of Customs Valuation for identification of new commodities on which no Valuation Ruling exists and which are prone to international price fluctuations. Therefore, an exercise was initiated for determination of Customs values of Hose Clamps according to trends

prevailing in the international prices, in terms of Section 25A of the Customs Act, 1969. Meeting with stakeholders was held on 09-06-2022. The petitioner also 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/claims or any evidence to substantiate their cause of grievance and to enable the department 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. The DR explained that adoption of method to determine Customs values vide impugned VR No.1677/2022 dated 22-07-2022 has been elaborated in detail in para-4 of the impugned VR. However, LME prices of CRC were checked from the London Metal Bulletin, within the meanings of proviso to sub-Section (1) of Section 25A of the Act *ibid*, inserted vide Finance Act, 2021. Consequently, the Fall Back Method as provided under Section (9) of the Customs Act, 1969, was applied to arrive at assessable Customs values of impugned goods.

5. 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. However, few documents submitted through email by the counsel of the petitioner i.e. three "unsigned and unstamped" price lists of local sellers and one "undated" proforma invoice, which could not be considered as authentic documents. Moreover, the explanation of DR and facts of the case elaborated as well as described vide para-4 of the impugned VR No.1677/2022 dated 22-07-2022, 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, and the revision petition being devoid of any material, legal content is accordingly rejected.



(Gul Rehman)
Director General

Registered copy to:

M/s ONYX Industrial Works
C/o Moton Law Associates
13-B, 6th Zamzama Street, Clifton, Karachi

Copy to:

- 1) The Member Customs (Policy/Operations), Federal Board of Revenue, Islamabad.
- 2) The Director General, Intelligence and Investigation (Customs)-FBR, Islamabad.
- 3) The Director General (Reforms & Automation), Customs, Islamabad.
- 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.

