

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

File No.DG(V)Val.Rev/45/2022/1308.

Dated 14th December, 2022

**Order in Revision No. 106 /2022 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No.1668/2022 Dated 24-06-2022**

- 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 S. I. Chemicals & Others

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

01-11-2022

For the Petitioners

Mr. Ibrahim
Mr. Rajesh Kumar
Mr. Hunain
Mr. Faizan Essani

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.1668/2022 dated 24-06-2022, issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"That we attend all valuation meetings at Karachi Custom House & always presented our viewpoints with all required documents asked during the meetings. We also represented our case through Chamber & Federation platform.

- *Despite positive hearings and submission of all required documents, new ITP imposed on 24 June 2022, this is we feel is discrimination to foreign & local companies who respect*

correct market values, declare products in right duty tariff codes & paying duties as per law.

- *We are importing hotmelt adhesives from;
Bostik – world key player in hotmelt part of Arkema, Group, France
Lushan – The key Chinese player working with public platform.
Shanghai Jaour – The key Chinese player working since last many years in Pakistan market.*
- *Hotmelt Adhesives major consumption in Hygiene Industry in Pakistan (Diapers & Sanitary Napkin). This industry has transformed from import activities to local manufacturing. This industry is now greatly contributing to Pakistan economy creating huge employments & creating export potentials for Pakistan. The new ITP will increase cost and diminish Pakistan export potentials.*
- *Pakistan is passing through worst financial crisis of its history. Soaring inflation & foreign currency rate creating businesses closures, unemployment's, and insecurities for public. New ITP will increase further miseries to business in Pakistan.*
- *Hotmelt is not generic products. Formulations & recipe varies widely according to required performances based on:*
 - 1) *Rosin Esters*
 - 2) *Hydrocarbon*
 - 3) *Hydrogenated Hydrocarbon drive from Rubber.*
 - 4) *For key customers, there is specialize formulations which are high in term of costs, performances & selling prices.*
- *Therefore, one finds wide variances in prices & there is no possibility of applying generic value for specific application grade & as per countries involved in export. Attaching sample recipe from Bostik for your reference.*
- *We are distributors / agents of world-renowned companies like 1) BOSTIK, belong to Arkema, France. 2) Lushan – The key Chinese player working with public platform 3) Shanghai Jaour – The key Chinese player working since last many years in Pakistan mkt.*
- *Bostik / Arkema, France strictly believed for adherence to compliances for fair prices and custom tariff according to Brussels Nomenclature. There is dedicated compliance division determining the right tariff codes.*
- *We believe Pakistan Custom can easily check and authentic prices, authentic tariff code and credentials of foreign companies. There are many possibilities to perform these checks from i.e., 1) SGS and other inspection agencies 2) Pakistan Embassies / Consulates in respective countries and 3) Custom data from respective countries. On Pakistan Custom advice, we can offer pre shipment inspection for all our imports from designated agencies.*


As this valuation is highly unreasonable, unfair and against market trend, we request immediate revision of above-mentioned order."



2. 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 Hot Melt Adhesive Glue Stick/ Granules/ Chips / Pallets/ Solid/ Other Forms (PCT: 3506.9190) were determined vide Valuation Ruling No.1571/2021 dated 26-11-2021. Being aggrieved some importers filed revision petition before the Director General Customs Valuation under Section 25D of the Customs Act, 1969. The Director General set aside the said Valuation Ruling vide Order-In-Revision No.14/2022 dated 18-02-2022 and ordered the Director Valuation to undertake a fresh exercise under Section 25A of the Customs Act, 1969 to determine the customs values of the subject goods. Accordingly, an exercise for fresh determination of customs value was initiated under Section 25A of the Customs Act, 1969. Meeting with all stakeholders, trade including representatives of clearance Collectorates was held in this Directorate General on 05-04-2022. 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 meetings were attended by importers and other stakeholders. The views were heard in detail to arrive at customs value of subject goods. The importers contended that the Hot Melt Adhesives are being imported in different forms as well as grades due to this reason there is wide variation in prices. The participants submitted that the value in the previous Valuation Ruling was on higher side, therefore, customs value of subject goods may further be rationalized downward to reflect the true transactional value. The view points of stakeholders were heard in details and considered to arrive at customs values of the subject goods. However, none of the importers submitted the requisite import documents to support their contention.

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-Sections (5) & (6) of Section 25 of the Customs Act, 1969, to determine the customs value of Hot Melt Adhesive Glue Stick / Granules / Chips / Pallets / Solid / Other Forms (PCT: 3506.9190), 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.1668 / 2022 dated 24-06-2022 accordingly.

PARAWISE COMMENTS

Para-(1&2)

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.1668 / 2022 dated 24-06-2022 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 on higher side rather the same are based on ground realities of the case record. As such the Respondent has acted according to law and procedure.

Para-(3&4)




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-Sections (5) & (6) 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.

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.1668/ 2022, dated 24-06-2022 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 was held on 05-04-2022 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 :-

- (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-(7)

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-

Sections (5) & (6) of Section 25 of the Customs Act, 1969. 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 petitioners seem 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.1668 / 2022 dated 24-06-2022. The Respondent have acted lawfully and the Valuation Ruling No.1668 / 2022, dated 24-06-2022 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 be 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 01-11-2022 on which date both the petitioners and the respondent department were heard in detail. The contentions of the petitioners are that Hot Melt Adhesives are primarily used in Hygiene Industry in Pakistan (Diapers & Sanitary Napkin). They contended that Hot Melt Adhesive is not a generic product and its formulations & recipe varies widely according to required performances based on Rosin Esters, Hydrocarbons and Hydrogenated Hydrocarbon. They added that for key customers, there are specialized formulations which are high in term of costs, performances and selling prices. Therefore, one finds wide variances in prices and there is no possibility of applying generic value for specific application grade and as per countries involved in export. They stated that they are distributors/agents of world-renowned companies like BOSTIK, Lushan and Shanghai Jaour who strictly believed for adherence to compliances for fair prices.
4. The representative of M/s Spectrum Hygiene (Pvt.) Limited submitted that there are different applications of Holt Melt Adhesives and for each application there is specific grade i.e. Diapers Construction, Elastic and Hook applications. They further stated that maximum use of

subject item is for 'construction' and price of this grade is comparatively on lower side. Moreover, Elastic grade adhesives mostly used for 'waist band' and 'hook' and its price and use is much lower than the construction grade adhesive. One pricing cannot be applied based on origin and shape. There is a distinct formula for each application based on different ingredients, and each application has a varied quality level to adapt to market requirements. Furthermore, their shipper (Bostik China) is a multinational company that supplies the impugned goods to customers all over the world, and their prices are competitive on the international market. The prices fluctuate according to raw material upward and downward trends, as well as changes in freight costs.

5. The representative of M/s TF Hygiene Pvt. Limited and M/s Ozone Enterprises stated that the impugned valuation Ruling No. 1668 of 2022 dated: 24.06.2022 has been issued exorbitantly on higher side which does not reflect the international trend of price. Valuation Department abruptly enhanced the custom value and issued impugned Valuation Ruling on higher side without any reason and grounds which will increase cost and hurt the diapers industry as well as its end users.

6. On the other hand, the departmental representative (DR) explained that earlier, the Customs values of Hot Melt Adhesive Glue Stick/ Granules/ Chips / Pallets/ Solid/ Other Forms were determined vide Valuation Ruling No.1571/2021 dated 26-11-2021. Being aggrieved, some importers filed revision petition before the Director General, Customs Valuation under Section 25D of the Customs Act, 1969. The competent authority set aside the said Valuation Ruling vide Order-in-Revision No.14/2022 dated 18-02-2022 and ordered the respondent department to undertake a fresh exercise under Section 25A of the Customs Act, 1969 to determine the Customs values of the subject goods. Accordingly, an exercise for fresh determination of Customs value was initiated under Section 25A of the Customs Act, 1969. Meeting with all stakeholders, trade bodies including representatives of clearance Collectorates was held on 05-04-2022. The importers / stakeholders were requested to submit their proposals / suggestions as well as import related documents before or during the course of stakeholders' meeting so that Customs value could be determined. However, none of the importers submitted the requisite import documents to support their contention. The meeting was attended by importers and other stakeholders. The view points were heard in detail to arrive at Customs value of subject goods. The importers contended that the Hot Melt Adhesives are being imported in different forms as well as grades due to this reason there is wide variation in prices. The participants submitted that the value in the previous Valuation Ruling was on higher side, therefore, Customs value of subject goods may further be rationalized downward to reflect the true transactional value. The DR highlighted that the impugned item is imported in different shapes and appearances like; Pillow shape for use in diapers, napkins, textile, PET bottles labels, pharma, medical sheets, frozen foods and courier envelopes. Granules form of impugned goods are mainly used for carton sealing, soap and bubble gum wrappers, yogurt cup and butter sealing (top cover), paper bags, cigarette rod, book binding and furniture. Sticks shape/form is mostly used in stationery and automobiles. 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-Sections (5) & (6) of Section 25 of the Customs Act, 1969, to determine the Customs values of Hot Melt Adhesive Glue Stick / Granules / Chips / Pallets / Solid / Other Forms to arrive at the assessable Customs values and notified under Section 25A of the Customs Act, 1969, for uniform assessment across the country vide Valuation Ruling No.1668 / 2022 dated 24-06-2022 accordingly.

7. After listening to the discussion/arguments of the petitioners, respondent and perusal of the case, it is apparent that with a view to satisfy the precept of Natural Justice, the department sought to consult the relevant stakeholders and meeting was held on 05-04-2022 while issuing the impugned Valuation Ruling. Moreover, the explanation of DR and facts of the case elaborated, 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 accordingly Customs values rationalized downward. Therefore, I do not find any reason to interfere with impugned Valuation Ruling No.1668/2022 dated 24-06-2022. The petitions being devoid of any merit and legal contents are hereby rejected accordingly.

8. Being identical on facts and law point, this order shall apply mutatis mutandis to the following (11) revision petitions.

1. M/s. Shamim Enterprises
2. M/s TF Hygiene (Pvt) Ltd.
3. M/s S.A Chemicals
4. M/s Dayimaan Hygiene (Pvt) Limited
5. M/s Mtek Hygiene (Pvt.) Ltd
6. M/s Santex Products (Pvt.) Ltd.
7. M/s MEGA Enterprise
8. M/s Spectrum Hygiene (Pvt.) Limited
9. M/s Ozone Enterprises
10. M/s TF Industries
11. M/s Saleem Trading Company.



(Gul Rehman)
Director General

Registered Copy to:

S.No.	Petitioners
1	M/s. Shamim Enterprises Address B-61, Block-5, K.A.E.C.S. Karachi. Email: latifgroup@cyber.net.pk
2:	M/s TF Hygiene (Pvt) Ltd. Address: Suit # 104, First Floor Chappal Plaza, HasratMohani Road, Karachi. Email: tfhygiene@hotmail.com

3.	M/s S.A Chemicals Address: Mehdi Towers Suite # 403, 115 A, Shahrah-e-Faisal, Karachi. Email: sachemicalspk@gmail.com
4.	M/s Dayimaan Hygiene (Pvt) Limited Address: 2 nd Floor, Building No. 37, Commerical Area, Cavalry Ground, Lahore.
5.	M/s Mtek Hygiene (Pvt) Ltd Address: 24-D, Block-1, K.A.E.C.H.S Karachi. Email: info@mtkhygiene.com
6.	M/s Santex Products (Pvt.) Ltd. Address: D-168, KDA Scheme 1 Ameer Khusro Road Karachi Address: info@santex.com.pk
7.	M/s MEGA Enterprise Address: Unite # D-23/B, S.I.T.E, Karachi Email: megaenterprise1@outlook.com
8.	M/s Spectrum Hygiene (Pvt) Limited Address: 392/1-2, Sector 7-A Korangi Industrial Area, Karachi. Email: spectrum.hygienepvtltd@gmail.com
9.	M/s Ozone Enterprises Address: Office # 210, 2 nd Floor, Plot # G6, Continental Trade Centre, Block 8, Clifton, Karachi. Email: ozoneentrp@gmail.com
10.	M/s TF Industries Address: 17-KM Sheikhpura Road, Behind Gujjar CNG, Momipura, Lahore. Email: tfindustries23@gmail.com
11.	M/s Saleem Trading Company Address: Suite # 104, First Floor, Chappal Plaza, HasratMohani Road, Karachi. Email: saleem.abubaker@hotmail.com
12.	M/s S.I.Chemicals Mehran Town, Plot No.A-17 & 19, Block-6, near Meraj Masjid, Opp: SGS Building, Korangi Industrial Area, Karachi email: info@sichemicals.com

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, (Appraisalment - West / Appraisalment - East/
Appraisalment - Port Muhammad Bin Qasim / Enforcement / JIAP), Karachi / Hyderabad /

(Appraisalment / Enforcement), Quetta / Gwadar / (Appraisalment / Enforcement / AIIA), Lahore / Appraisalment, Faisalabad / Appraisalment, Sambrial (Sialkot) / Enforcement, Multan / Islamabad / Gilgit -Baltistan / (Appraisalment / 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.

