

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

File No. DG(V)Val.Rev/01/IX/2023 /192

Dated 20 February, 2023

**Order in Revision No. 06 /2023 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1703/2022 Dated 07-12-2022**

- 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. Farsha Traders
M/s Hameed & Co.

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PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

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RESPONDENT

Date(s) of hearing

02-02-2023

For the Petitioners

Mr. Muhammad Zahid
Mr Farrukh Hameed

For the Respondent

Mr. Nadeem Ahmad Shaikh, Valuation Officer



This revision petition was filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No. 1703/2022 dated 07.12.2022 issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"2. With due respect we are submitting this application for review of valuation rulings of Ride on Toys VIZ No 1703 Serial No (1) Simple Pedal Type / Push Type Ride on Cars, Tricycles, Scooty, Battery Operated / Electric Scooters, Battery Operated / Battery Operated / Electric Cars Battery Operated / Electric Hover Boards / Self Balancing Scooters, vide file reg. Mis/01/120079-V111 (B) IX/1269, dated: 07-12-2022.

3. At the outset we would like stress that this request application is being written in good spirit and candor and hope you will reciprocate in the same manner.

4. We are Major Ride on Toys importer and our shipments are being cleared From ports regularly, and we are also submitting this review application under Section 25-D of the Customs Act 1969 of valuation rulings No. 1703/2022, dated: 07-12-2022 of Ride On toys.

5. Our new ride on toys ruling was issued on 07-12-2022, first of all with kind respect we disagree with the newly issued ruling and request your kind self for review as per the evidence and supporting data which has already been provided to you, highlighting that the evidential documents do not only contain the import and universal values as well as the local market surveys data was also provided.

6. In the previous hearing which was held in the month of November, we had a meeting with the valuation department including the Honorable Director general valuation, where we identified and assured that all the data and evidential documents were being provided to support our argument. However, unfortunately upon the issuance of VR No.1703/2022, dated 07-12-2022, all our concerns were ignored and not looked forward to concluding the valuation ruling at the same higher values than the original and authentic documentation provided by us.

7. Newly issued valuation ruling is same high in values and unacceptable, we strongly protest against this valuation ruling.

8. Shipments are pending and as protest we are not filling our GD's and even we are not able to pay the duties and taxes in light of this valuation ruling and facing very heavy losses. New valuation ruling was not issued on merit and these values for assessment purpose are too high.

9. Onus is on you kind self to scrutinize this matter and you deduce the facts from available supportive documents and previous evidences before making your judgment. We can provide you are original invoices and previous GD's which can be verified from the relevant departments. Our shipments are being delay and we will face heavy loss in terms of demurrage and detention and we are unable to continue our legal import and jobs of thousands of people in our sector are at risk.

10. We strongly protest against the practice of this learned officers, we believe that there has been somehow an evident misunderstanding of the facts on the part of the learned officers. Nonetheless, we are hopeful that upon reviewing this factual situation and reviewing our application and after checking the difference of values of items from old VR and New VR. We will be able to secure your positive consent and you will suspend this valuation ruling in the light of our provided documents and physical sample, you will issue new valuation ruling, your excellency. Looking forward for your expeditions and favorable response in this particular case."



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"

1) Earlier, the Customs values of Ride-On Toys were determined under Section 25A of the Customs Act, 1969 vide Valuation Ruling No.1642/2022 dated 29-04-2022 which was set aside by the Director General of Customs Valuation vide Order-in-Revision No.68/2022 dated 01-08-2022 with directions to re-determine the customs values of Ride-On Toys. Therefore, an exercise has been undertaken by the Directorate to determine the same.

2) Meetings were convened on 25-10-2022 and 24-11-2022 which were attended by all the relevant stakeholders. The issues pertaining to the valuation of subject goods were deliberated upon in detail in the afore-referred meetings. The stakeholders requested that they should be given reasonable allowance in the values of Battery Operated Ride-In Car and Bike (CKD Condition). Moreover, they contended that discounts given for parts of Battery operated Ride-On Car / Bike should also be revised. For this purpose, Ninety (90) days' data has also been retrieved and the same has been scrutinized. Subsequently, market inquiry has been conducted and examined in the light of this Directorate's Office Order No.17/2014 dated 19-03-2014 and in terms of Section 25(7) readwith Section 25(9) of the Customs Act, 1969. The importers / stakeholders were

requested to submit following import related documents before or during the course of meeting so that customs values could be determined : -

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

3) However, none of the importers submitted any documents in support of their contention, keeping in view the element of freight, import prices of raw materials and the values prevailing in the local and international market. Accordingly, after exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969 and exhausting and examining all the valuation methods as envisaged under Section 25 of the Act *ibid*, customs values of under reference goods were determined in terms of sub-Section (5) read with sub-Section (9) of Section 25 of the Customs Act, 1969, for uniform assessment all over the country vide Valuation Ruling No.1703/2022 dated 07-12-2022, for uniform assessment all over the Customs Stations of the country.

PARAWISE COMMENTS

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

Para (1) Need no comments being mention of filing of review petition against impugned valuation ruling.

Para (2&3) Not Agreed. It is respectfully submitted that the impugned Valuation Ruling No.1703/2022 dated 07-12-2022 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. Further, it is submitted that concept of "fixation of values" no more exists in the Customs Tariff rather Customs values are being determined in terms of Section 25 of the Customs Act, 1969. As far grievances of under reference petitioners are concerned, it is submitted that they seem to be not satisfied with any valuation ruling because they are continuously aggrieved with each and every Valuation Rulings and filing review petitions against the same. However, rulings are being issued law 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 been 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) Not Agreed. It is submitted that the contents of Para-(4&5) are denied to the extent declared value of the consignment is not reliable and not acceptable in terms of Section 25 (1) of the Customs Act, 1969, in presence of Valuation Ruling available under Section 25-A of the Customs Act, 1969. The Valuation Ruling is exhaustive which is always taken for assessment purpose in cases where the declared value is on lower side. The Valuation Ruling has been issued under Section 25-A of the Customs Act, 1969, which always prevails



upon the declared value, which in turn is not proof of exact transactional value. Assessments are being made as per said Valuation Rulings all over the country but only the under reference petitioner is aggrieved. In these paras petitioners have negated the impugned Valuation Ruling but did not give any substantive and cogent reason for not accepting the same while assessments are being made as per the same.

Para (6&7) 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 impugned Valuation Ruling No. 1642/2022, dated 29-04-2022 and arguments put forward by the Appellants were duly considered during process of issuance of impugned Valuation Ruling No. 1703/2022, dated 07-12-2022. However, petitioners still seem to be aggrieved despite two Valuation Rulings have been issued for under reference goods. 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. As such Valuation Ruling No.1703/2022, dated 07-12-2022 has lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969.

Para (8&9) 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 sub-Sections (1) to (9) of Section 25 of the Customs Act, 1969, sequentially. However, the word "whichever is applicable" as used in sub-Section (1) of Section 25A gives discretion to the competent authority to adopt the method as suited to the determination of value under Section 25-A of the Act, which may or may not be applied in a sequential manner. Moreover, it is submitted that it is not necessary that the transaction value of the petitioners must be accepted by the Customs authorities. According to the provisions of Section 25 of the Customs Act, 1969, the burden of proof that the declared transaction values are fair lies upon the importer who may justify their declarations through documentary evidences.

PRAYER

a) In view of above narrated facts, it is submitted that the petitioner is required to get clear the goods as per Valuation Ruling issued under Section 25-A of the Customs Act, 1969, which is legal and lawful. The Valuation Ruling No.1703/2022, dated 07-12-2022 has lawfully been issued after considering all the facts and figures and after following valuation methods sequentially. As such the same may be allowed to hold field for uniform assessment all over the country. The assessments made on the basis of Valuation Ruling are correct and petitioners are liable to pay duty/taxes as per Valuation Ruling. On the other side the petitioner failed to furnish the requisite documents particularly copies of Sales Tax Paid Invoices issued during the last four months showing the values of suppliers (excluding duty & taxes) to substantiate their contentions. Moreover, at the time of exercise of Section 25A and meetings, the petitioner did not provided requisite import documents to the Respondent in support to justify their contention which are essentially required for determination of customs values.

b) 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. In the light of above



submissions and factual position, the under reference petition being not maintainable is liable to be dismissed and rejected accordingly."

ORDER

3. Hearing in this case was conducted on 02-02-2023 on which date both the petitioners and the respondent department were heard in detail. The main contention of the petitioners was that the values of the impugned goods vide Valuation Ruling (VR) No.1703/2022 dated 07-12-2022 were determined arbitrarily without considering the international and local market price trend. They further submitted that the documents submitted by them in support of their declared values were not considered during the course of determination of Customs values, under Section 25A of the ibid Act, whereas the values have been incorrectly determined on higher side.
4. On the other hand, the departmental representative (DR) explained that earlier the Customs values of Ride-On Toys were determined under Section 25A of the Customs Act, 1969 vide Valuation Ruling No.1642/2022 dated 29-04-2022 which was set aside by the Director General of Customs Valuation vide Order-in-Revision No.68/2022 dated 01-08-2022 with directions to re-determine the customs values of Ride-On Toys. Therefore, an exercise has been undertaken by the Directorate to determine the same. Meetings were convened on 25-10-2022 and 24-11-2022 which were attended by all the relevant stakeholders. The DR further stated that the Customs values of the impugned goods were determined as per valuation methods laid down in Section 25 of the Customs Act, 1969 vide impugned VR. The respondent department had acted lawfully and the impugned VR has been correctly and justifiably issued in terms of Section 25A of the Customs Act, 1969. In addition, the petitioner failed to furnish the requisite supporting documents particularly copies of Sales Tax returns/Paid Invoices issued during the last four months to substantiate their contentions. Moreover, at the time of stakeholder consultations, under Section 25A of the Act ibid, the petitioners submitted copy of GD as well as some printouts of price statements dated 31-05-2022 which could not be considered being more than 90 days old.
5. Following the petitioners' arguments and scrutiny of the case record, it is apparent that with a view to satisfy the precept of Natural Justice, the department sought to consult the relevant stakeholders and meetings were held on 25-10-2022 and 24-11-2022 while issuing the impugned Valuation Ruling. The DR further stated that ninety (90) days' import clearance data was examined and after that market inquiry was also conducted and finally Customs values of under reference goods were determined in terms of sub-Section (5) read with sub-Section (9) of Section 25 of the Customs Act, 1969 for uniform assessment across the country vide impugned VR within the legal domain of the ibid Act. Hence, I, therefore, find no reason to interfere with impugned Valuation Ruling No.1703/2022 dated 07-12-2022. The petitions being devoid of any merit and legal contents are hereby rejected accordingly.



(Gul Rehman)
Director General

Registered copy to:

M/s. Farsha Traders,
160/E, 4th Floor, Al-Fatah Market, Shahlam Market, Lahore.

M/s. Hameed & Co,
1st Floor, Z.A. Center, 67-68, Shahlam Market, Lahore.

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 Appraisement, (Central), Custom House, Lahore.
- 10) The Chief Collector of Customs, Baluchistan, Custom House, Quetta.
- 11) The Chief Collector of Customs, Khyber Pakhtunkhwa, Custom House, Peshawar.
- 12) The Chief Collector of Customs, Appraisement (South), Custom House, Karachi.
- 13) The Chief Collector of Customs, Enforcement (South), Custom House, Karachi.
- 14) The Directors, Intelligence & Investigation, Karachi / Lahore / Islamabad / Quetta / Peshawar / Faisalabad.
- 15) The Director, Directorate of Customs Valuation, Lahore.
- 16) The Collector of Customs, Collectorate of Customs, (Appraisement - West / Appraisement - East/ Appraisement - Port Muhammad Bin Qasim /SAPT/ Enforcement / JIAP), Karachi / Hyderabad / (Appraisement / Enforcement), Quetta / Gawadar / (Appraisement / Enforcement / AIIA), Lahore / Appraisement, Faisalabad / Appraisement, Sambrial (Sialkot) / Enforcement, Multan / Islamabad / Gilgit -Baltistan / (Appraisement / Enforcement), Peshawar / Enforcement, Dera Ismail Khan/ Exports (Port Muhammad Bin Qasim / Custom House), Karachi.
- 17) The Secretary (Valuation & Audit), Federal Board of Revenue, Islamabad.
- 18) All Additional Directors / Deputy Directors / Assistant Directors, Customs Valuation, Karachi
- 19) Assistant Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in One Customs & WEOC Database System.
- 20) Guard File.

