

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

File No. DG(V)Val.Rev/71/I/2022/1174

Dated 15th February, 2023

**Order in Revision No. 04 /2023 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1708/2022 Dated 14-12-2022**

- 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. Raheel Impex & Others

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PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

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RESPONDENT

Date(s) of hearing

01-02-2023 and 09-02-2023

For the Petitioners

Mr. Raheel Lala
Mr. Haseeb Lala
Mr. Yasin Lala
Mr. Younus Lala

For the Respondent

Mr. Osman Ghani, Valuation Officer

This revision petition was filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No.1708/2022 dated 14.12.2022 issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"2. Valuation Ruling 1708/2022 dated 14-12-2022 of Desiccated Coconut Low Fat is in valid since it is issued which is configured on higher side than the actual local and international deal of transaction.

3. The meetings were organized by Directorate General of Customs, Valuation on 30-11-2022 and 12-12-2022 for the purpose to hear views and vision of stakeholders. The number of stakeholders participated and presented their fair and principled vision in accordance with the international fall/slump in prices of Desiccated Coconut Low Fat as well as existing position of local trading of the subjective commodity. The Stakeholders, put forward their practical and reasonable thoughts about determination of Customs Values on C&F basis to bring down in accordance with the change of prices in international market. We absolutely dis-agree with the prices determine in the subjective Valuation Ruling.

4. After issuance of subjective valuation ruling, it is regretfully to note that Directorate general of Customs, Valuation has fixed US\$ 1.20/Kg for Desiccated Coconut Low Fat (all origin).

5. Further Directorate General of Customs Valuation, Karachi issued various Valuation Rulings in accordance of the local market slump situation for numbers of commodities for which we appreciate the action taken. While the Desiccated Coconut Low Fat prices increased in the related valuation ruling. It is unjustified and non-ground increase which needs immediate justifiable decision.

6. We want to add here that there is major difference in between Desiccated Coconut Low & High Fat. There is no natural compression in between both categories/types. Actually Desiccated Coconut High Fat is produced from the crop of Fresh Coconut and the Desiccated Coconut Low Fat is produced after exploring of Fresh Coconut, the Cream & milk which regularly supply to different European countries. It means Desiccated Coconut is not natural product but the remaining exhaustion. So it will not near for determination of price in accord of Desiccated Coconut High Fat.

7. The Custom Authority and the Directorate General of Customs (Valuation) may check previous 30 to 35 years history that no import data should available for Desiccated Coconut Low Fat. This one of commodity modify for trading purpose which is uses as ingredients of several edible products for preparation. We further clarify that this commodity is not recognized as individual products by crop, it only to be used as lower ingredients of several edible products like confectionary industries. It is further to state here that this item is mainly supply to confectionary industries and increase in determine value will effected to bring this item more expensive in current inflation environment.

8. We being patriot of nation and regular importers of Desiccated Coconut Low Fat since last many decades are playing vital role in generating most needed taxes and depositing into Government treasury/revenue. We are entitled to appeal for re-consideration for sensible, logical and reasonable determination of Desiccated Coconut Low Fat on the basis of ground reality.

9. We request to feel our genuine pain of grievance and fix the hearing date for the issued briefed in this fundamental Petition.

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:-

"BRIEF FACTS OF THE CASE"

Earlier, the Customs values of Desiccated Coconut were determined under Section 25A of the Customs Act, 1969, vide Valuation Ruling No.1358/2019 dated 28-03-2019. The existing valuation ruling was more than three (03) years old and the Customs values determined therein were not reflective of prevailing international market. Therefore, an exercise has been undertaken by this Directorate General to determine the same. Meetings were convened on 30-11-2022 and 12-12-2022 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 importers were requested to submit their proposals as well as following import 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 (excluding duty & taxes) to substantiate their contentions.

However, after exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969, and evaluating / analyzing whole the information so gathered, the customs values were determined in terms of sub-Section (7) read with Section 25(9) of Section 25 of the Customs Act, 1969, and notified in terms of Section 25A of the Customs Act, 1969, vide Valuation Ruling No.1708/2022 dated 14-12-2022, accordingly for uniform assessment all over the country.

PARAWISE COMMENTS

Para (1) 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. As such the same are not on higher side rather the same are correct and justified. Assessments are being made as per said Valuation Rulings all over the country but only the under reference petitioner is aggrieved.

Para (2&3) 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.1358/2019 dated 28-03-2019 and arguments put forward by the Appellants and Respondents were considered during process of revision by the Director General of Customs Valuation. 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. As such Valuation Ruling No.1708/2022 dated 14-12-2022 has lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969. Moreover, Paras-(4&5) states that the said ruling has been issued in terms of sub-Section (7) readwith Section 25(9) of the Customs Act, 1969, after analyzing and evaluating whole information so gathered for the purpose of determination of Customs values. Further, the customs value of under reference goods been determined strictly in accordance with the provisions of Section 25 of the Customs Act, 1969. Moreover, the petitioner, on the other hand, did not submit requisite import documents or any evidence to substantiate their cause of grievance and to enable this forum to verify the truth and accuracy of transaction value of the applicant. As such the same is not against the principles of law rather the same is based on factual ground realities of the case. 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. The said Valuation Ruling No.1708 / 2022, dated



14-12-2022 has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country.

Para (4&5) Not agreed. It is submitted that the said Valuation Ruling 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 in the Valuation Ruling No.1708/2022, dated 14-12-2022 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 was analyzed and evaluated and after gathering all information, the customs values have been determined in terms of sub-Section (7) read with Section 25(9) of the Customs Act, 1969, vide above referred Valuation Ruling. Moreover, it is not correct that customs values had been fixed by the Respondent as concept of "fixation of value" no more exists in the Customs Tariff rather presently customs values are being determined in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the customs stations of the country.

Para (6&7) Not Agreed. 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. It is submitted that the customs value of under reference goods had been determined strictly in accordance with the provisions of Section 25 of the Customs Act, 1969. Moreover, the petitioners, on the other hand, did not submit 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 the correctness of transaction value shifts to the importers/applicants. As such the same is not against the principles of law rather the same is based on factual ground realities. Further, it is submitted that all the valuation methods as envisaged under Section 25 of the Customs Act, 1969, were duly exhausted and examined and after giving reasons for rejection of valuation methods customs values were finally determined in terms of sub-Section (7) read with Section 25(9) of the Customs Act, 1969. The said Valuation Ruling No.1708/2022, dated 14-12-2022 had lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country.

Para (8) In this regard it is submitted that this Directorate General has determined the correct customs values in the Valuation Ruling No.1708/2022, dated: 14-12-2022 for level playing field and for uniform assessment all over the Customs Stations of the country. Import data of previous 90 days was analyzed and evaluated and after gathering all information, the Customs values have been determined in terms of sub-Section (7) read with Section 25(9) of the Customs Act, 1969, vide above referred Valuation Ruling. It is submitted that this Directorate General convened meeting for the determination of under reference items and all stakeholders were duly invited. As such the Respondent has acted according to law while issuing the said ruling. It is submitted that the Respondent had correctly and lawfully issued Valuation Ruling in terms of Section 25A and the same was based on factual grounds of the case. It is submitted that the said Valuation Ruling has lawfully been issued in terms of Section 25-A by the Respondent after extensive exercises and holding meetings with relevant stakeholders of the said goods. As such the Respondent has acted in accordance with law and under powers vested upon him under the law.

PRAYER

a. 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.1708/2022 dated 14-12-2022. The Respondent have acted lawfully and the Valuation Ruling No.1708/2022 dated 14-12-2022 has correctly and justifiably been issued in

terms of Section 25A 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 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 be made as per said Valuation Ruling and the under reference petition being not maintainable is liable to be dismissed and rejected accordingly."

ORDER

3. Hearing in this case was conducted on 09-02-2023 on which date both the petitioners and the respondent department were heard in detail. The petitioners contended that the meetings were conducted by the respondent department on 30-11-2022 and 12-12-2022 to hear the views of stakeholders. A number of stakeholders participated and presented their viewpoints in accordance with the international prices of Desiccated Coconut (Low Fat) as well as existing position of local trading of the impugned item. They stated that they put forward their suggestions regarding determination of Customs values in accordance with the change of prices in the international market. They disagreed the Customs values fixed @US\$ 1.20/Kg for Desiccated Coconut Low Fat (all origins). It was contended that there is major difference between Desiccated Coconut Low & High Fat. There is no natural comparison between both categories/types. They explained that Desiccated Coconut High Fat is produced from the crop of Fresh Coconut and the Desiccated Coconut Low Fat is produced after exploring of Fresh Coconut, the Cream & milk which is regularly supplied to different European countries, therefore, Desiccated Coconut is not natural product but the remaining substance. The petitioners added that this commodity is not recognized as individual product by crop and is mostly used as lower ingredients of several edible products like confectionary industries.

4. On the other hand, the departmental representative explained that earlier the Customs values of Desiccated Coconut were determined under Section 25A of the Customs Act, 1969, vide Valuation Ruling (VR) No.1358/2019 dated 28-03-2019. The existing valuation ruling was more than three (03) years old and the Customs values determined therein were not reflective of prevailing international market. Therefore, an exercise has been undertaken by this Directorate General to determine the same. Meetings were convened on 30-11-2022 and 12-12-2022 which were attended by all the relevant stakeholders. The issues pertaining to the valuation of subject goods were deliberated upon in detail in the meetings. However, after exhausting all valuation methods as envisaged under Section 25 of the Customs Act, 1969, and evaluating / analyzing whole the information so gathered, the customs values were determined in terms of sub-Section (7) read with Section 25(9) of Section 25 of the Customs Act, 1969, and notified in terms of Section 25A of the Customs Act, 1969, vide Valuation Ruling No.1708/2022 dated 14-12-2022, accordingly for uniform assessment across the country.



5. The department representative (DR) was also called to justify the basis of their work regarding the whole exercise of market inquiry carried out by them and share the analysis based on which the final values were given. In response, the DR submitted that the values of subject item were worked out on the basis of market survey as well as consulting data of import clearance. Accordingly, the record available with the DR was examined which revealed that the market survey report was without any indication as to where from the prices were obtained and was also silent regarding nature of goods surveyed i.e. whether the sample of impugned goods was low fat or high fat. There were no visiting card(s) available in the file and even the prices reportedly obtained from different shops were not recorded separately during the market inquiry. The DR did not substantiate the basis of enhancement of customs values for low fat desiccated coconut vis-à-vis decrease the values of high fat desiccated coconut vide impugned VR.

6. On account of the foregoing irregularities, the process of determination of values suffers from procedural impropriety whereas the arguments of the petitioners regarding enhancement of the customs values for 'desiccated coconut low fat' carry weight. Moreover, the petitioners also produced their sales tax invoices for supply in the domestic market as evidence. After hearing contentions of the appellants, it appears that the Customs value notified for "Desiccated Coconut Low Fat" at Serial No.02 of the Table of impugned VR, suffers from procedural impropriety and is accordingly set aside to the said extent only. In addition, the Director, Customs (Valuation), Karachi is hereby directed to undertake fresh exercise in terms of Section 25A of the Customs Act, 1969 by recourse to the valuation methodology elaborated in Section 25 of the Act ibid so that the Customs values of "Desiccated Coconut Low Fat" at serial No.02 of the Table of impugned VR No.1708/2022 dated 14-12-2022 is determined in line with the prevailing international prices of the impugned item.

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

1. M/s. Marium International
2. M/s. Qadri Traders
3. M/s. Coconuts & Spice International
4. M/s. Marium International
5. M/s. A.M. Impex
6. M/s. Marhaba Enterprises
7. M/s. Yasin & Sons
8. M/s. Shamim Liaquat Food & Beverages (Pvt.) Ltd
9. M/s. A.S. Enterprises
10. M/s. Giggly Foods Limited
11. M/s. MAAC International


(Gul Rehman)
Director General

Registered copy to:

- 1 M/s. Raheel Impex,
Plot No.11, Block-7-8, C.P. Berar, Co-operative Housing Society, Karachi.

- 2 M/s. Qadri Traders,
Shop No.2, Ground Floor, Suleman Centre, MR 1/13, Ram Bharti Street, Jodia Bazar,
Karachi.
- 3 M/s. Coconuts & Spice International,
M.R. 5/109/2, C-3, 3rd Floor, Falak Mansion, Market Quarter, Virjee Street,
Jodia Bazar, Karachi.
- 4 M/s. Marium International,
394-B, Block-7/8, Adamjee Nagar, Amir Khusro Road, Karachi.
- 5 M/s. A.M. Impex,
Office No. 202, 2nd Floor, Al-Madina Center, Opp. Bank Alfalah Islamic Banking,
Daryalal Street, Jodia Bazar, Karachi.
- 6 M/s. Marium International,
B-6, 6th Floor, Sana Arcade, Ameer Khusro Road, Karachi.
- 7 M/s. Marhaba Enterprises,
Plot No. MR-5/52, Thanai Lane, Near Adam Masjid, Jodia Bazar, Karachi
- 8 M/s. Yasin & Sons,
Plot No.1/13, Office No.4, 3rd Floor, Suleman Centre, Rambarti Street,
Jodia Bazar, Karachi.
- 9 M/s. Shamim Liaquat Food & Beverages (Pvt) Ltd,
Plot No. 27, Maitla Town, Near Loharan Wali Chakki, Suraj Kund Road, Mumtazabad
Town, Multan Cantt,
- 10 M/s. A.S. Enterprises,
Shop No. 12/94, Aladina Street, Jodia Bazar, Karachi.
- 11 M/s. Giggly Foods Limited,
E-153/A, New Super Town, Walton Road, Lahore Cantt.
- 12 M/s. MAAC International,
5/136, Haji Adam Ishaq Building, Virjee Street, Zakaria Lane, Jodia Bazar, 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/SAPT/JIAP / Enforcement), 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.

