

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

File No. DG(V)Val.Rev/03/III/2023

Dated 28th February, 2023

**Order in Revision No. 07 /2023 under Section 25D of the Customs Act, 1969,
against Valuation Ruling No. 1715/2022 Dated 20-12-2022**

- 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. Star Convertors (Pvt) Ltd & Others

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

RESPONDENT

Date(s) of hearing

01-02-2023 and 09-02-2023

For the Petitioners

Mr. Sh. Farukh Saleem Consultant
Mr. Aqeel Ahmed Khan Advocate
Mr. Asif Ijaz

For the Respondent

Mr. Amresh Kumar, Valuation Officer
Mr. Jabbar Ch., Valuation Officer

This revision petition was filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Valuation Ruling No. 1715/2022 dated 20.12.2022 issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

"2. That applicant is leading importer of Self Adhesive Sticker Paper in Sheets from Indonesia ("other brands" reflected vide serial number 4 of table of para 5 of VR 1715/2022 dated 20.12.2022) in Pakistan and have unblemished tax compliance record with the Customs House and enjoy business esteem amongst the business circles in Pakistan.

3. That Director Customs Valuation, Directorate General of Customs Valuation, Custom House, Karachi issued Valuation Ruling No. 1715/2022 dated 20.12.2022 for Customs value of Self Adhesive Sticker Paper in Sheets from Indonesia (other brands), which reflects unsubstantiated and arbitrary 72.50% increase in per Kgs value which is neither consonant with the International Market value nor in accordance with the principles of issuance of VR as enunciated in land mark judgment of Honorable Sindh High Court Sadia Jabbar case.

3. That impugned Valuation Ruling neither complies the basic parameters for issuance of Customs Valuation Rulings as set by the Superior Courts nor does it comply with the provisions of Section 25A read with Customs Valuation Rules.

4. That the learned Director unfortunately did not consider the Valuation facts, figures about international prices of export to Pakistan. That instead of relying on the factual import data the learned Director relied upon fictitious data.

5. That the customs values depicted in the impugned Valuation Ruling No. 1715/2022 dated 20.12.2022 ("other brands" reflected vide serial number 4 of table of para 5 of VR) are arbitrary, fictitious and presumptive without any supportive data, therefore these values are legally not sustainable under customs valuation rule 110 as these values are based on prohibitive Customs Valuation method not supported by data as required under section 107 for the imports on or around 90 days time span.

6. That as the impugned valuation ruling is legally defective therefore the Applicant files an Application u/s 25D of the Customs Act, 1969 for review of it on the following grounds;

7. **GROUND**

A. That basic principle underlying the customs valuation is the concept of transaction value the price agreed between independent buyer and seller and paid or payable by the buyer for goods exported to Pakistan.

B. That the concept of transaction value as envisaged in Article-VII to Agreement of Implementation of GATT (WTO Customs Valuation Agreement) is not bound by any influence of "fair" or "normal value" consideration by Respondent. Further Section 25 and 25A of the Customs Act, 1969, both is replica of WTO Customs Valuation Agreement. Therefore, the basic spirit of Section 25 of the Customs Act, 1969, has been ordered to be followed while implementation of Section 25 of the Customs Act, 1969.

C. That scheme of arriving at customs valuation through Section 25A of the Customs Act, 1969, is not based on any concept of "fixation of value" for imported goods through a customs valuation, rather it is a scheme of well throughout plan for "determination of customs value" following the principle of transaction value incorporated in Section 25 of the Customs Act, 1969, coupled with Customs Valuation Rules and dictates of superior courts in shape case laws.

D. That Honorable Sindh High Court in case of Sadia Jabbar v/s Federation of Pakistan [PTCL 2014 CL 537] reflect the following parameters to be kept in view while issuing any ruling under Section 25A of the Customs Act, 1969:-

i) On arbitrary fixation of customs values the Honorable Court order that:

"The exercise carried out under Section 25A is a "determination" and not a mere "fixation" (as was the case, e.g., under Section 25B, or sub-Section (14) of Section 25, both omitted from the act in 2004 and 2005 respectively). The "determination" is a multi-step exercise, at each stage of which there has to be a proper application of mind by the concerned officer. It is therefore appropriate that the ruling should contain sufficient details to show that Section 25A has been properly applied. Furthermore, the fact that the determination is subject to revision by the Director General Valuation under Section 25D and the latter's decision is now appealable to the Appellate Tribunal (see Section 194A(1)(c), also make it necessary that the valuation ruling should be a speaking order".

ii) In fact the impugned Ruling is defective for its contents and mode of formulation as neither it takes into consideration the relevant data of export prices of the subject goods to Pakistan from Indonesia and nor it abides by the parameters for issuance of customs valuation ruling deliberated and issued by superior courts in various case laws. The impugned VR enhances the per Kgs value of the subject goods by 72.50% viz the old VR whereas, it enhances the values of certain brands from the same source only by 2% to 11% as follows;

S.No.	Origin	Brands	Old VR No. 1533/21 Dated:	New VR No.1715/22 Dated: 20.12.2022	Increase %



			07.05.2021		
1	Indonesia	Veritec	2.170	2.30	6.0%
2		Lintec	2.950	3.00	1.80%
3		Aqna Polk	1.700	3.00	6.0%
4		Other Brands	1.740	3.00	72.50%
5	Thailand	OJI	2.250	2.50	11.0%
6		Other Brands	2.300	2.50	8.50%
7	Europe	Adestor	2.250	2.50	11.0%
8		Other Brands	2.200	2.50	13.50%
9	China	All Brands	1.580	1.45	-8.00%

iii) The above chart of comparison vividly reflects that the imports of all brands from China has been favored by decreasing the per Kg price by -8.00% whereas the price of other brands from Indonesia have been increased upto to 72.50%. This is arbitrary pure and simple, and reflects the working of the learned Director Customs Valuation without any correct supporting data.

E. As submitted in the earlier paras of this petition the principal method of valuation is Section 25, which the learned customs authorities, abandoned without any legally sustainable reason by rejecting the verifiable data of imports and accepting the true values. The Honorable Court has given its verdict vide para (g) of their order in Sadia Jabbar v/s Federation of Pakistan [PTCL 2014 CL 537] to elaborate that Section 25A is not a substitute of Section 25 as follows:-

“Before concluding Section 25A, one general observation must also be made, Section 25A is only an enabling Section. It permits, but does not mandatorily require, a predetermination of customs value in terms as explained above. The principle method of determining customs value is, and must remain, Section 25, Section 25A is not intended to be a substitute for Section 25, nor can it be resorted to in such manner and with such frequently that it marginalizes the later provisions. It is merely an adjunct to Section 25, to be resorted to in appropriate circumstances and for an appropriated period”.

F. That instead of depending on the factual customs values of transaction based upon the market dynamics, the learned Director has based the impugned customs valuation on hypothetical data and irrelevant values. The learned Respondent also ignored the fact that customs value of the subject goods are contingent upon the value of the product as exported from the relevant export country to Pakistan.

G. However, while issuing the impugned ruling this basic fact has not been kept in view and price has been “fixed” on basis of a hypothetical data and on arbitrary prices which do not exist anywhere in the world. Therefore, prices “fixed” by the Respondent are not the “price determined” as per parameters laid down by the Honorable Sindh High Court in Sadia Jabbar v/s Federation of Pakistan [PTCL 2014 CL 537] case. It goes without saying that any procedure prescribed by the superior court in connection with administering any provision of law is mandatory to be complied with in the same fashion in which it has been prescribed by the law or case law (issued by the superior courts). However, unfortunately, none of the parameters laid down by Honorable Sindh High Court in Sadia Jabbar v/s Federation of Pakistan [PTCL 2014 CL 537] has been adhered to while formulating and issuing Valuation Ruling No. 1715/2022 dated 20.12.2022.

H. That non-adherence to dictates of superior court in Sadia Jabbar v/s Federation of Pakistan [PTCL 2014 CL 537] case for following a specific procedure in issuance of Valuation Ruling No. 1715/2022 dated 20.12.2022 under Section 25A of the Customs Act, 1969, also attracts violation of dictates of Honorable Supreme Court of Pakistan in case of [Shahzad Ahmed Corporation vs. Federation of Pakistan (2005 PTD 23)] wherein it has been ordered to do a thing in the manner prescribed by the law.



"If any procedure has been prescribed for any legal business, then that legal business will only be transacted under the prescribed procedure only. The clear and plain meaning of law will always prevail over the implied meaning".

I. That unfortunately the learned Director failed to adhere to principles laid down by Honorable Sindh High Court in Sadia Jabbar case thus negated its dictates. Similarly, it is also violation of Order of Honorable Supreme Court of Pakistan to dispose any legal matter only in accordance with the prescribed procedure. Honorable Supreme Court of Pakistan has settled this legal principle in the land mark judgment which inter-alia states as follows:-

"It is now a well settled law, that where the initial order or notice was void, all subsequent proceedings, or superstructures build on it were also void. Where any adverse finding was given in the adjudication order on allegations or contentions or findings which are not incorporated in the show cause notice, the entire proceedings would be rendered as void for reason of breach of natural justice, which was breach of law Reliance is placed on following cases:-

- a) 2007 SCMR 1835
- b) PLD 2011 Supreme Court 213
- c) PLD 2011 Supreme Court 550

J. It is pertinent to mention that in connection with release of goods under Section 81 of the Customs Act, 1969, while the issue of valuation is not settled for the time being under Section 25 of the Customs Act, 1969, the Honorable High Court of Sindh at Karachi in CP No.6918/2015 dated 04.11.2015 reflects as follows:-

(i) *"It is also pertinent to mention that the determination of valuation under Section 25A of the Act is dependent on the methods and mechanism provided for valuation under Section 25 of the Customs Act. Therefore, of the assessment made under Section 25 can be disputed and release can be allowed in terms of Section 81 provisionally, we do not see any justifiable reason to withhold or deny such provisional release in case of assessments made under Section 25A of the Act. A learned Single Judge of the Lahore High Court in the case of Wasim Radio v/s Federation of Pakistan and others (PTCL 2014 CL 465) has expressed the same view. Notwithstanding this a valuation ruling issued by the Director Valuation, if challenged does not remains sacrosanct / final, and is subject to review by the DG Valuation under Section 25D against which an appeal lies to the Customs Tribunal, where after a Reference Application is provided under Section 196 of the Customs Act before the Court and finally the appeal before the Honorable Supreme Court.*

(ii) *Finally, it is also to be kept in mind that the cost of doing business is increasing day by day and specially in cases of delay at the port, the storage/demurrage charges and container rent charges accumulate in an escalating manner on daily basis, and every passing day increases the liability of importers, whereas, delay and detention certificate even if issued, have also lost their efficacy, as they are not being accepted by the Port Terminal authorities and numerous petitions in that regard are already pending before the Court. It must also be kept in mind that such refusal to allow provisional release of the consignments is resulting in unwarranted litigation, which ultimately is burdening the exchequer in the shape of payment of fee to advocates for no justifiable reasons and such petitions are being disposed of by us on the first date of hearing after notice be direction provisional release of consignments, which in our view, should be done by the department itself. In such circumstances and in view of the aforesaid discussion as well as legal position we have been compelled to record the aforesaid observations.*

K. In view of hereinabove facts and circumstances we while dispose of petition direct the respondents as under:-

- (1) *In cases where the Valuation Ruling is more than 90 days old and importer has approached Director Valuation in terms of Para 21 of the judgment in the case of Sadia Jabbar Supra, fresh consignment of the importers shall be allowed provisional*



release in terms of Section 81 of the Customs Act, 1969, by securing the differential amount of duty and taxes in the shape of pay order/Bank Guarantee as the case may be, by the Director Valuation and or the concerned Collector without fail.

- (2) In cases where a proper revision application has been filed by an importer in terms of Section 25D of the Customs Act, 1969, before the Director General, Valuation, and pending such review/revision, a fresh consignment is imported, then at the request of the importer who has filed such revision/review, the consignment in question shall be released in terms of Section 81 of the Customs Act, 1969, after securing an differential amount of duty and taxes in the shape of pay order/Bank Guarantee as the case may be, by the Director General Valuation, without fail.
- (3) Needles to observe that any willful disobedience and defiance of these directions shall entail initiation of contempt of court proceedings against such delinquent officer(s)

Let a copy of this order be sent to Chairman, Member (Customs) and Member (Legal), FBR Islamabad, Chief Collector of Customs (South) and Director General Valuation, Custom House, Karachi, for information and strict compliance thereof".

L. That in view of above the "directions" of the Honorable Sindh High Court which is mandatory in nature has been defies by the Respondent, therefore, it may entail contempt proceedings against delinquent officers.

M. That office of Director Customs Valuation is creation of law and has to function according to the provisions of law, Rules and verdicts of the superior courts on the subject.

N. That unfortunately the Director issued Customs Valuation Ruling of impugned goods without any factual check or any consultation with the stake holders.

O. That the learned Director issued the impugned Customs Valuation Ruling arbitrarily without any in-depth study. Thus impugned Customs Valuation is based on assumption and contravenes the rule 107 and 110 of Customs Valuation Rules. That in the light of preceding legal references it is clear that impugned Valuation Ruling issued by the learned Respondent is illegal / void and without any legal force.

P. Therefore the Applicant's requests that Customs Values of impugned Valuation Ruling No. 1715/2022 dated 20.12.2022 may be viewed critically and VR be issued on merits. The Applicant's has submitted all the documentary evidence and data to the Director Valuation before the issuance of said ruling.

8. PRAYER

Keeping in view of above it is requested that:

- a. The serial number 4 of table of Para 5 to Valuation Ruling No. 1715/2022 dated 20.12.2022 as issued by the Director may kindly be ordered to be reviewed.
- b. A new ruling for above serial number may be issued in consultation with stake holders.
- c. Till the finalization of revision application the concerned Collectorate are directed to release the consignments of Appellant held up or arrived or in pipeline may be allowed under Section 81 of the Customs Act, 1969, without any delay, as per Danish Jahangir case verdict."

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 Self Adhesive Sticker Paper in Sheets were determined under Section 25A of the Customs Act, 1969, vide Valuation Ruling No.1533/2021 dated 27-05-2021. However, different stakeholders requested to re-determine customs values afresh in line with values prevalent in the international market. Therefore, an exercise was undertaken by this Directorate General to determine the same.

2) Meetings were convened on 13-09-2022, 02-12-2022 and 19-12-2022 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. They submitted their proposals for consideration and the same were considered pertaining to the valuation of subject goods. Ninety days' clearance data was retrieved and the same was scrutinized. Subsequently, market inquiry was also conducted and examined in the light of this Directorate General's Office Order No.17/2014 dated 19-03-2014 and in terms of Section 25(7) read with 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: -

- Invoices of imports made during last three months showing factual value
- Websites, names and E-mail addresses of known foreign manufacturers of the item in question through which the actual current value can be ascertained.
- Copies of contracts made / LCs opened during the last three months showing value of item in question and ;
- 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 (7) read with sub-Section (9) of Section 25 of the Customs Act, 1969, for uniform assessment all over the country vide Valuation Ruling No.1715/2022 dated 20-12-2022, 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 introduction of the petitioners and their imports of Self Adhesive Sticker Paper in Sheets from Indonesia.

Para (2&3) Not Agreed. It is respectfully submitted that the impugned Valuation Ruling No.1715/2022 dated 20-12-2022 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 all 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 exorbitantly increased rather the same are based on ground realities of the case record. As such the Respondent has acted according to law and procedure.

Para (4to6) It is submitted that the contents of Para(4to6) 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. As such the respondent has acted according to law and procedure as envisaged under Section 25 of the Customs Act, 1969.

GROUND

(A&B) 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.1533/2021, dated 27-05-2021 and arguments put forward by the Appellants were duly considered during process of issuance of impugned Valuation Ruling No.1715/2022, dated 20-12-2022. 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.1715/2022, dated 20-12-2022 has lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969.



(C&D) It is submitted that the contents of Para-(3&4) are denied to the extent that declared value of the consignment was 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 petitioners are aggrieved. As far as citation of court cases is concerned, the same does not relate to under reference case being of different nature, circumstances and ground realities of the same. As such the impugned valuation ruling has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country.

(E&F) 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.1533/2021, dated 27-05-2021 and arguments put forward by the Appellants were duly considered during process of issuance of under reference Valuation Ruling No.1715/2022, dated 20-12-2022. 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, has been occurred. 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. Moreover, the concept of "fixation of value" no more exist in the Customs Tariff rather presently the customs values are being properly determined in terms of Section 25A after exhausting and examining all the valuation methods laid down in Section 25 of the Customs Act, 1969, sequentially. As such Valuation Ruling No.1715/2022, dated 20-12-2022 had lawfully and justifiably been issued in terms of Section 25-A of the Customs Act, 1969 by the Respondent for uniform assessment all over the country.

(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 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. As far as citation of court cases is concerned, the same does not relate to under reference case being of different nature, circumstances and ground realities of the same. As such the impugned valuation ruling has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country. 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.

(I&J) Denied. It is respectfully 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 corroboratory 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 of transaction value shifts to the importers/applicants. As such the same is not against the principles of laws rather the same is based on factual ground realities. Further, the petitioners were requested to provide corroboratory documents like sales tax paid invoices, proforma invoice, copies of L/Cs and other import related documents but they never furnished the same to this office which are essentially required in the process of determination of customs values for assessment purposes. As such burden of proof that their transaction value is correct and fair lies upon the petitioners who may satisfy the Customs Authorities.

(K&L) Not Agreed. It is submitted that customs values in the impugned Valuation Ruling have been determined sequentially by following all valuation methods as provided in Section 25 of the Customs Act, 1969 and giving reasons for rejection thereof. After exhausting Sub-Sections to from Sub-Section (1) to (9) of Section 25, the customs values have been determined in terms of sub-Section (7) read with sub-Section (9) of Section 25 of the Customs Act, 1969, for uniform assessment all over the country. Moreover, it is not correct that stakeholders were not consulted rather they were taken on board by conducting meetings with them and view point of petitioners was also considered and they were requested to provide corroboratory import documents but the same were never provided to this office for purpose of determination of customs values which are essentially required for the purpose of determination of the customs values of any imported goods into Pakistan.

(M&N) 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.1715/2022, dated 20-12-2022 has lawfully and justifiably been issued in terms of Section 25A of the Customs Act, 1969, for uniform assessment all over the country. 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 meeting with the stakeholders were held on 13-09-2022, 02-12-2022 & 19-12-2022 which were duly attended by the commercial importers as well as local manufacturers of under reference goods and official bearers/representatives of 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 any required documents before meeting. Again during the meeting the participants were requested to submit: -

- Invoices of imports made during last three months showing factual value
- Websites, names and E-mail addresses of known foreign manufacturers of the item in question through which the actual current value can be ascertained.
- Copies of contracts made / LCs opened during the last three months showing value of item in question and ;
- 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 along with monthly sales tax return filed with Inland Revenue Department as sales tax invoices are authentic document to ascertain local market price and as the Customs has authority in terms of sub-Section (11) of Section 25 of the Customs Act, 1969 to call any documents to satisfy themselves about the truthfulness or accuracy of any information or declaration made to Customs for valuation purpose. None of them submitted sales tax invoices along with monthly sales tax return, on one excuse or the other. As such the respondent has acted according to law and procedure laid down in Section 25 of the Customs Act, 1969. 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.

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 25A of the Customs Act, 1969, which is legal and lawful. The Valuation Ruling No.1715/2022, dated 20-12-2022 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. Hearings in this case were conducted on 01-02-2023 and 09-02-2023 on which dates both the petitioners and the respondent department were heard in detail. The main contention of the counsel of M/s Star Convertors Pvt. Ltd. & M/s Paari Traders as well as the representative of M/s Madni Paper Mart is that the respondent department issued impugned Valuation Ruling (VR) No. 1715/2022 dated 20-12-2022, for Customs value of Self Adhesive Sticker Paper in Sheets for 'Other brands' arbitrarily (with an increase of 72.50%) which is not consonant with the international market values. They added that the Customs values, depicted in the impugned VR of "other brands", mentioned vide serial number 4 of the table of para-5 of the impugned VR are fictitious and presumptive without any supportive data, therefore these values are legally not sustainable under Customs Valuation Rule 110 as these values are based on prohibitive Customs Valuation method, not supported by data as required under Section 107 for the imports on or around 90 days' time span. Moreover, the price of other brands from Indonesia have been increased upto 72.50% vis-à-vis the previous valuation ruling. This is arbitrary, pure and simple, and reflects the working of the respondent department without any correct supporting data.

4. The counsel for the petitioners namely; M/s Salman Products (Pvt.) Ltd. and M/s Hamdam Paper Products (Pvt.) Ltd., submitted that Customs values reflected, vide Serial No. 01 and 03 of the table of para-5 of the impugned VR, for Indonesian brands i.e. 'Veritec' and 'Aqna/Polka', have been increased arbitrarily and illegally without any market survey.

5. On the other hand, the departmental representative (DR) explained that the Customs values of Self Adhesive Sticker Paper in Sheets were determined earlier under Section 25A of the Customs Act, 1969 vide Valuation Ruling No.1533/2021 dated 27-05-2021. However, different stakeholders requested to re-determine Customs values afresh in line with values prevalent in the international market. Therefore, an exercise was undertaken by this Directorate General to determine the same. In this regard, meetings were convened on 13-09-2022, 02-12-2022 and 19-12-2022 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. They submitted their proposals for consideration and the same were considered pertaining to the valuation of subject goods. Ninety days' clearance data was retrieved and the same was scrutinized. Subsequently, market inquiry was also conducted and examined in the light of this Directorate General's Office Order No.17/2014 dated 19-03-2014 and in terms of Section 25(7) read with Section 25(9) of the Customs Act, 1969. The importers/stakeholders were requested to submit import related documents before or during the course of meeting so that customs values could be determined. 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 (7) read with sub-Section (9) of Section 25 of the Customs Act, 1969 for uniform assessment across the country vide Valuation Ruling No.1715/2022 dated 20-12-2022.



6. After listening to the discussion/arguments of the counsels/petitioners, respondent and perusal of the case record, it is apparent that adequate stakeholder consultations were conducted by the respondent department in terms of Section 25A of the Customs Act, 1969 as well as ensuring conformity with the sequential methodology prescribed under the statutory mandate of Section 25 of the ibid Act, while issuing the impugned valuation ruling. However, the contention of the petitioners merits consideration that the Customs values determined for 'other brands' in impugned VR No.1715/2022 dated 20-12-2022, (appearing at serial number 4 of the table of para-5) are significantly high vis-à-vis the values of 'Lintec brand' of Indonesian origin and higher than European origin goods. Needless to mention that European origin goods always command a premium in prices and as such are generally higher as compared to goods of far-eastern origin (including Indonesian origin). Moreover, the Customs values determined vide impugned VR are without any direct evidence. It is also apparent that the Customs values have been increased disproportionately, in deviation of the established differences in the case of different brands of Self Adhesive Sticker Papers, vis-à-vis other brands in the previous VRs. To assess these deficiencies, the case record was examined in detail to see whether any market inquiry has been conducted to justify this abrupt/arbitrary variations, however, no such evidence was available on the record. As the impugned valuation Ruling No.1715/2022 dated 20-12-2022 is not consistent with the relevant provisions of law and also suffers from procedural deficiencies; hence, the same is hereby set aside and the Director (Customs Valuation) Karachi is directed to undertake fresh exercise to determine the values of impugned goods through issuance of new Valuation Ruling, within 30 days, under Section 25A of the Customs Act, 1969 on merits and in accordance with law after giving a fair opportunity of hearing to the petitioner(s)/stakeholders.

7. Being identical on facts and law point, this order shall apply mutatis mutandis, to the following (04) revision petitions:

1. M/s. PARRI Traders.
2. M/s. Salman Paper Products (Pvt) Ltd.
3. M/s. Hamdam Paper Products (Pvt) Ltd.
4. M/s. Madni Paper Mart.


(Gul Rehman)
Director General

Registered copy to:

S.No.	Petitioners
1	M/s. Star Convertors (Pvt) Ltd, M/s. PARRI Traders, <u>C/o Shaikh Farukh Saleem(Consultant),</u> Office No.2, Karsaz Town Houses, Plot No. FL-12, Block-05, KDA Scheme No.5, Kehkashan, Clifton, Karachi.
2	M/s. Salman Paper Products (Pvt) Ltd, M/s. Hamdam Paper Products (Pvt) Ltd, <u>C/o Mr. Ageel Ahmed Khan, (Advocate),</u> Bungalow No. B-13, Ground Floor, Block 13-A, Gulshan-e-Iqbal, Behind Usmania Restaurant, Karachi. Cell:0333-7194440

3	M/s. Madni Paper Mart, 8-Nafees Paper Market, Akbari Road, Lahore. Ph: 042-37231033-37353407
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Copy to:

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

