

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

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File No. DG (V)Val.Rev/09/IV/2023/373

Dated 5<sup>th</sup> April, 2023

**Order in Revision No. 22/2023 under Section 25D of the Customs Act, 1969,  
against Publication Value Reference No. 1733/2023 Dated 24-01-2023**

- 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. Salim Winding Works & Others

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PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

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RESPONDENT

Date(s) of hearing

09-03-2023 and 22-03-2023

For the Petitioners

Barrister Asad Khan  
Mr. Usman  
Mr. Saqib Goodluck  
Mr Umer Sheikh



For the Respondent

Mr. Zeeshan, Valuation Officer  
Mr. Adresh Arsalan, Valuation Officer

This revision petition was filed under Section 25D of the Customs Act, 1969, against Customs values determined vide Publication Value Reference (PVR) No.1733/2023 dated 24.01.2023 issued under Section 25A of the Customs Act, 1969, inter alia, on the following grounds:

*"Being aggrieved and dissatisfied with the subject Valuation Ruling No. 1733 of 2023 dated 24.1.2023, passed by the Respondent Director, the Petitioner prefers this Revision Petition under Section 25D of the Customs Act, 1969, before this Hon'ble Authority on the following facts and grounds, namely:*

**FACTS**

1. That the Petitioner is engaged in the business of, inter alia, import of various Polyester Filament Yarns (hereinafter collectively referred to as "the Imported Yarns"). Through years of hard work, commitment to professional excellence and by merchandizing of highest quality

products at reasonable cost, the Petitioner has earned the trust and confidence of millions of dedicated customers all over the country as well as abroad. As a result, the Petitioner's brand has led in the field of textiles. The present petition has been filed through the authorised attorney of the Petitioner.

2. That, whereas, the Respondent Director of Customs Valuation has been entrusted by the Legislature through the enactment of section 25A of the Customs Act, 1969, to diligently, efficiently and properly exercise the powers contained therein for the lawful determination of customs values of goods imported into or exported out of Pakistan, which values are then used and applied for calculation of leviable Customs duties as well as allied taxes.
3. That in spite of its obligations under the law, the Respondent Director has unlawfully, arbitrarily, and in dire contradiction and violation of Section 25A of the Customs Act, 1969, and the Customs Rules, 2001, framed there-under, purportedly 'determined' the values of various types of Polyester Filament Yarns vide the impugned Valuation Ruling No. 1733 of 2023 dated 24.1.2023 (hereinafter referred to as 'the impugned Valuation Ruling').
4. That as submitted herein, the Respondent Director has acted in violation and excess of the powers conferred thereupon under the Customs Act, 1969, and the issuance of the impugned Ruling has resulted in serious harm and loss to the Petitioner as well as other stakeholders. The actual prices paid / payable for the impugned goods remains significantly lower than the value unlawfully fixed through the impugned Valuation Ruling, however, despite the patent illegalities therein, the Respondent Director has deemed the impugned Ruling fit for the purposes of assessment of imported consignments of the impugned goods. The Petitioner submits a brief background to the issue as follows.
5. That in due course of its' business, the Petitioner conducts imports of various imported Yarns. The prices paid / payable for the imported pencils purchased for import into Pakistan by the Petitioner, are much lower than the values contained in the impugned Valuation Ruling. As such, in terms of Section 25(1) of the Act, 1969, the actual price paid / payable for the said goods at the time of import into Pakistan remains significantly lower than those fixed / notified through the impugned Valuation Ruling.
6. That under the scheme of the Customs Act, 1969 (hereinafter 'the Act, 1969'), the assessment / valuation of imported goods is carried out either under Section 25 of the Act, 1969, or under Section 25A r/w Section 25 of the Act, 1969. Assessment / valuation is carried out under Section 25A of the Act, 1969, where customs / assessable values of imported goods are determined in advance by the Respondent Director through the issuance of a valuation ruling issued after strict adherence to the methods of valuation laid down in Section 25 of the Act, 1969, and the Customs Rules, 2001, framed thereunder.
7. That in the recent past, the assessment of the imported pencils has been subject to Valuation Ruling No. 1694 of 2022 dated 3.10.2022 issued under Section 25A of the Act, 1969, by the Respondent Director / its predecessor. The said Valuation Ruling was thereafter set aside by the Customs Appellate Tribunal vide Judgment dated 2.1.2023 passed in Customs Appeal No. K-2102/2022.
8. That after having been set aside as being unlawful, illegal and void ab initio, the Valuation Ruling No. 1694 of 2022 dated 3.10.2022 was no longer of any legal value and could not be used for any purposes, including assessment of imported consignments.
9. That however, the Respondent Director claims to have scheduled a meeting on 10.1.2023 for re-determination of values and claims that members of the Pakistan Yarn Merchant Association (PYMA) and Filament Yarn Manufacturers Association (FYMA) were taken on



board. It is also evident from paragraph 2 of the impugned Valuation Ruling that the Respondent utilized prices available online at "Emerging Textiles" were utilized.

10. That as to "Emerging Textiles" it must be noted that the website itself disclaims that they do not "... give any warranty or other assurances as to the content of the material appearing on the Web Site, its accuracy, completeness, timeliness, merchantability or fitness for any particular purpose." Furthermore, it is now well settled law that valuation rulings cannot be issued under Section 25A of the Act, 1969, on the basis of online sources which are not envisaged under the valuation methods provided under Section 25 of the Act, 1969. The methods contained in Section 25 of the Act, 1969, are mandatory in nature and must be followed sequentially.
11. That thereafter, in a unilateral manner, the Respondent Director proceeded to issue the impugned Valuation Ruling on 24.1.2023, which is evidently on basis of the whims of the Respondent Director himself.
12. That the Impugned Valuation Ruling utterly fails to consider the submissions made by the Petitioner – both in terms of the arguments raised and issues highlighted, as well as the irrefutable documents relied upon. Nonetheless, the impugned Ruling is self-evident of high-handed, unlawful, illegal and mala fide acts, whereby the Respondent Director has failed to carry out any determination of values and, instead, has given stereotypical statements in an attempt to justify the imposition of unrealistic and unlawful values on the imports of, inter alia, the said item.
13. That no reason whatsoever has been given for rejection of the submissions of the Petitioner, with the result that values for the imported Yarns contained in the impugned Valuation Ruling are unreflective of the actual price paid / payable for the imported Yarns at the time of import into Pakistan. As stated hereinabove, the values of the said Yarns are incredibly and substantially lower than the values which have been unlawfully fixed through the impugned Ruling.
14. That it is an indisputable fact that the Petitioner has supported incontrovertible documents in the shape of demonstrated evidences, in support of its contentions, and, as such, no question as to the bona fide of such documents has either arisen or can arise. The Petitioner also declares the actual price paid / payable for the imported Yarns at the time of import into Pakistan in the Goods Declarations filed before the respective Collectorates.
15. That the Respondent Director, however, completely ignored all of the submissions made before it and grossly abused the powers conferred upon it in order to issue an arbitrary list of values which is not permissible under the law. As evident from paragraph 3 of the impugned Valuation Ruling, the Respondent has not even pretended to issue the impugned Ruling in terms of the mandatory methods of valuation given under Section 25(1) of the Act, 1969.
16. That instead, however, the Respondent has issued the Impugned Valuation Ruling on the basis of the proviso to Section 25A(1) of the Act, 1969, which permits only utilization of values from "... acclaimed publications, periodicals, bulletins or official websites of manufacturers or indenters ...". It must be noted that the information so used must, firstly, fall within the identified sources whereas "Emerging Textiles" does not form part of these categories. Secondly, the information so sourced must be utilized when determining under a valuation method provided by Section 25 of the Act, 1969.
17. That instead, however, the Respondent has merely stated that the values have been obtained from the said Website and proceeded to issue the values without any reference to Section 25 of the Act, 1969, or any other explanation as to how such methods have been adopted.





18. That the Respondent Director must be invited to show the manner in which the values contained in the impugned Ruling have been arrived at. Mere cyclostyle statements regurgitated from other rulings issued in the past are not sufficient as an exercise under Section 25A of the Act, 1969, is mathematical in nature and is regulated by the law as contained in Sections 25 and 25A of the Act, 1969, read with Chapter IX of the Customs Rules, 2001. In spite of the foregoing, the Respondent Director has refused to place on record such exercise and, instead, has reiterated the bald statements that are reproduced in paragraph 5 of the impugned Valuation Ruling.
19. That given the nature of the instant proceedings, it is prayed of this learned Authority that the Respondent Director / its officers be mandated to place on record the exercise undertaken purportedly to arrive at the values contained in the impugned Ruling and to substantiate the same through documentary proof.
20. That as can be demonstrated, the price actually paid / payable for the said Yarns remain significantly lower than the value unlawful, illegally and arbitrarily fixed through the impugned Ruling by the Respondent Director, and the demonstrated value is the determinable and correct value for the purposes of assessment of consignments of the said Yarns imported by the Petitioner.
21. That without prejudice to the foregoing, it is submitted that the impugned Valuation Ruling is not sustainable on a legal plane in addition to being, inter alia, misconceived on the factual plane in light of the foregoing submissions. While it is an undisputed fact that the Respondent Director has not carried out any determination for the said Yarns, it is submitted that the Respondent Director has acted in dire contradiction to and has flouted the provisions of Section 25 of the Act, 1969; the Respondent Director has given unlawful reasons while refusing to adhere to the sequentially provided methods of valuation in Section 25 and has invoked proviso to Section 25A(1) thereof only in order to justify values which have been arrived at in an arbitrary manner which is alien to the Act, 1969.
22. That, under the Act, 1969, and the Customs Rules, 2001, the Respondent Director was required to act in a strict manner while considering the application of each method of valuation provided under Section 25 of the Act, 1969. Further, as required by the aforesaid provision, the Respondent Director needed to state lawful grounds for rejecting any particular method of valuation as being not applicable as given under the Act, 1969, whereas the Respondent Director has failed to provide any such grounds.
23. That firstly, it is submitted that there is no lawful reason to ignore the contentions and documents submitted by the Petitioner, which irrefutably establish the actual prices paid / payable for the said Pencils in terms of sub-section (1) of Section 25 of the Act, 1969. This is especially illegal in light of the Judgment dated 2.1.2023 passed by the Customs Appellate Tribunal.
24. That the Respondent Director has incorrectly rejected the methods of valuation contained in Section 25 of the Act, 1969. As to sub-section (1) of Section 25 of the Act, 1969, the Respondent merely deemed it inapplicable without any cogent reasons having been provided therefor. The Respondent utterly and miserably failed to consider the declared values in the imports over the previous ninety (90) days, which evidence the actual prices payable / paid for imports.
25. That without prejudice to the foregoing, it is submitted that as to sub-sections (5) & (6) of Section 25 of the Act, 1969, the Respondent Director has refused to apply the same in spite of the fact that irrefutable evidences created thereunder and fully applicable for the purposes of determination are in the knowledge and possession of the Respondent Director. It is evident from the contents of the impugned Valuation Ruling that the Respondent Director did not have



any lawful reason to reject application of methods of valuation contained in sub-sections (5) and (6) of Section 25. Firstly, the Respondent Director has failed to appreciate that sub-sections (5) and (6) envisage two separate / independent methods of valuation, wherein sub-section (5) requires consideration of identical goods being assessed by the respective Collectorates, evidence whereof is provided hereinabove. Concomitantly, where no identical goods are available as envisaged in sub-section (5), the Respondent Director must invoke sub-section (6) of Section 25 of the Act, 1969, whereunder similar goods and values thereof have to be considered.

26. That instead, however, the Respondent Director has given a bald statement to the effect that the said sub-sections could not be "...solely relied upon." While the Respondent Director has made the foregoing bald statement, it has absolutely failed to state as to what the actual information / data was and how the same would lead to inapplicability of sub-sections (5) and (6) of Section 25 of the Act, 1969. Without prejudice to the foregoing, the Respondent has failed to refer to even one specific item covered by the impugned Ruling wherein such issue was faced, or that what the found values were.
27. That furthermore, the Respondent has failed to highlight the specific provisions of sub-sections (5) and (6) which make application of the same redundant in the absence of such information, which is evidently available.
28. That the subsequent methods of determination have been entirely ignored in an unlawful, illegal and mala fide manner, so only to devise a mechanism for collection of fixed duties and taxes, which is impermissible under the law.
29. That, in addition to the above, it is submitted that the Respondent Director, while undertaking such an exercise for the determination of values, was required to strictly adhere to the provisions of the Customs Act, 1969, as well as the Customs Rules, 2001, and apply those in a transparent, judicious and lawful manner in determining the values of the said Yarns. The Respondent Director, however, while causing serious prejudice and harm to the Petitioner, completely ignored the dictates of the Act, 1969, as well as the Rules, 2001, and, instead, fixed values of the said Yarns in an entirely arbitrary, capricious and unreasonable manner, as has been demonstrated herein.
30. That while 'determining' values under the impugned Ruling, the Respondent ignored the sequential methods of valuation contained in Section 25 of the Act, 1969, and, in a patently arbitrary and whimsical manner, chose Section 25A(1) of the Act, 1969, as the appropriate instrument of 'determination' of values. It is submitted that the Respondent has utterly failed to adhere to the provisions of the Act, 1969, and has failed to elucidate any cogent reasons for not applying / following the methods of valuation given under Section 25 the Act, 1969.
31. That in view of the foregoing, it is submitted that the values for the said Yarns fixed through the impugned Ruling by the Respondent Director are absolutely unsustainable, being, inter alia, contradictory, unreflective and motivated / monopolistic / exploitative on the factual plane while being highly illegal and unlawful on a legal plane. The values of said Yarns have been fixed by the Respondent Director without any determination whatsoever.
32. That the actions of the Respondent of issuance of the impugned Valuation Ruling, vis-à-vis the said Yarns, are in stark contrast to and in utter disregard for, inter alia, the fundamental rights of the Petitioner as enshrined in the Constitution of Pakistan, 1973, including Articles 4, 8, 10A, 18, 19A and 25A, thereof.
33. That, in light of the preceding narration, the Petitioner prefers the instant appeal on, inter alia, the following grounds, namely:



### GROUNDS

- A. That the impugned Valuation Ruling is unlawful, illegal and liable to be set aside.
- B. That irrefutable evidences submitted by the Petitioner have been utterly ignored and set aside without any cogent and lawful reasoning, which renders the impugned Ruling in dire violation of Article 10A of the Constitution of Pakistan, 1973, as well as the Act, 1969, and the Rules, 2001.
- C. That the Respondent Director has failed to adhere to the methods of valuation laid down in the Act, 1969, and the Rules, 2001.
- D. That as to "Emerging Textiles" it must be noted that the website itself disclaims that they do not "... give any warranty or other assurances as to the content of the material appearing on the Web Site, its accuracy, completeness, timeliness, merchantability or fitness for any particular purpose." Furthermore, it is now well settled law that valuation rulings cannot be issued under Section 25A of the Act, 1969, on the basis of online sources which are not envisaged under the valuation methods provided under Section 25 of the Act, 1969. The methods contained in Section 25 of the Act, 1969, are mandatory in nature and must be followed sequentially.
- E. That thereafter, in a unilateral manner, the Respondent Director proceeded to issue the impugned Valuation Ruling on 24.1.2023, which is evidently on basis of the whims of the Respondent Director himself.
- F. That the impugned Valuation Ruling utterly fails to consider the submissions made by the Petitioner – both in terms of the arguments raised and issues highlighted, as well as the irrefutable documents relied upon. Nonetheless, the impugned Ruling is self-evident of high-handed, unlawful, illegal and mala fide acts, whereby the Respondent Director has failed to carry out any determination of values and, instead, has given stereotypical statements in an attempt to justify the imposition of unrealistic and unlawful values on the imports of, inter alia, the said Pencils.
- G. That no reason whatsoever has been given for rejection of the submissions of the Petitioner, with the result that values for the imported Yarns contained in the Impugned Valuation Ruling are unreflective of the actual price paid / payable for the imported Yarns at the time of import into Pakistan. As stated hereinabove, the values of the said Yarns are incredibly and substantially lower than the values which have been unlawfully fixed through the impugned Ruling.
- H. That it is an indisputable fact that the Petitioner has supported incontrovertible documents in the shape of demonstrated evidences, in support of its contentions, and, as such, no question as to the bona fide of such documents has either arisen or can arise. The Petitioner also declares the actual price paid / payable for the imported Yarns at the time of import into Pakistan in the Goods Declarations filed before the respective Collectorates.
- I. That the Respondent Director, however, completely ignored all of the submissions made before it and grossly abused the powers conferred upon it in order to issue an arbitrary list of values which is not permissible under the law. As evident from paragraph 3 of the impugned Valuation Ruling, the Respondent has not even pretended to issue the impugned Ruling in terms of the mandatory methods of valuation given under Section 25(1) of the Act, 1969.





- J. That instead, however, the Respondent has issued the impugned Valuation Ruling on the basis of the proviso to Section 25A(1) of the Act, 1969, which permits only utilization of values from "... acclaimed publications, periodicals, bulletins or official websites of manufacturers or indenters ...". It must be noted that the information so used must, firstly, fall within the identified sources whereas "Emerging Textiles" does not form part of these categories. Secondly, the information so sourced must be utilized when determining under a valuation method provided by Section 25 of the Act, 1969.
- K. That instead, however, the Respondent has merely stated that the values have been obtained from the said Website and proceeded to issue the values without any reference to Section 25 of the Act, 1969, or any other explanation as to how such methods have been adopted.
- L. That the Respondent Director has merely given cyclostyle and bald statements in paragraph 3 of the impugned Ruling, which are evidently copied from numerous previous instruments / rulings issued under Section 25A of the Act, 1969. This alone renders the proceedings nugatory.
- M. That the impugned Valuation Ruling has been issued without carrying out any determination as envisaged by the law, including but not limited to Section 25 of the Act, 1969, and the Customs Rules, 2001, framed thereunder. In fact, the values for the imported Yarns have merely been fixed for the purposes of assessment, and are in dire contrast to the law.
- N. That the documents submitted by the Petitioner leave no room for ignoring the provisions of sub-section (1) of Section 25 of the Act, 1969, i.e. reliance could not have been placed on any other method of valuation than the transaction value, insofar as the Petitioner is concerned.
- O. That in light of submission of all relevant documents, no other conclusion could have been drawn but to accept the transaction values of the Petitioner.
- P. That it is submitted that there is no lawful reason to ignore the contentions and documents submitted by the Petitioner, which irrefutably establish the actual prices paid / payable for the said Yarns in terms of sub-section (1) of Section 25 of the Act, 1969.
- Q. That the Respondent Director has incorrectly rejected the methods of valuation contained in Section 25 of the Act, 1969. The Respondent merely deemed sub-section (1) of Section 25 inapplicable without any cogent reasons having been provided therefor. The Respondent utterly and miserably failed to consider the declared values in the imports over the previous ninety (90) days, which evidence the actual prices payable / paid for imports.
- R. That the Respondent Director has failed to attribute any lawful reasons as to why the transaction values / actual prices paid or payable for the impugned item at the time of import into Pakistan have been disregarded. The Respondent Director has acted in ignorance in spite of being in possession of irrefutable evidences. As enumerated hereinabove, the Respondent Director, in addition to the foregoing, remains in possession of import data of the past ninety (90) days.

That the Petitioner craves leave of this learned Authority to prefer further grounds at the time of arguments.

### **PRAYERS**

*In light of the preceding narrations, the Petitioner prays of this Hon'ble Authority that this petition may graciously be allowed, and*

- I. *Set aside / quash the impugned Valuation Ruling No. 1733 of 2023 dated 24.1.2023 as being unlawful, illegal and contrary to the Customs Act, 1969, the Customs Rules, 2001, and the Constitution of Pakistan, 1973, and having been issued in dire contradiction to the Judgments of the Hon'ble Superior Courts.*
- II. *Declare that the impugned Valuation Ruling No. 1733 of 2023 dated 24.1.2023 is unsustainable for the purposes of assessment of any imported consignments of Polyester Filament Yarns.*
- III. *Declare that the Respondent Director has failed to provide any cogent reasons justifying the issuance of an instrument / valuation ruling under Section 25A of the Customs Act, 1969.*
- IV. *Direct that the Petitioner's imports be assessed in accordance with Section 25(1) of the Customs Act, 1969.*
- V. *Restrain the officers of the Respondent and all the clearance Collectorate of the goods from applying the impugned Valuation Ruling No. 1733 of 2023 dated 24.1.2023, and the values contained therein for any purposes, including but not limited to assessment.*
- VI. *Suspend the operation of the impugned Valuation Ruling No. 1733 of 2023 dated 24.1.2023 till final disposal of the title petition.*
- VII. *Grant any other relief deemed just and appropriate in the circumstances of the case.*
- VIII. *Grant cost of the petition."*



2. The respondents were asked to furnish comments on the arguments submitted by the petitioners in the case. Para-wise comments on the petition are given as under:

### **"BRIEF FACTS OF THE CASE"**

Brief facts of the case are that the Customs values of the Polyester Filament Yarn were determined vide Publication Value Reference (PVR) No.1733/2023 dated 24.01.2023. Representations were received from stakeholders including Association, for the re-determination of Customs values for the impugned items. As the values of subject goods had shown a varying trend in the international market, the Customs value so determined vide previous VR were not reflective of the prevailing prices in the international market, therefore, an exercise has been undertaken by the respondent department to determine the same.

The meeting was convened on 10-01-2023 and was attended by all the relevant stakeholders. The issues pertaining to the valuation of subject goods were deliberated upon in detail in the aforementioned meeting.

The Valuation methods specified in Section 25 of the Customs Act, 1969, were duly applied in sequential order to arrive at the Customs values of subject goods. The transaction value method as provided in sub-Section (1) of Section 25 of the Customs Act, 1969, was found not applicable on the basis of available data/ information, international prices and freight charges. Subsequently, available data/information collected through international publication, i.e.



*Emerging Textile, was thoroughly scrutinized and compared with the import data of the relevant period to determine Customs values. Finally, the values of Polyester Filament Yarns were determined in terms of Section 25A read with proviso to Section 25A(1) of the Customs Act, 1969.*

**FACTS:**

*Para-(1&2): Require no comments as being introductory in nature.*

*Para-(3&4): Denied. The values of Polyester Filament Yarn determined vide impugned PVR No. 1733/2023 dated 24-01-2023 are well within the parameters as laid down under Section 25 of the Customs Act, 1969 and hearing opportunity was provided to the stakeholders on occasion i.e. 10-01-2023.*

*Para-(5): Denied. Import data of the clearance for the relevant/recent period was scrutinized which reflected that in most cases the importers have been accepting and declaring the values as per the PVR in the field. Therefore, the values given in their contracts/invoices are not actual values and cannot be accepted as true transaction values.*

*Para-(6 to 9): Accepted being based on facts.*

*Para-(10): Denied. "Emerging textile" is an authentic website and provides FOB value of Polyester filament yarn in China. Under proviso to Section 25A(1) online sources can be referred to for arriving at customs value.*

*Para-(11): Denied. The impugned PVR was issued well within the parameters laid down by law. Details have been provided in "Brief facts of the case".*

*Para-(12-14): Denied. Values of Polyester Filament Yarn were determined vide PVR No. 1733/2023 dated 24-01-2023 in accordance with the law. Transactional values could not be relied upon due to the huge variation in values of different importers. Secondly, there was a difference between the values given by the importers in their contracts/invoices and the values declared by them while filing GDs. Impugned PVR is based on a detail working in the background.*



*Para-(15) Denied. The impugned PVR was issued well within the parameters laid down by law under section 25A(1) of the Customs Act, 1969.*

*Para-(16-19) Denied. "Emerging textile" is an authentic website and provides FOB value of Polyester filament yarn in China. Under proviso to Section 25A(1) online source can be referred to for working out the customs value of goods. The same was done while issuing the impugned PVR.*

*Para-(20-23) Denied. Values of Polyester Filament yarn in impugned PVR have been determined after detailed working on background and on merit.*

*Para-(24) Denied. Transactional values could not be relied upon due to huge variations in the values of different importers. Secondly, there was the difference between the values given by the importers in their contracts/invoices and the values declared by them while filing GDs. Impugned PVR is based on a detailed work in the background.*

*Para-(25-28) Denied. Section 25 (5) and Section 25(6) were found inapplicable given the fact that they do not capture changing trends in the relevant trade practices and international prices of the impugned goods, therefore, they were inapplicable.*

*Para-(29-30) Denied. Director Valuation has issued impugned PVR by using methods stipulated in Section 25 of the Customs Act, 1969 in a sequential manner.*

*Para-(31-33): Denied. The impugned PVR was issued well within the parameters laid down by law. Details have been provided in "Brief facts of the case".*

**GROUND:**

*Para-(A-C): Denied. Values of Polyester Filament Yarn determined vide impugned PVR No. 1733/2023 dated 24-01-2023 are well within the parameters as laid down under Section 25 of the Customs Act, 1969.*

*Para-(D-): Denied. "Emerging textile" is an authentic website and provides FOB value of Polyester filament yarn in China. Under proviso to Section 25A(1) online sources can be referred to for arriving at the customs value of goods, the same was done for the impugned PVR.*

*Para-(E-N) Denied. Prices of Polyester Filament yarn in impugned PVR have been determined after detailed working on the background and on merit.*

*Para-(O-R): Denied. The values of Polyester Filament Yarn were determined, following the sequential order as provided in section 25A. Details have been provided in the "Brief facts of the case".*

*It is respectfully submitted that the values of Polyester Filament Yarn are determined by this Directorate General on the basic methods provided in the Customs Act, 1969. It is, therefore, humbly prayed that the Customs values of the subject goods were lawfully determined after exhausting all legal formalities in accordance with Section 25A of the Customs Act, 1969. The appeal of the appellant is mere rhetoric and may kindly be rejected."*

**ORDER**

3. Hearings in this case were conducted on 09-03-2023 and 22-03-2023 on which dates both the petitioners/counsel of the petitioners and the respondent department were heard in detail. The counsel of the petitioner M/s Salim Winding Works contended that the Customs values for the imported Yarns contained in the impugned Publication Value Reference (PVR) No.1733/2023 dated 24-01-2023, are unreflective of the actual price paid / payable for the imported Yarns at the time of import into Pakistan. The values of the said Yarns are substantially lower than the values which have been unlawfully fixed through the impugned PVR. The counsel stated that the respondent department issued the impugned PVR on the basis of the proviso to Section 25A(1) of the Customs Act, 1969, which permits only the utilization of values from "... acclaimed publications, periodicals, bulletins or official websites of manufacturers or indenters ...". It was further stated that the information so used must, firstly, fall within the identified sources whereas "Emerging Textiles" does not form part of these categories. Secondly, the information so sourced must be utilized when determining under a valuation method provided by Section 25 of the

Customs Act, 1969. The respondent department stated that the values have been obtained from the said Website and proceeded to issue the values without any reference to Section 25 of the Customs Act, 1969, or any other explanation as to how such methods have been adopted.

4. The main contention of the other petitioners is that the respondent while determining the values of Polyester Filament Yarn (PFY) was bound to call upon the applicant importers for a meeting before determining the values of imported PFY to the contrary the respondent department failed to provide the opportunity of being heard the applicant importers.

5. On the other hand, the departmental representative explained that the Customs values of the Polyester Filament Yarn were determined earlier vide Valuation Ruling No.1694/2022 dated 03.10.2022. Representations were received from stakeholders and Association, for the re-determination of Customs value for the subject items. As the values of subject goods had shown a varying trend and the Customs value so determined were not reflective in the international market, therefore, an exercise has been undertaken by the respondent department to redetermine the same. The meeting was convened on 10-01-2023 and was attended by all the relevant stakeholders. The issues pertaining to the valuation of subject goods were deliberated upon in detail in the aforementioned meetings. The Valuation methods specified in Section 25 of the Customs Act, 1969, were duly applied in sequential order to arrive at the Customs values of subject goods. The transaction value method as provided in sub-Section (1) of Section 25 of the Customs Act, 1969, was found applicable on the basis of available data/ information, international prices, and freight charges. Subsequently, available data/information collected through international publication, i.e. *Emerging Textile*, was thoroughly scrutinized and compared with the import data of the relevant period to determine Customs values. Finally, the values of Polyester Filament Yarns have been determined in terms of Section 25A read with proviso to Section 25A(1) of the Customs Act, 1969. The DR further stated that the respondent department is performing its duties within four corners of the law and is duly empowered under sub-Section (1) of Section 25A of the Customs Act, 1969. For ease of reference, the same is reproduced as



*"25A. Power to determine the customs value – (1) Notwithstanding the provisions contained in Section 25, the Director of Customs Valuation on his own motion or on a reference made to him by any person or an officer of Customs may determine the customs value of any goods or category of goods imported into or exported out of Pakistan, after following the methods laid down in Section 25, whichever is applicable".*

*"Provided that notwithstanding anything contained in any provision of this Act and any decision or judgment of any forum, authority or court, while determining the customs value under this section, the Director may incorporate values from internationally acclaimed publications, periodicals, bulletins or official websites of manufacturers or indenters of such goods."*

6. Following the petitioners' discussion/arguments and scrutiny of the case record, it is apparent that with a view to satisfying the precept of Natural Justice, the department sought to consult the relevant stakeholders and a meeting was held on 10-01-2023 while issuing the impugned Publication Value Reference. Moreover, the explanation of the DR and facts of the case



elaborated, the departmental recourse to determine the Customs values in terms of Sections 25 and 25A of the Customs Act, 1969 has been conducted within the legal domain of the ibid Act. I, therefore, find no reason to interfere with the impugned PVR No.1733/2023 dated 24-01-2023. The petitions being devoid of any merit and legal contents are hereby rejected accordingly.

7. Being identical on facts and law point, this order shall apply mutatis mutandis, to the following (17) revision petitions:

- 1) M/s. Radium Silk Factory
- 2) M/s. Brothers Enterprise
- 3) M/s. Vohra Traders
- 4) M/s. SKF Collection
- 5) M/s. A.R. Industries
- 6) M/s. Raz Textiles
- 7) M/s. Jannat Textiles
- 8) M/s. Mubeen Industries
- 9) M/s. Aryaan Textiles
- 10) M/s. S.M. Industries
- 11) M/s. Mubeen International
- 12) M/s. Mohammad Usman
- 13) M/s. S.S. International
- 14) M/s. Pakistan Yarn Merchants Association
- 15) M/s. Goodluck Hosiery House
- 16) M/s. AK Traders
- 17) M/s. Filament Yarn Manufacturers Association (Pakistan),



(Gul Rehman)  
Director General

Registered copy to:

S.No.	Petitioners
1	M/s. Radium Silk Factory, M/s. Brothers Enterprise, M/s. Vohra Traders, M/s. SKF Collection, M/s. A.R. Industries, M/s. Raz Textiles, M/s. Jannat Textiles, M/s. Mubeen Industries, M/s. Aryaan Textiles, M/s. S.M. Industries, M/s. Mubeen International, M/s. Mohammad Usman, <u>C/o M/s. Nadeem &amp; Company (Advocates)</u> , B-3, 2 <sup>nd</sup> Floor, Pak Chamber, West Wharf Road, Karachi. Cell: 0341-3160113 Email:
2	M/s. Salim Winding Works, <u>C/o J.A. Ghahangir Associates</u> , Office N o. 401, 4 <sup>th</sup> Floor, Clifton Centre, Block-05, Clifton, Karachi. Phone: 021-35293384-85, Email: <a href="mailto:gajahangirassociates@gmail.com">gajahangirassociates@gmail.com</a>
3	M/s. S.S. International, 261-1-B, 1 <sup>st</sup> Floor, Latif Cloth Market, M.A. Jinnah Road, Karachi. Cell:0321-8283928,
4	M/s. Pakistan Yarn Merchants Association, 803-804, 8 <sup>th</sup> Floor, Business Centre, Mumtaz Hassan Road, Karachi-74000. Phone: 021-32410320, Email: <a href="mailto:info@pyma.com.pk">info@pyma.com.pk</a>
5	M/s. Goodluck Hosiery House, Chappal Bazzar, Mithadar, Karachi. Cell: 0300-8225381, Email: <a href="mailto:goodluckhosiery@yahoo.com">goodluckhosiery@yahoo.com</a>
6	M/s. AK Traders,

	280/9, 1-B, 1 <sup>st</sup> Floor, Latif Cloth Market, M.A. Jinnah Road, Karachi. Cell: 0321-9259360, Email: <a href="mailto:polyester.trade@gmail.com">polyester.trade@gmail.com</a>
7	M/s. Filament Yarn Manufacturers Association (Pakistan), Room No. 104-106, 1 <sup>st</sup> Floor, Hotel Imperial Building, Molvi Tamizuddin Khan Road, Karachi. Cell: 0300-9276228, 0301-8456507, Email: <a href="mailto:fyma.association@gmail.com">fyma.association@gmail.com</a>

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/ / 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) The President, FPCC&I/KCC&I, Karachi
- 20) Assistant Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in One Customs & WEBOC Database System.
- 21) Guard File.

