

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

File No. DG(V)Val.Rev/52/VII/2024/1267

Dated: 03-12-2024

Order in Revision No. 64/2024
Under Section 25-D of the Customs Act, 1969 in Petitions filed
against Valuation Ruling No. 1908/2024 dated 03.10.2024

- 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 application by a person other than an officer of customs, shall be accompanied by a fee of twenty thousand rupees (Rs. 20,000/-) in case of a company, and five thousand rupees (Rs. 5,000/-) in case other than a company.*
- 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.*

Table of Petitions	
1.	M/s. Ashraf Hardware Store (Diary No. 1731 Dt: 15-10-2024)
2.	M/s. Qitmeer Traders (Diary No. 1731 Dt: 15-10-2024)
3.	M/s. S.M Tools Centre (Diary No. 1731 Dt: 15-10-2024)
4.	M/s. Champion Industries Supplies (Diary No. 1731 Dt: 15-10-2024)
5.	M/s. Chief Machinery Corporation (Diary No. 1731 Dt: 15-10-2024)
6.	M/s. Shahjahan Trading Company (Diary No. 1736 Dt: 22-10-2024)
7.	M/s. M.A Tools & Equipment House (PVT) LTD (Diary No. 635 Dt: 31-10-2024)
8.	M/s. Z H Traders (Diary No. 1745 Dt: 01-11-2024)
9.	M/s. Sharafat Brothers (Diary No. 1746 Dt: 01-11-2024)
10.	M/s. Shan Enterprises (Diary No. 1747 Dt: 01-11-2024)
11.	M/s. White Horse (Diary No. 1749 Dt: 01-11-2024)
12.	M/s. Ayub and Sons (Diary No. 1748 Dt: 01-11-2024)
13.	M/s. AZ Khalid Trading Agencies (Diary No. 1741 Dt: 29-10-2024)
14.	M/s. AK Zahid (Dairy No. 1742 Dt: 29-10-2024)
15.	M/s. Hussaini Innovations (Diary No. 1750 Dt: 01-11-2024)
16.	M/s. The Lahore Chamber of Commerce & Industry (Diary No. 1736A Dt: 22-10-2024)

..... PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

.....RESPONDENT

For the Petitioners	Ms. Rafia Maniar, Mr. Meer Ghulamullah, and Mr. Faisal Ghani represented the Petitioners at S/Nos. 01, 02, 03, 04, and 05.
	Mr. Qumail Raza for the Petitioner at S/No. 02
	Mr. Waseem Riaz and Mr. Shahbaz Waseem Malik for the Petitioner at S/No. 03



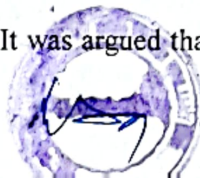
	Mr. Muhammad Hussain the Petitioner above at S/No. 04
	Mr. Shahzad Qadri for the Petitioner above at S/No. 05
	Mr. Shahjahan for the Petitioner above at S/No. 06
	Mr. Ather Junaid represented the Petitioner above at S/No. 07
	Mr. Zahid Naseer for the Petitioner above at S/No. 14
	Mr. Saifuddin Iqbal for the Petitioner above at S/No. 15
<i>For the Respondent</i>	Mr. Adrish Arsalan, Valuation Officer for the Respondent
Date(s) of Hearing	14-11-2024
Date of Order	03-12-2024

ORDER

These revision petitions were filed under Section 25-D of the Customs Act, 1969 (hereinafter may be referred to as the "Act"), against customs values determined vide Valuation Ruling No. 1908/2024 dated 03.10.2024, ("the impugned Valuation Ruling") issued under Section 25A of the said Act.

2. Brief facts of the case are that the Customs values of Power Tools (hereinafter referred to as "the goods in question"), were re-determined vide the impugned Valuation Ruling No. 1908/2024 dated 03.10.2024, by the Director, Directorate General of Customs Valuation.

3. The petitioners M/s. Franklin Law Associates (representing five importers namely M/s. Ashraf Hardware Store, M/s. Qitmeer Traders, M/s. S.M Tools Centre, M/s. Champion Industries Supplies, and M/s. Chief Machinery Corporation), M/s. Shahjahan Trading Company, M/s. Z H Traders, M/s. Sharafat Brothers, M/s. Shan Enterprises, M/s. White Horse, M/s. Ayub and Sons, M/s. AZ Khalid Trading Agencies, M/s. AK Zahid, M/s. Hussaini Innovations, and M/s. The Lahore Chamber of Commerce & Industry in their written petitions, assailed the allegedly "higher" Customs values being applied to goods categorized under the Impugned Valuation Ruling. The crux of their argument is the contention that the assigned values are unrealistically higher than the actual transaction values and the international prices. It was argued that the valuation has been standardized to



single values, regardless of the diverse sources from which the good are imported. The said petitioners challenged the veracity of the said change mainly on the following grounds:

- a. That the Impugned Valuation Ruling No. 1908/2024 dated 03.10.2024, concerning Power Tools, had failed to account for the weight-based criteria of assessment of the goods in question and issued the impugned Ruling values on per unit basis.
- b. That the Ruling had been issued on the basis of a purported market inquiry which was not revealed to the stakeholders. This compromised the transparency of the impugned Ruling. 4 months old "market inquiry" was allegedly relied upon by the respondent.
- c. That many stakeholders, including some petitioners, were not associated in the proceedings of the determination under Section 25A of the Act. The majority of the stakeholders, particularly from Lahore, either did not receive meeting notices or could not participate due to non-functional Zoom link provided in the notices.
- d. That the categorization under the brands given under the impugned Ruling is inconsistent with the fact that goods in question are predominantly private-label business.
- e. That the prices of Lithium, a primary component of cordless tools, have plummeted by about 80% in the international market.

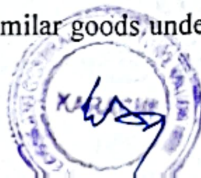
4. The Petitioner M/s. M.A Tools & Equipment House, assailed the values determined for the "category-C" of the impugned Ruling. The gist of their arguments revolves around the possibility of misuse of the lower values given in the category-C for lower brands by unscrupulous importers who could import high brand goods under the garb of low end brands. The petitioner challenged the veracity of the said categorized determination mainly on the following grounds:

- a. That the values assigned to the category-C goods, referred to as the low-end brands, was far below the actual price plus freight and insurance charges.



b. That since the brands in the category B and C were so similar in quality, it was highly likely that goods falling under the category-B could be cleared in the category-C, by using private label, especially by new entrants.

5. The hearing for this case was conducted on 14-11-2024. During hearing, both the sides of the petitioners were thoroughly heard. Mr. Meer Ghulamullah, Mr. Faisal Ghani and Ms. Rafia Maniar of M/s. Franklin law Associates, learned Counsels for the petitioners M/s. Ashraf Hardware Store, M/s. Qitmeer Traders, M/s. S.M Tools Centre, M/s. Champion Industries Supplies, and M/s. Chief Machinery Corporation, submitted certain judgments of the High Court. On the basis of the judgments, they challenged the first issuance of the impugned Ruling for the goods in question despite being zero-rated. Furthermore, they also disputed non-application of sections 25(5) and 25(6) of the Act as well as the legality of application of QY Research in terms of section 25(7) of the Act. They argued that the categorization in the contested ruling should have been based on the product's origin rather than its brand. Additionally, they highlighted that the meetings held under Section 25A to determine values occurred on 22.04.2024, 07.08.2024, and 05.09.2024, with significant gaps between them. This raised concerns about the legality of the ruling and questioned the validity of the market inquiry. Mr. Waseem Riaz and Mr. Shahbaz Waseem Malik of M/s. S.M Tools Centre said that they did not receive meeting notices under section 25A of the Act. They further argued that there was a difference of about 20-30% in the prices of the goods in question from the same origin due to difference in the sources i.e., manufacturers and traders. Mr. Qumail Raza of M/s. Qitmeer Traders contested that the basis for valuation should have been weight rather than the unit. On the other hand, Mr. Athar Junaid, learned Counsel for the petitioner M/s. M.A Tools & Equipment House, agreed with the values in the impugned Ruling and contested only the categorization under category-C of the Ruling. He contended that importers importing the brands categorized under category-B could not compete with those importers who would import similar goods under private label and declare those goods



under category-C. He counter-argued the contention of other petitioners regarding the basis of values and contended that weight could not be the sole criterion of value determination.

6. The Representative of the Respondent Department contested the arguments of the petitioners. He controverted the Petitioners' contentions mainly on following counts:

- a) That the Valuation Ruling was issued strictly in accordance with parameters stipulated under Section 25 of the Customs Act, 1969. The valuation methods specified in Section 25 of the Act, were duly applied in their sequential order to arrive at the Customs value of the goods in question.
- b) That it was observed that the impugned valuation Ruling was issued under Section 25(7) of the Customs Act, 1969, after conducting a fair market inquiry and following all the guidelines issued under the Office Order No. 17/2014 dated 19.03.2014.
- c) That the values obtained in the exercise of market survey mentioned above were corroborated by QY Research Report.
- d) That the contention of petitioners regarding the weight-based valuation is denied by the fact that the official unit of measurement is "unit", rather than kg, for HS Code for the goods in question.
- e) That the categorization of brands has been done on the basis of the market inquiry.

7. I have gone through the contentions of both the sides. The main areas of the controversy in the instant petitions are; a) the allegedly unrealistic determination of the customs values of the goods in question without calculating the cost of major constituent raw materials such as Lithium, and relies on market prices that are four months old; b) disregard of variations in the international market prices of the same origin but from different types of suppliers (manufacturers and traders); c) the proper hearing opportunity to the major stakeholders; and d) unrealistic categorization of brands under low-end brands. These areas are discussed and evaluated as follows:



a) Firstly, both the failure to account for key raw materials like lithium and the reliance on a four-month-old market inquiry render serious infirmity to the impugned Ruling. It was essential that the respondent assessed the situation using more current data, particularly regarding the costs of critical materials and the state of the market at the time the ruling was issued. The DR could not justify the time-lag between the initial market inquiry and the issuance of the Valuation Ruling after a lapse of about four months.

b) Secondly, the difference of prices from various types of suppliers is a fact due to the inherent difference of cost in each case. Hence, the difference must have been taken into account in realistic determination of assessable value.

c) Thirdly, the significant gaps between the meetings held under Section 25A to determine values (22.04.2024, 07.08.2024, and 05.09.2024) raise concerns about the adequacy of the hearing opportunity provided to stakeholders. These gaps suggest that the procedure may have lacked the necessary continuity, which had resulted in not adequately affording a proper or timely opportunity to the stakeholders to present their views. Such a delay in holding meetings reflects an infirmity in the process, as it shatters fairness during the value determination process. The assessment prior to the impugned Valuation Ruling was on "weight basis". The shift to "unit" basis also warranted appreciation of implications in application. The unit-based assessment is mandated by the Customs General Order No. 05/2022 dated 28.12.2022 (under Serial Nos. 5469, 5603, 5965, 5966, 5967 and 5968), yet "reference" or "factor" of weight of material constituents could not be outrightly brushed aside for fairness in application.

d) Fourthly, without clear brands classification into distinct categories, it would be more difficult to establish consistent valuation standards, leading to potential inconsistencies in the assessment of goods. Maintaining the categorization ensures a



more structured approach, providing clarity in the valuation process and helping avoid further complications in the determination of customs values. However, input of the stakeholders warranted consideration objectively.

8. In view of the foregoing it is ordered as follows:

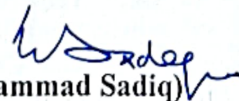
a) The impugned Valuation Ruling (No. 1908/2024 dated 03.10.2024) is, accordingly, rescinded under Section 25-D, with immediate effect. The Director, Customs (Valuation), Karachi is directed to undertake a fresh exercise in terms of Section 25A of the Customs Act, 1969 by recourse to the valuation methodology elaborated in Section 25 of the Act and re-fix Customs values of impugned goods covered under the aforesaid Ruling after affording opportunity of hearing to the stakeholders.

b) The re-fixation of customs values of the goods covered under the impugned Ruling shall preferably be made within three weeks.

9. The Clearance Collectorates/Formations shall assess goods under Section 25 till issuance of the Valuation Ruling afresh under Section 25A of the Customs Act, 1969. Due diligence is to be ensured for safeguarding the interests of exchequer and the legitimate expectations of the traders making correct declarations.

10. The instant petitions filed in terms of Section 25-D of the Customs Act, 1969 are accordingly disposed of in above terms.

11. Certified that this judgment consists of eight pages, each page bearing my signature.


(Muhammad Sadiq)
Director General

Registered Copy:

M/s. Ashraf Hardware Store, M/s. Qitmeer Traders, M/s. S.M Tools Centre, M/s. Champion Industries Supplies, M/s. Chief Machinery Corporation, Lahore, C/o M/s. Franklin Law Associates
Address: 1st Floor Plot No. 4C, Lane # 3, Al Murtaza Commercial, DHA Phase # VIII, Karachi.
Ph : +92-21-35246856.

3/12/24

M/s. Shahjahan Trading Company. Address: No. 106, 1 st Floor, plot No. 204, Moin Arcade, Sarmad Road, Saddar, Karachi.
M/s. M.A Tools & Equipment House (PVT) LTD. Address: Off. 73 Nishtar Raod (Branderth Road), Lahore. Ph. +92-42-37381523
M/s. Z H Traders. Address: 25- Babar Street, Chowk Dalgran, Brandreth Road), Lahore.
M/s. Sharafat Brothers. Address: Shop # 2-5/B, Shahalam Market, Lahore, Tel: 042-37638499.
M/s. Shan Enterprises. Address: Office No. 13 3 rd Floor, Imtaiz Chamber, 85 Temple Road Lahore, Ph: 042-36367904.
M/s. White Horse. Address: Amratsar Market, 41 Main Brandreth Road, near Habib Metropolitan Bank Lahore. Mobile: +92-310-2077771.
M/s. Ayub and Sons. Address: Shop No. 16, Brandrath Road, Lahore, Data Gunj Buksh Town, Mobile: 0300-9499023.
M/s. AZ Khalid Trading Agencies. Address: # 1, Musa Market, First Floor, Shahrah-E-Liaquat, Karachi.
M/s. AK Zahid. Address: 2- Main Chamber, Shahrah-E-Liaquat, Karachi.
M/s. Hussaini Innovations. Address: 9/23 Arkay Square (Ext), New Chali, Shahrah-E-Liaquat, Karachi.
M/s. The Lahore Chamber of Commerce & Industry. Address: 11-Shahrah-E-Aiwan-E-Sanat-O-Tijarat, Lahore, Tel: +92-42-36304634.

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), Custom House, Karachi.
- 4) The Director General, PCA & Internal Audit, Custom House, Karachi.
- 5) The Chief Collector Exports, Custom House, Karachi.
- 6) The Director General, Transit Trade, Custom House, Karachi.
- 7) The Chief Collector of Customs (Enforcement), Custom House, Islamabad.
- 8) The Chief Collector of Customs Appraisement-Punjab, Custom House, Lahore.
- 9) The Chief Collector of Customs, (Appraisement) Balochistan, Custom House, Quetta.
- 10) The Chief Collector of Customs, (Appraisement) Khyber Pakhtunkhwa, Custom House, Peshawar.
- 11) The Chief Collector of Customs, Appraisement, Custom House, Karachi.
- 12) The Director, Directorate of Customs Valuation, Lahore/ Peshawar/ Quetta.
- 13) The Secretary (Valuation & Audit), Federal Board of Revenue, Islamabad.
- 14) All Additional Directors / Deputy Directors / Assistant Directors, Customs Valuation, Karachi.
- 15) Deputy Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in One Customs & WEBOC Database System.
- 16) The Revision Section, Customs Valuation, Karachi
- 17) Guard File.

