

GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF CUSTOMS VALUATION
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/934/2016

Dated: 21st December, 2016

Order in Revision No. 276 /2016 under section 25-D of the Customs Act, 1969
against Valuation Ruling No.943/2016 dated 03-10-2016

- 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 Noman & Bros & Others

.....

PETITIONERS

VERSUS

Director, Customs Valuation, Karachi

.....

RESPONDENT

Date(s) of hearing

10-11-2016

For the Petitioners

Mr. Mohabbat Hussain Awan Adv.
Mr. Amin Ghazi

For the Respondent

Mr. Safdar Abbas, Principal Appraiser

This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.943/2016 dated 03-10-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds as reproduced below:

2. Being aggrieved and dissatisfied with the subject impugned Valuation Ruling No. 943/2016 dated 03.10.2016 issued by Director Valuation Customs House Karachi on behalf of applicant M/s. Noman & Brothers, 2nd Floor, Room 23 & 24, Hotel Al-Bilal Building, Sohrab Katrak Road, Saddar, Karachi. it is most respectfully stated as follows:

1. That the applicant is engaged in business of import of LED Rechargeable Lights from China. He is registered with Sales Tax and Income Tax departments as importer
2. That Valuation Ruling No 943/2016 dated 03.10.2016 is issued under Section 25 (9) without applying other methods provided under Section 25 of the Customs Act 1969 as such, this Valuation Ruling is issued against the prevailing Practice of Valuation Directorate and hence illegal which is required to be revised.
3. That the Valuation Ruling No. 644 /2014 dated 13.03.2014 is replaced with impugned Valuation Ruling No 943/2016 dated 03.10.2016 with the following difference of Values:-

Despn	Prev. Value	Present Value	Differ
LED-1-4	0.08/PC	0.32/PC	300%
LED-1-4	0.08/PC	0.42/PC	400%
LED-46-60	0.95/PC	2.40/PC	153%

Almost Values of all the items are enhanced ranging from 153% to 400% which are abnormal and not acceptable to applicant/ all importers.

4. That a new has been issued in supersession a Under Section 25 (A) of the Customs Act 1969. Without consultation convening any meeting of the stack holders of their view points on this issue therefore, the Impugned Valuation Ruling is not acceptable to the importer/ applicant
5. That the said Valuation Ruling No 943/2016 dated 03.10.2016 is issued without consultation of all stakeholders. It is pointed out that meeting of importers and local manufacturers with Director of Valuation, Custom House Karachi was not held and without convening the meeting, the Valuation Ruling is issued on 03.10.2016, therefore the said Valuation Ruling is issued without fulfillment of requirements hence required to be revised.
6. That the impugned Valuation Ruling No 943/2016 dated 03.10.2016 is issued under Section 25 (9) of the Customs Acts 1969 which is meant for all Pakistani importers running their business of LED rechargeable lights at Karachi, Hyderabad, Lahore, Sialkot, Rawalpindi, Islamabad, Peshawar and Quetta. For the purpose of determination of transaction value of imported LED Rechargeable Lights, local sale/ purchase invoices of all major cities were required to be obtained and this exercise was not conducted by the staff of Valuation Directorate, therefore, value determined in the light of Sale/ Purchase invoices of one city cannot be treated as transaction values, hence, impugned Valuation Ruling is defective and required to be re-considered.
7. That the market inquiry was conducted in the absence of stake holders/ importer which is not acceptable in the eyes of law.
8. That impugned Valuation Ruling is issued without obtaining and placing on record, even a single invoice issued to any Pakistani importer. A Valuation Ruling



without support of evidential invoices is not only illegal but also has no legal effect, therefore, required to be revised.

9. That the Values shown in the impugned Valuation Ruling are fixed illogically and roughly without applying any sense or method of mathematics. It is clear that the values of impugned Valuation ruling were fixed without scrutiny of record and necessary exercise, therefore the impugned Valuation Ruling is required to be revised.
10. That no justification is given regarding increasing of values based on "FALL BACK METHOD" ; the Value calculated on the basis of Fall Back method are always calculated according to values of raw materials plus manufacturing cost excluding duty and taxes. Nothing is shown in the impugned Valuation Ruling which could provide any justifications regarding fixation of prices on higher side. This state of affairs is not admissible in the eyes of law.
11. That the procedure for determination of Customs Value has been discussed in a Judgment CP No2678/09 Sadia Jabber Versus Federation of Pakistan & others issued by the Honorable High Court of Sindh at Karachi, although this is prejudiced before the Honorable Supreme Court of Pakistan but there is no dispute regarding the procedure laid down in the said judgment. The Impugned Valuation Ruling is not prepared in the light of said above judgment.
12. That the Impugned Valuation Ruling in question has not been issued in accordance with the procedure laid down in section 25 of Customs Act 1969, hence, the determination of transaction value is not fair, therefore, it requires to be re considered in the interest of Justice and equity.
13. That the appellant craves leave to argue and place before this Honorable Authority further relevant documents, evidences, additional arguments at the time of hearing.

Prayer

3. In the light of above submissions, it is most respectfully prayed that in the interest of Government revenue and natural justice , impugned Valuation Ruling No 943/2016 dated 03.10.2016 may kindly be set aside with the direction to Directorate to issue a fresh Valuation Ruling with the consultation of all stake holders.
4. The respondent department was asked to furnish comments to the arguments submitted by the petitioner in the case. Para-wise comments on the petition are given as under:
5. The Valuation Ruling No.943/2016 dated 03-10-2016 in respect of customs values of "Led Rechargeable Lights" has been issued after consultation with stakeholders including Federation of Pakistan Chamber of Commerce and Industry who is main representing body of trade. As far as concern methodology adopted it is stated that "Transaction value method provided in Section 25(1) was found inapplicable because the requisite information was not

available. Identical / similar goods value methods provided in Section 25(5) & (6) were examined for applicability to the valuation issue in the instant case which provided some reference values of the subject goods but the same could not be exclusively relied on due to wide variation in declared values of subject goods. Thereafter, market enquiry as envisaged under Section 25(7) of the Customs Act, 1969, was conducted. Consequently, the customs values of Led Rechargeable Light had been determined under Section 25(7) of the Customs Act, 1969.

6. Parawise Comments

Para 1. No comments being related to introduction of applicant's business.

Para 2. The Valuation Ruling No.943/2016 dated 03-10-2016 had been issued after consultation with stakeholders including Federation of Pakistan Chamber of Commerce and Industry who is main representing body of trade. As far as concern methodology adopted it is stated that "Transaction value method provided in Section 25(1) was found inapplicable because the requisite information was not available. Identical / similar goods value methods provided in Section 25(5) & (6) were examined for applicability to the valuation issue in the instant case which provided some reference values of the subject goods but the same could not be exclusively relied on due to wide variation in declared values of subject goods. Thereafter, market enquiry as envisaged under Section 25(7) of the Customs Act, 1969, was conducted. Consequently, the customs values of Led Rechargeable Light have been determined under Section 25(7) of the Customs Act, 1969.



Para 3. The customs values of LED Rechargeable Lights were determined under Section 25A of the Customs Act, 1969, vide Valuation Ruling No.644/2014 dated 13-03-2014. The Valuation Ruling required revision in line with the prevailing prices in the international market. Therefore, this Directorate General initiated an exercise for determination of customs values of LED Rechargeable Lights.

Para 3. Meeting of stakeholders was conducted on 02-08-2016. All the stakeholders alongwith Federation of Pakistan Chamber of Commerce and Karachi Chamber of Commerce and Industry were called for meeting.

Para 4. Meeting of stakeholders was conducted on 02-08-2016. All the stakeholders alongwith Federation of Pakistan Chamber of Commerce and Karachi Chamber of Commerce and Industry were called for meeting.

Para 5. Meeting of stakeholders was conducted on 02-08-2016. All the stakeholders alongwith Federation of Pakistan Chamber of Commerce and Karachi Chamber of Commerce and Industry were called for meeting.

Para 6. Valuation Ruling No.943/2016 dated 03-10-2016 was issued on the basis of market enquiry as envisaged under Section 25(7) of the Customs Act, 1969, was conducted. Consequently, the customs values of Led Rechargeable Light

have been determined under Section 25(7) of the Customs Act, 1969 and not on the basis of Section 25(9) of the Customs Act, 1969.

- Para 7. No comments being related methodology of market inquiry.
- Para 8. Valuation Ruling No.943/2016 dated 03-10-2016 was issued on the basis of market enquiry as envisaged under Section 25(7) of the Customs Act, 1969.
- Para 9. Valuation Ruling No.943/2016 dated 03-10-2016 was issued on the basis of market enquiry as envisaged under Section 25(7) of the Customs Act, 1969.
- Para 10. Valuation Ruling No.943/2016 dated 03-10-2016 was issued on the basis of market enquiry as envisaged under Section 25(7) of the Customs Act, 1969.
- Para 11. Valuation Ruling No.943/2016 dated 03-10-2016 was issued on the basis of market enquiry as envisaged under Section 25(7) of the Customs Act, 1969.
- Para 12. Valuation Ruling No.943/2016 dated 03-10-2016 was issued on the basis of market enquiry as envisaged under Section 25(7) of the Customs Act, 1969.
- Para 13. It relates to further discussion with the Director General in the course of hearing.



P R A Y E R

7. It is respectfully prayed that the customs values were determined vide Valuation Ruling No. 943/2016 dated 09-08-2016 strictly in accordance with valuation methods given in section 25 of the Customs Act, 1969. Consequently customs values were determined under Section 25(7) of the Customs Act, 1969 after due consultation of stakeholders including both Chambers i.e. Federation of Pakistan Chamber of Commerce and Industry Accordingly the Appeal have no merit for consideration and is liable to be rejected.

ORDER

8. The case record has been examined in the light of written and verbal submissions put forward by the petitioners. The importers / petitioners filed their revision petition under Section 25-D of the Customs Act, 1969, against Valuation Ruling No.943/2016, dated 03-10-2016. They contended that the customs values of LED Lights have been determined 153% to 400% on higher side vide impugned Valuation Ruling than the previous Valuation Ruling No.644/2016, dated 13-03-2014 which as they claimed have been determined arbitrarily. In support of their contention, the petitioners provided copies of two proforma invoices and import contracts with suppliers duly registered through Bank showing unit price of each type of LED Lights of China origin. They also submitted detailed correspondence with the supplier to prove veracity of the rechargeable lights retrieved from Zaubu showing price range from US\$ 0.16/Pc to US\$ 0.37/Pc. Market enquiry was conducted afresh to confirm the actual values of the subject goods. The prices obtained from local market were worked out by work-back method under Section 25(7) of the Customs Act, 1969, which corroborated with the price showing internal websites.

9. Keeping in view the above stated facts and the petitioners submission duly supported with import documents consisting Proforma Invoices/ Contracts duly registered with bank, Zauba import data and fresh market enquiry, the customs values of LED Rechargeable Lights of China origin are revised as under :-

S.No.	Description	PCT Heading	Customs Values US\$/ Pc
01.	LED Rechargeable Light 1-4	8513.1030 8513.1040	0.19/Pc
02.	LED Rechargeable Light 5-7	8513.1030 8513.1040	0.35/Pc
03.	LED Rechargeable Light 8-13	8513.1030 8513.1040	0.40/Pc
04.	LED Rechargeable Light-14-19	8513.1030 8513.1040	0.50/Pc
05.	LED Rechargeable Light-20-25	8513.1030 8513.1040	0.70/Pc
06.	LED Rechargeable Light-26-32	8513.1030 8513.1040	0.80/Pc
07.	LED Rechargeable Light-33-45	8513.1030 8513.1040	1.25/Pc
08.	LED Rechargeable Light-46-60	8513.1030 8513.1040	1.50/Pc
09.	LED Rechargeable Light-61-99	8513.1030 8513.1040	2.10/Pc

OR US\$ 1.70/kg for China origin, US\$ 2.65/kg for other origins; whichever is higher)

10. The Respondent department stated that the Customs values were determined on the basis of local market enquiry. They stated that many samples from shops and vendors from different markets were obtained. However, they stated that price varies depending upon brands and watts.

11. The petitioners stated that all brands have not been taken into account. Moreover, they stated that breakage factor of the rechargeable LED was also not considered. They requested to verify their submissions through fresh market enquiry of all brands and wattages and breakage factor may also be considered.

12. Being identical on facts and law point, this order shall apply mutatis mutandis to the following (13) petitions.

S#	Petitioner' Name	File No.
1	M/s H.A.Hussain	DG(V)Val.Rev/934/2016
2	M/s Golden Choice Electronics	DG(V)Val.Rev/934/2016
3	M/s Hussain Traders	DG(V)Val.Rev/934/2016
4	M/s Rays International	DG(V)Val.Rev/934/2016
5	M/s Elahi Traders	DG(V)Val.Rev/934/2016
6	M/s Z.I.F. Import Export	DG(V)Val.Rev/934/2016
7	M/s Lily International	DG(V)Val.Rev/935/2016
8	M/s Marvi International	DG(V)Val.Rev/935/2016
9	M/s Kinjhar International	DG(V)Val.Rev/935/2016

10	M/s U.A. Enterprises	DG(V)Val.Rev/935/2016
11	M/s T.A.S. Enterprises	DG(V)Val.Rev/935/2016
12	M/s F.A.F. Enterprises	DG(V)Val.Rev/935/2016
13	M/s Penacal Enterprises	DG(V)Val.Rev/935/2016


(Syed Tanvir Ahmad)
Director General

Registered copy to:

M/s Noman & Bros
M/s H.A.Hussain
M/s Golden Choice Electronics
M/s Hussain Traders
M/s Rays International
M/s Z.I.F. Import Export
M/s Elahi Traders
Through Muhabbat Hussain Awan Adv.

M/s Lily International

M/s Marvi International

M/s Kinjhar International

M/s U.A. Enterprises

M/s T.A.S. Enterprises

M/s F.A.F. Enterprises

M/s Penacal Enterprises

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisalment (South)/Enforcement, Karachi/ (North) Islamabad/(Central) Lahore.
3. Collector, MCC Appraisalment (East)/ Appraisalment (West)/Port M. Bin Qasim/ Preventive, Karachi.
4. Collector, MCC, Appraisalment/Preventive, Lahore/Quetta/Peshawar/Faisalabad/ Sambrial/Multan/Hyderabad/Islamabad/Gilgit-Baltistan/Gawadar.
5. Director, Customs Valuation, Karachi/Lahore.
6. Deputy Director (HQ), Directorate General of Customs Valuation, Karachi for uploading in One-Customs and WeBOC database.
7. Asstt. Director (Review), Karachi.
8. All Deputy/Assistant Directors (Valuation)
9. Guard File.