

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/853/2016

Dated: 19<sup>th</sup> January, 2017

**Order in Revision No. 290/2017 under section 25-D of the Customs Act, 1969  
against Valuation Ruling No.907/2016 dated 12-08-2016**

- 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 Hameed & Yaser International ..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi ..... RESPONDENT

Date(s) of hearing 27-09-2016, 17-10-2016, 09-11-2016 & 15-12-2016

For the Petitioners None

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.907/2016 dated 12-08-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the following grounds:

2. That the subject ruling has recently issued without consideration of the finished product manufacturing material as well as the mechanism operating function and difference between valves.
3. That complete valves containing sets of assorted materials mixed metallic nonmetallic and metallic according to usage atmospheric, vacuum breaker, pressure balance, hydraulic boiler steam each valve has different structure of body.

(a) Whereas, plumbing valves main body structure made of brass, slag, dross and ores 40% in weight in layers.

(b) 30% in weight in material of cast iron with corium flux of anti rust parts there of hook, spring, stud, locking, screw, safety and handle.





(c) 25% in weight non-metallic material used in the mechanism of operating valve rubber, gland packing and asbestos sleeves, seals and washer composition specifically pointing out that the actual head price of compete valve of China origin 2.80 US\$ per kg of valve at Karachi sea port.

4. That in the current scenario the valuation ruling is on a very higher side and unjustified keeping in view this valuation the ruling does not basis of calculation of material used in the manufacturing the product is entirely different in its composition as compared to raw materials working team failure in application of mind. Alone drawing minor or major distinction that concept in the whole body of valves stand made of brass / copper against violation of the principles of natural justice.

5. That without prejudice to the above considerable points is character and properties of elements in metals, non-metal and metalloids material used for manufacturing specific valves and plumbing valves with physical and chemical properties, such as dry air moist air, heating in air temperature and high pressure because rate of corrosion of different metal is different. Mixture of metals with mechanical methods after the process completion given uniform coating by removing super flows of transitional elements the rusting can be prevented by covering the surface with other metals flux due to these facts brass value 100% in weight unjustified value USD 8/per kg of China origin.

6. That insisting to assess on higher rate from, China under subject ruling facing huge financial loss as well as contractual obligation. Copy of ruling, commercial invoice, packing list, B/L, assessment sheet are attached.

#### Prayer

7. It is therefore prayed as under:

(a) That the Ruling No. 907/2016 dated 12-08-2016, may please revised be declared void being excessive, higher.

(b) That petitioner recommended that declared value as per commercial invoice be accepted as per law u/s 25 (1) of Customs Act, 1969.

(c) That the recently importer goods shall also be directed to be covered by fresh decision at the rate of US\$ 2.80/per kg China origin because petitioner value for the purpose only water contrivance. That the above petition is made in the large public / country's interest therefore be considered sympathetically.

8. 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:

9. Brief facts of the case are that the customs values of valves were determined under section 25A of the Customs Act, 1969 vide Valuation Ruling No.602/2013 dated 31-10-2013, which was set aside by Honourable Customs Appellate Tribunal, Lahore vide Order in Customs Appeal No. 392/LB/2013 dated 24-10-2014. A reference against this appellate order has been filed before Honorable Lahore High Court. As there has been no bar placed on redetermination of customs values afresh an exercise





to determine customs values of valves was initiated by this Directorate General. A stakeholders' meeting for the determination of customs values was scheduled on 31-05-2016. The stakeholders had been requested to submit the following documents before or during the meeting.

- a) Invoices of imports during last three months showing factual value.
- b) Websites, names and e-mail addresses of known foreign manufacturers of the item in question through which the actual current value can be ascertained.
- c) Copies of Contracts made / LCs opened during the last three months showing the value of item in question.
- d) Copies of sales tax invoices issued during last four months showing the difference in price (excluding duty and taxes) to substantiate that the benefit of difference in price is passed on to the local buyers.

10. No documents were submitted in this Directorate General on or even after the said scheduled meetings. The meeting was attended by the importers, representatives of Pakistan HVACR Importer & Traders Association, and officers from field formations.

11. During the course of meeting, the importers and the representative of Association were contended that the values of brass valves may be reduced as the prices of copper LME has drastically decreased in the international market as compared to those of 2013 when the impugned valuation ruling was issued. The participants were requested to submit import invoices, sales tax invoices, literature, representative samples, evidences and other relevant requisite import documents in support of their contentions. Despite a lapse of considerable time, the importers have not submitted the requisite documents.

12. For the purpose of determination of customs value of different valves in valuation methods given in section 25 of the Customs Act, 1969 were followed to arrive at customs values of valves. 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 inquiries as envisaged under section 25(7) of the Customs Act, 1969, were conducted. The prices varied depending on the specifications of the items and the location of the market. The computed value method as provided in section 25(8) of the Customs Act, 1969, could not be applied as the conversion costs from constituent material at the country of export were not available. Online values of subject goods were also obtained. All the information so gathered was evaluated and analyzed for the purpose of determination of customs values. Consequently, the customs values of different type of valves were determined under section 25(9) of the Customs Act, 1969 vide Valuation Ruling No.907/2016 dated 12-08-2016.

Parawise Comments by the Department



Para (1) Denied. The identical and similar goods valuation methods provided in sub-sections (5) and (6) of section 25 of the Customs Act, 1969 provided some reference values but due to wide variations in the declarations the same could not be relied upon exclusively. A Local market enquiry in terms of sub-section (7) of section 25 of the Customs Act, 1969 was also conducted. Input and feed back by the participants



during the stakeholders' meetings were also considered. All the available information was analyzed and evaluated. Keeping all the above in view, customs values of different types of valves were, determined under sub-section (9) of section 25 of the Customs Act, 1969 vide Valuation Ruling No. 907/2016 dated 12-08-2016.

Para (2) Denied. In this connection, it is submitted that local market enquiry findings of different types of brass valves and calculations are available and the customs values were determined under section 25 (9) of the Customs Act, 1969. It may be added that the profit's margin, of the importers, wholesalers, retailers, duty and taxes and misc expenses were taken into account. The computed value method as provided in section 25(8) of the Customs Act, 1969, could not be applied as the conversion costs from constituent material at the country of export were not available. The basic raw material of brass is zinc and copper and its values could not be considered as US\$ 2.80/kg.

Para (3) Denied. It is submitted that the customs values are being determined under section 25 read-with section 25A of the Customs Act, 1969, for uniform assessment of imported goods at all customs stations within the limitation of Customs Rules, 2001. The basic objection of the learned counsel for the petitioner against higher assessment inter alia is that under the provisions of section 25 of the Customs Act, 1969, a procedure having been laid down for purposes of valuation, learned counsel for the petitioners read the provisions of section 25, 25A and 25B before this court in support of what he has contended. When a system is laid for purposes of valuation, it has to be adhered to and appreciation of any evidence in this respect has to be in conformity with what is prescribed because otherwise depending on something outside the laid methodology would amount to an aberration and upon hearsay and can damage the requirement given by the law.

Para (4) Denied. A local market enquiry in terms of sub-section (7) of section 25 of the Customs Act, 1969 was also conducted and obtained different types of valves. Input and feed back by the participants during the stakeholders' meetings were also considered. All the available information was analyzed and evaluated. Keeping all the above in view, Customs values of different types of valves were, determined under sub section (9) of section 25 of the Customs Act, 1969 vide Valuation Ruling No.907/2016 dated 12-08-2016. It is submitted that the meeting was held with stakeholders on 31-05-2016 and called respective associations and FPCC&I, who represent the importers of the subject goods were also invited and associated while determining the customs value of valves.

Para (5) It is submitted that the documents submitted by the petitioner has been examined and observed that their declared value are US\$ 0.494/kg, while, they have admitted that the prices of brass valves in China at US\$ 2.80/kg. The declared value of the petitioner is about 466% underinvoiced. The petitioner may be asked to substantiate





their declared value in terms of section 25(11) of the Customs Act, 1969, the burden of proof shifted to the petitioner.

13. It is respectfully prayed that the existing valuation ruling No. 907/2016 dated 12-08-2016 was issued in the light current price trend. Section 25 (1) (5) (6) & (7) were exhausted and finally section 25 (9) was found applicable for determination of customs value, in which different type of valves were covered for uniform assessment all stations of customs. Accordingly, Honourable Director General may graciously be pleased to set aside the petition made by the Applicant in the instant review application and maintained the valuation ruling No. 907/2016 dated 12-08-2016 issued under section 25A of the Customs Act. 1969.

### ORDER

14. Hearings were fixed on 29-11-2016 and 15-12-2016. No one appeared to defend the case nor submitted any required documents. However, the petitioner filed instant petition on 19-08-2016 being aggrieved with the ruling No.907/2016 dated 12-08-2016. They stated that the complete valves containing sets of assorted materials mixed (metallic non-metallic) according to usage bear atmospheric, pressure or are made for hydraulic boiler, steam etc. Each valve has different structure of body.

- (i) The plumbing valves main body structure is made of brass, slag, dross and ores 40% in weight in layers.
- (ii) 30% in weight in material is of cast iron with flux of anti rust parts like hook, spring, stud, locking, screw, safety and handle.

15. The petitioner further stated that contrary to the above facts valuation ruling has been determined on very higher side which is arbitrary and unjustified because the calculation of material cost used in the product has not been taken into account at the time of determination of customs values in terms of section 25 and 25-A of the Customs Act, 1969. The respondent department submitted reply against the written arguments submitted by the applicant. The department asked the petitioner to submit import documents to substantiate their point of view against the determined customs values. But the applicant did not submit any material evidence in support of their claim nor attended any meeting to justify their contention. It is thus evident that the petitioner was not interested in furnishing valid and legally maintainable documents like sales contract, import invoice, bill of lading, sales tax invoices so as to enable this forum to verify truth and accuracy of transaction value under section 25(1) ibid as per Rule 109 of the Valuation Rules issued under SRO 450(1)/2001 dated 18<sup>th</sup> June 2001 (Chapter-X), in the absence of valid import documents, the burden, to prove correctness of transactional shifts to the importers/petitioner. Non submission of valid import documents and non appearance to defend their stance clearly manifests that the petitioner failed to substantiate their case with any conclusive evidence.

16. In view of aforesaid position, factual improprieties and legal infirmities, the revision petition is not maintainable, merits no consideration and is accordingly rejected.

  
(Syed Tanvir Ahmad)  
Director General

Registered copy to:

M/s Hameed & Yaser International,  
106, Uni Tower, I. I. Chundrigar Road, Karachi.

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2. Chief Collectors Customs Appraisalment (South)/Enforcement, Karachi/  
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Preventive, Karachi.
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5. Director, Customs Valuation, Karachi/Lahore.
6. Deputy Director (HQ), Directorate General of Customs Valuation, Karachi for uploading  
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7. Asstt. Director (Review), Karachi.
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