

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACHI

File No. DG (V)/Val.Rev/968/2016

Dated: 05 January, 2017

**Order in Revision No. 285/2017 under section 25-D of the Customs Act, 1969**  
**against Valuation Ruling No.976/2016 dated 24-11-2016**

- 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. Quick Foods Industries (Pvt) Ltd

..... PETITIONER

VERSUS

Director, Customs Valuation, Karachi

..... RESPONDENT

Date(s) of hearing

09-12-2016

For the Petitioners

Mr. Talib Zaki

For the Respondent

Mr. Abdul Majeed, Assistant Director

This revision petition was filed under section 25-D of the Customs Act, 1969 against customs value determined vide Valuation Ruling No.976/2016 dated 24-11-2016 issued under section 25-A of the Customs Act, 1969, inter alia, on the grounds mentioned in succeeding paragraph:

2. We are pleased to mention here that only in the year 2015-16, we contributed PKR 139M as duties and taxes only at import stage, this figure was PKR 95M in the year 2014-15, in the current year 2016-17 an expected contribution under duties & taxes is PKR 200M only at import stage & other heads of payments are defiantly will make us a major contributor in revenue collection of Pakistan.

3. The subjected impugned valuation ruling is not applicable in our imports on the basis of the following facts.

- 1) We did not avail any concessionary SRO or Ruling and always declared the fair transactional value (actual value of import) which is much higher than the available in valuation

ruling 842/2016, dated 02-05-2016 i.e. US\$ 0.70/kg or any other valuation ruling before valuation ruling 842/2016.

- 2) We import McCain French fries 9 MM, 6 MM & other products from McCain Foods (India) Pvt Limited through banking instruments LCs. (Bank Contracts).
- 3) M/s McCain Foods (India) Pvt. Limited is a manufacturer of McCain French fries in S.H. Milestone #54 PO Box, Baliasan Distt. Mehsana Gujarat 382732 India since fifteen years whereas while fixing the value of our imported product McCain Foods (India) Pvt Limited it is presumed by the learned director valuation that the plant of aforesaid company is new and therefore its cost of production is higher which is incorrect and mere assumption.
- 4) Our country of export of India / origin of goods is in India we are the only sole importer of French fries from India McCain Foods (India) Pvt Ltd and our share of import of French fries in the country is more than 50% of the total imports of French fries in Pakistan and all imports are Lc based i.e. through banks which clearly proves our bonafides.
- 5) Being the largest importer of French fries the company also gives quantity discount to our company.
- 6) We import French fries from McCain India as low fair, low cost, low duty and taxes due to SAFTA and increase in the value of our imported product on the basis of assumption is illegal and without jurisdiction and against the doctrine of justice laid down in the constitution of Pakistan under Article 10-A.
- 7) Following history of valuation ruling (VR) and declare value (DVs) is also noticeable:

Date	VR No	VR – Assessable Value US\$ / KG				Remarks
		Other Branded/ Unbranded	Other Branded/Un branded DV	McCain Brand (Our VR Value	Our DV	
Oct-11			0.45 to 0.83		1.067	No VR issued till the time
7-3-13	542/13	0.85	0.85	0.85	1.02 – 1.08	VR of only Unbranded was 0.70 our DV was 25% higher than VR
18-2-14				0.85	1.06 – 1.09	Price increased by McCain & same had been reflected in our commercial invoices/DV





2-5-16	842/16	0.70 – 0.90	0.80	0.70	1.02 – 1.08	Other importers took advantage of reduction in VR(0.85 to 0.80), our DV remain 46% higher than our VR
13-8-16	230/16	1.30 – 1.70		1.28	1.06 – 1.08	Our case under process in Customs Tribunal/GDs being released under Section 81

4. We are the law abiding citizen of Pakistan and always work according to the law of the land. We believe in fair transaction value and did not take any advantage of ruling being patriotic citizen of Pakistan.

5. In the light of above submissions, you are requested to give an opportunity of hearing to further explain our case and assist your honor in reviewing the value.

6. 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:

7. Briefly of subject issue is that consequent upon representation by commercial importers, regarding re-determination of Valuation Ruling No.842/2016 dated 02-05-2016 of Potato Frozen French Fries, due to downward trend in international market prices an exercise was undertaken to re-determine the Customs Values, in terms of Section 25-A of the Customs Act, 1969. Meetings were held on 17-11-2016, with all the stakeholders of subject goods and representatives of clearance Collectorate who participated in the meetings. All the stakeholders strongly contended and requested that the said valuation Ruling may be reviewed in the light of prevailing international market prices. This trend needs to be revised downward; otherwise these products will find their way into market through illegal routes and under the garb of various cargoes. This will create a grey area which will adversely affect the bona-fide trade of the country. Therefore, valuation ruling price may be revised to save the commercial genuine importers. It was also highlighted that the subject goods are perishable items and therefore have got limited shelf life, consequently, near the expiry dates, these perishable items are sold on sale and discounted prices. It was further contended by the traders that since the subject goods are mainly being sold on super and general stores; therefore, a lot more expenses (shelf rent, marketing expenses etc.) are contributed at retail level which cannot be managed without adding extra value to the subject goods. The importers contended that all these factors may also be considered in fixing value of subject goods. Valuation methods provided in section 25 of the Customs Act, 1969 were duly followed and applied sequentially to address the valuation issue at hand. Transaction value method provided in sub-section (1) of Section 25 was found inapplicable because it is generally known to all that majority of invoices produced at import stage are manipulated/fabricated and hence the requisite information required under the law was not available to arrive at the correct transaction value. Identical / similar goods value method provided in Sub-Sections (5) & (6) of Section 25 ibid





were examined for applicability to determine Customs value of subject goods, this data provided some references, however, it was found that the same cannot be solely relied upon due to the absence of absolute demonstrable evidence of qualities, and quantities of commercial level etc., and also it was observed that same importers provide misleading description while declaring goods, as other types and varieties of similar goods to avoid the application of valuation ruling. Information available was, hence, found inappropriate. In line with the statutory sequential order of section 25, this office then conducted a market inquiry using deductive value method under sub-section (7) of the section 25 of the Customs Act, 1969, however, it was found that the determination of Customs value could not be based solely upon this method either. Therefore, valuation method provided vide section 25 (8) of Customs Act 1969, could not be applied as the conversion cost from constituent materials and allied expenses, at country of export were are not available. Finally, Pral database, market information and international prices through Web were examined thoroughly. All the information so gathered was analyzed for determination of Customs Value of the subject good. Consequently, the fall back method as provided under section 25(9) of the Customs Act, 1969 was applied to arrive at assessable customs values of Potato Frozen French Fries and Valuation Ruling No. 976 dated 24-1-2016 is issued under section 25A 1 of the Customs Act, 1969.

8. Parawise Comments of the Valuation Department

Para (1): Meetings were held on 17-11-2016, with all the stakeholders of subject goods and representatives of clearance Collectorate who participated in the meetings. All the stakeholders strongly contended and requested that the said valuation ruling may be reviewed in the light of prevailing international market prices. This trend needs to be revised downward; otherwise these products will find their way into market through illegal routes and under the garb of various cargoes. This will create a grey area which will adversely affect the bona-fide trade of the country. Therefore, valuation ruling price may be revised to save the commercial genuine importers. It was also highlighted that the subject goods are perishable items and therefore have got limited shelf life, consequently, near the expiry dates, these perishable items are sold on sale and discounted prices. It was further contended by the traders that since the subject goods are mainly being sold on super and general stores, therefore, a lot more expenses (shelf rent, marketing expenses etc.) are contributed at retail level which cannot be managed without adding extra value to the subject goods. The importers contended that all these factors may also be considered in fixing value of subject goods. Valuation methods provided in Section 25 of the Customs Act, 1969 were duly followed and applied sequentially to address the valuation issue at hand. Transaction value method provided in Sub-Section (1) of Section 25 was found inapplicable because it is generally known to all that majority of invoices produced at import stage are manipulated/fabricated and hence the requisite information required under the law was not available to arrive at the correct transaction value. Identical / similar goods value method provided in sub-sections (5) & (6) of section 25 ibid were examined for applicability to determine Customs value of subject goods, this data provided some references,





however, it was found that the same cannot be solely relied upon due to the absence of absolute demonstrable evidence of qualities, and quantities of commercial level etc., and also it was observed that same importers provide misleading description while declaring goods, as other types and varieties of similar goods to avoid the application of valuation ruling. Information available was, hence, found inappropriate. In line with the statutory sequential order of section 25, this office then conducted a market inquiry using deductive value method under sub-section (7) of the section 25 of the Customs Act, 1969, however, it was found that the determination of customs value could not be based solely upon this method either. Therefore, valuation method provided vide section 25 (8) of Customs Act 1969, could not be applied as the conversion cost from constituent materials and allied expenses, at country of export were are not available. Finally, PRAL database, market information and international prices through Web were examined thoroughly. All the information so gathered was analyzed for determination of customs value of the subject good. Consequently, the fall back method as provided under section 25(9) of the Customs Act, 1969 was applied to arrive at assessable customs values of Potato Frozen French Fries and Valuation Ruling No.976 dated 24-1-2016 is issued under section 25A 1 of the Customs Act, 1969.

Para (3): It is humbly requested to set-aside the petition being devoid of merits.

9. It is respectfully prayed that the Customs Values of subject goods were determined after associating all the possible relevant stakeholders and following the valuation methods as laid down in Section 25 of Customs Act, 1969 and finally customs values were determined under section 25(9) of Customs Act, 1969 after obtaining the local market prices and deductions of profit margin and duty & Taxes. Accordingly the appeal has no merit for consideration and is liable to be rejected.

### ORDER

10. The case record and written as well as verbal submission of the petitioner's were examined. The petitioner stated that the prices have been determined on higher side whereas import prices of the subject item are available on lesser side on international market as well as in the local market.

11. Accordingly, a market survey was conducted. The survey revealed that some values are correct. The contention of the importer that value of frozen French fries was fixed at US\$ 1.20/kg from USA, US\$ 1.15/kg from Europe and US\$ 1.22/kg from India does not make sense as freight from India is much less than USA and Europe. So it should be reduced accordingly. Therefore, customs values of 'McCain' brand potato frozen french fries Indian origin is revised @ US\$ 1.12/kg and 'McCain' brand Spicy Peri Peri Fries/Smile Fries imported from all origins are revised @ US\$ 2.50/kg.

(Syed Tanvir Ahmad)  
Director General

Registered copy to:

M/s Quick Food Industries (Pvt.) Ltd.  
138-D, P.E.C.H.S., Block-2, Tariq Road, Karachi-75400.

Copy to:

1. Member (Customs), FBR, Islamabad.
2. Chief Collectors Customs Appraisement (South)/Enforcement, Karachi/  
(North) Islamabad/(Central) Lahore.
3. Collector, MCC Appraisement (East)/ Appraisement (West)/Port M. Bin Qasim/  
Preventive, Karachi.
4. Collector, MCC, Appraisement/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.