



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

The Collectors of Customs, Collectorate of Customs, (Appraisement - West / Appraisement - East / Appraisement - Port Muhammad Bin Qasim / Enforcement JIAP / Export / Export (PMBQ), Karachi / Hyderabad / (Appraisement / Enforcement), Quetta / Gawadar / (Appraisement / Enforcement / AIIA), Lahore / Appraisement, Faisalabad / Appraisement Sambrial (Sialkot) / Enforcement, Multan / Islamabad / Gilgit - Baltistan / (Appraisement Enforcement), Peshawar / Enforcement, Dera Ismail Khan.

DETERMINATION OF CUSTOMS VALUES OF SECONDARY QUALITY FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, HOT ROLLED (HR), UNDER SECTION 25A OF THE CUSTOMS ACT, 1969.

(VALUATION RULING NO. 1665 /2022)

File No. Misc/32/2007-VI/650

Dated: - 24-06-2022



In exercise of the powers conferred under Section 25A of the Customs Act, 1969 (herein after referred to as "the Act"), the Customs values of Secondary Quality Flat-Rolled Products of Iron or Non-Alloy Steel, Hot Rolled (HR) are determined as follows: -

2. Background of the valuation issue: Customs values of HRC (Secondary quality) was determined vide Valuation Ruling No. 1213/2017 dated 29-09-2017. The Valuation Ruling was set aside by the Honorable Sindh High Court vide Order dated 02-11-2020 in C.P. No. 340 of 2018 in the following terms:

"Questions No.1 and 2 are answered in Negative against applicant and in the favour of respondents. Whereas, questions Nos 3,4 and 5 are answered in affirmative against applicant and in favour of respondents. Respondents consignments are, therefore, are to be assessed on transactional value in accordance with law. The surety furnished by the respondents may be discharged"

Subsequently, the department has filed CPLA 1525-K/21 before the Hon'ble Supreme Court of Pakistan against the afore-mentioned judgment of the Hon'ble High Court of Sindh. But to date there is no stay order received by the Department. Therefore, the afore-referred Valuation Ruling is no more in field. In the meanwhile the Parliament of Pakistan introduced an amendment to Sub-Section (1) of Section 25A of the Act, vide Finance Act, 2021 by inserting the following new Proviso to Section 25A of the Act:

“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 of indenters of such goods.”

Representations were received through the Board vide its letter C.No. 3(2)/S.Val/2020-B dated 16-11-2021, Collectorate of Customs (Appraisement – Port Qasim) vide its letter No. Group-V-690-2020-PQ/894 dated 05-11-2021, followed by numerous reminders, and other field formations for the redetermination of Customs Value on the alleged “group under-invoicing” in imports of secondary quality of HRC. Some importers also approached this Directorate General for re-determination of Customs Value of subject goods for uniformity of assessment. The Custom clearance data reflected that certain GDs had been declared at value less than iron and steel scrap, which raised doubts that certain unscrupulous importers were involved in gross-under invoicing inflicting considerable loss to the public exchequer. Therefore, an exercise was initiated for redetermination of Custom values of secondary quality HRC according to prevalent prices, in terms of Section 25A of the Act, as amended to date.

3. Stakeholders' participation in determination of Customs values: Meeting with stakeholders were held on 15-11-2021, 11-01-2022 and finally on 01-03-2022. The meeting was attended by the officers and staff of Appraisement Collectorates of South Region, local manufactures and importers. The importers were requested to submit the following documents so that correct customs values could be determined: -

- i. Invoices of imports during last three months showing factual value.
- ii. Websites, names and E-mail addresses of known foreign manufacturers of the item in
- iii. Question through which the actual current value can be ascertained.
- iv. Copies of Contracts made / LCs opened during the last three months showing the value of item in question.
- v. Copies of Sales Tax Invoices issued during last four months showing the difference e in price (excluding duty and taxes) to substantiate that the benefit of different in price is passed on to the local buyers.



4. The local manufacturers of iron and steel sheets were of the view that 15% differential quotient on secondary quality from the prime quality given in erstwhile VR No. 1213/2017 is sufficient and needs to be retained for future. The importers, on the other hand, contended that



differential of 15% given in said valuation ruling did not reflect actual variation of transactional values and needs to be revised as per prevailing difference from London Metal Exchange (LME) prices of prime quality goods quoted in London Metal Bulletin (LMB), which ranges upto 40% to 50% and is verifiable from the transactions being made through Electronic Import Forms (EIFs). They also contested that freight charges may also be adjusted as per prevailing freight charges applicable on different countries of origin. Pakistan Iron and Steel Merchants Association (PISMA) and Karachi Iron and Steel Merchants Association (KISAM) also submitted proposal that differential for secondary quality may be allowed to upto 38% price of prime quality. Manufacturers M/s Aisha Steel Mills Ltd and M/s International Steel Limited argued that difference between prime and secondary quality has been correctly notified in the previous Ruling and may be maintained accordingly. They further argued that the importer's contention regarding increase in difference mainly stems from increasing price trend of prime quality steel coils as published in LMB. M/s International Steel Limited submitted import documents/sales tax invoices of their imports of similar products and explained that trade difference between prime and secondary quality iron and steel products is no more than 4% in the international market and suggested that differential may be given not more than 20% on secondary quality steels. They also submitted sales tax invoices, export documents and quotations from international suppliers of steel in support of their argument. Input was also solicited from the Collectorates of Appraisement (East/West/ Port Qasim). The attending officers of the Collectorates commented that differential as already given in previous VR No. 1213/2017 seems rational and may be adjusted marginally. However, they also opined that since there is repetitive misuse of letter of credit and Contract Prices, it would be prudent to categorically take date of import for LMB price for uniform assessment to safeguard revenue. They further argued that it would be more transparent to assess the values of steel products with less discretion of assessing officers. The representative of Collectorate of Appraisement (West) also explained the formula for the steel products imported from countries which do not fall under economic zones/ Regions of LME (non-listed countries) and the same is being assessed by taking average LMB price of four zones as per formula in vogue which is implemented and accepted by trade since 2007. Some importers argued that LME prices are relevant only in case of prime quality steel products and there is somewhat loose link of international prices of secondary quality steel with prime LME prices. Instead there are many different qualities within secondary quality and international market prices also depend on demand and supply gap. Therefore, secondary quality steel may not be linked with LME prices of prime quality and if so done then differential factor should not be less than 40%. It was also observed by



the participants that LME prices fluctuate from day to day, week to week and month to month. The fluctuations are minor sometimes and vary abnormally on other times. For example, only in the month of June, 2022 LME prices more than halved in only one month and previously jumped by 40% in the month of April. In absence of hedging secondary quality iron & steel prices with LME prices of prime quality iron & steel, this international price volatility creates problem for government revenue on one hand when the international prices are decreased and on the other hand extra burden of duties and taxes is shifted on trade when the international prices increase. This is observed to be a "lose-lose" scenario for both trade and government revenue. In case hedging is not done with LME, there will be a continuous month to month need to revise the Valuation Ruling that will definitely lead to business uncertainty, hurt the trade and domestic industry for whom this iron & steel import is a primary raw material. Therefore, a consensus was developed among the participants that linking secondary quality value with that of LME values of prime quality steel will be a more sustainable and reliable benchmarking, which has been now legally provided by the legislature in amended Section 25A of the Act. However, the extent of price differential thereof should be based on some meticulous working to reflect the trading realities.

5. Method adopted to determine Customs values: All the stakeholders were given adequate and sufficient opportunity of hearing in three different stakeholders meetings, as explained above. Valuation methods provided in Section 25 of the Act, 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 sufficient information with respect to adjustments to be made to the transactional value in terms of Section 25(2) was not available and hence the requisite information required under the law was not available to arrive at the correct transaction value. "Identical goods method" provided in Sub-Sections (5) of Section 25 was examined and considered for applicability to determine Customs value of subject goods. This data was limited and provided some reference, 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. in respect of legal definition and allied pre-requisites of "identical goods" method. The "Similar Goods Method" provided in sub-section (6) of Section 25 of the Act was then considered for application. A lot of information regarding "similar goods" was found available in the last 90 days Customs import data that included various origins, comparable quantities / commercial levels and values thereof. The said data from different origins including China, North America, EU, UK, CIS, Russia, Middle East, Far East and other specific regions and countries was statistically analyzed, excluding outlier values, in terms of standard deviation, mean, mode, median and

weighted averages in respect of HRC of secondary quality. The variation / dispersion of data established that the import prices vary with the variation in prices of respective prime quality steel as reflected in the LME prices for the respective countries / regions provided therein. The similar goods data further revealed that the weighted average variation for secondary HRC prices varied from different origins. In line with the statutory sequential order of Section 25, the market inquiry using Deductive Value Method under Sub-Section (7) of Section 25 of the Act, was not found feasible as the HRC is not freely sold in open market. Valuation method provided vide Section 25 (8) of the Act, could not be applied as the precise conversion cost for constituent materials and allied expenses, at countries of export were are not available. International prices through Web and LMB Prices within the meanings of proviso to the Section 25A (1) of the Act (inserted vide Finance Act, 2021) were examined thoroughly. Keeping all the factors in view and after carefully analyzing all the available information from different sources, the reliance was made on the Similar Goods Method under Section 25(6) of the Act, read with proviso to Section 25A (1) *ibid*, to determine the Customs Value of the subject goods.

6. **Customs values for Secondary Quality Flat-Rolled Products of Iron or Non-Alloy Steel, Hot Rolled (HR) hereinafter specified** shall be assessed to duty / taxes at the following Customs Values:

| S. No. | Description of goods | PCT | Proposed PCT for WEBOC | Origin | Customs Values (C&F) USS/Kg |
|--------|--|--|--|-------------|--|
| (1) | (2) | (3) | (4) | (5) | (6) |
| 01 | Secondary Quality Flat-Rolled Products of Iron or Non-Alloy Steel, Hot Rolled (HR) | 7208.1010 7208.2510 7208.2610 7208.2710 7208.3610 7208.3710 7208.3810 7208.3910 7208.4010 7208.5110 7208.5210 7208.5310 7208.5410 7208.9010 | 7208.1010.1000 7208.2510.1000 7208.2610.1000 7208.2710.1000 7208.3610.1000 7208.3710.1000 7208.3810.1000 7208.3910.1000 7208.4010.1000 7208.5110.1000 7208.5210.1000 7208.5310.1000 7208.5410.1000 7208.9010.1000 | All origins | LMB prices of HRC prime quality of respective origins; Less 30% (on account of secondary quality difference) and add actual freight. |

Note: LMB price may be taken from the L/C date or B/L date, whichever is earlier.




7. In cases where declared values are higher than the Customs values determined in this Ruling, the assessing officers shall apply those values in terms of Sub- Section (1) of Section 25 of the Act, read with Section 25A (2) *ibid*.

8. **Validity of this Valuation Ruling:** The values determined vide this Ruling shall be the applicable Customs value for assessment of subject imported goods until and unless it is rescinded or revised by the competent authority in terms of Sub-Section (4) of Section 25A of the Act, read with Rule 107(a), sub-chapter-1, Chapter IX, of the Customs Rules, 2001.

9. **Revision of the value determined vide this Valuation Ruling:** A revision petition may be filed against this Ruling, as provided under Section 25D of the Act, within 30 days from the date of issuance of this ruling, before the Director General, Directorate General of Customs Valuation, 7th Floor, Custom House, Karachi.

10. The Collectors of Customs may kindly ensure that the values given in this Valuation Ruling for the given description of goods are applied by the concerned staff without fail. Any anomaly observed may kindly be brought to the notice of this Directorate General immediately for redressal. Customs values determined in the ruling are for the description and specification as mentioned in the tables above of this Ruling. PCT Codes are mentioned for illustrative purposes so that valuation ruling values are made accessible to the assessing officers. The assessment shall be finalized on the basis of correct classification after fulfilling requisite formalities related to importability or any other certification required thereon. In addition to this, it is further necessary to verify that there is no mis-declaration of any sort or violation of Import Policy Order or Section 15 of the Act, or any other law in vogue therein.


(Syed Fawad Ali Shah)
Director

Copy for information to: -

- 1) The Member Customs (Policy/Operations), F.B.R., Islamabad.
- 2) The Director General, Customs Valuation, Custom House, Karachi.
- 3) The Chief Collector of Customs, South (Appraisalment), Custom House, Karachi.
- 4) The Chief Collector of Customs, South (Enforcement), Custom House, Karachi.
- 5) The Chief Collector of Customs Enforcement (Central), Lahore.
- 6) The Chief Collector of Customs Appraisalment (Central), Lahore.
- 7) The Chief Collector of Customs (North), Islamabad.
- 8) The Chief Collector of Customs, Balochistan, Custom House, Quetta.
- 9) The Chief Collector of Customs, Khyber Pakhtunkhwa, Custom House, Peshawar.

- 10) The Director General, Intelligence and Investigation-FBR, Islamabad.
- 11) The Director General, PCA & Internal Audit, Karachi.
- 12) The Director General, IOCO, Karachi
- 13) The Director General, Transit Trade, Custom House Karachi
- 14) The Directors, Intelligence & Investigation, Karachi / Lahore / Islamabad/ Quetta/ Peshawar/ Faisalabad.
- 15) The Director, Transit Trade, Custom House Karachi
- 16) The Director, Directorate of Customs Valuation, Lahore / Peshawar / Quetta.
- 17) The Deputy Director (HQ), Directorate General of Customs Valuation, Karachi, for uploading in One Customs & WEBOC database system.
- 18) The Chairman (Valuation Committee), FPCC&I, Federation House, Clifton, Karachi.
- 19) The Chambers of Commerce & Industry, Karachi, Lahore, Islamabad, Hyderabad, Quetta & Peshawar.
- 20) The Karachi Customs Agents Group, Bohri Road, Karachi.
- 21) The Webmaster, Federal Board of Revenue, Islamabad.
- 22) Guard File.