

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special Customs Reference Application 1059 of 2024

| DATE | ORDER WITH SIGNATURE OF JUDGE |
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- 1. For orders on office objection
- 2. For hearing of main case
- 3. For orders on CMA No.4810/2024

13.10.2025

Mr. Khalilullah Jakhro, advocate for the applicant

This reference application assails judgment dated 17.10.2024 rendered by the learned Customs Appellate Tribunal in Customs Appeal No.K-3056/2024.

Briefly stated, an identical consignment was imported by the same party in April, 2024. The applicability of the VR was challenged and the same was revised to the benefit of the importer. In the interim period, the same importer imported identical goods and sought for the release of the same upon the revised VR. The contention was adjudicated up to the Tribunal, which was pleased to maintain in favour of the importer. The relevant observations and findings are reproduced herein below:-

“6. I have gone through the case record and have also examined the arguments submitted by both sides. The main issue involved is that whether or not Valuation Ruling no 1899/2024 issued on 05.07.2024 in consequence of Order-In-Revision no 30/2024 dated 12.06.2024 is applicable retrospectively upon the subject goods "Portable Mobile Speaker" retrospectively. The Appellant Department contention is that since GD KAPE- HC-8057 has been filed on 21.06.2024, therefore Valuation Ruling no 1899/2024 dated 05.07.2024 is not applicable upon subject GD despite of pendency of Revision Petition before Revisional Authority. "Whereas the Counsel of the Respondent contended that Murad Electronics filed Revision Petition No 1565/2024 dated 03.04.2024 against Valuation Ruling no 1868/2024 dated 29.03.2024 (Portable Mobile Speaker with options below 4" serial no 5 Table -A) for revision of value at serial no 5 alongwith other with other stake holders. After detailed examination & deliberation with other stake holders, Provisional Authority vide Order - In - Revision No 30/2024 dated 12.06.2024 vide Para 7 directed the respondent department (Director of Valuation) to re-visit the values within a period of three weeks and issue fresh Valuation Ruling after affording opportunity of hearing. Consequently, the Value of "Portable mobile Speaker China below 4" (serial no 5 of Table -A) has been revised from US\$1.00 per PC to US\$0.55 per PC vide fresh Valuation Ruling no 1899/2024 dated 05.07.2024. Since the new Valuation Ruling 1899/2024 dated 05.07.2024 has been issued as per specific directive of Director General Customs (Valuation), Karachi to re-visit vide order contained at Para 7 of aforesaid Order-In-Revision, during the pendency of Revision Petition. The fresh Valuation Ruling no 1899/2024 dated 05.07.2024 has been issued which is as under

Annexure –A

| Serial No.1 | Description | HS Codes | Origin | Customs value US\$ |
|-------------|---|--|------------|--------------------|
| 5 | Mini Mobile Speaker with options below 4" (1 PC only) | 8518.2100.1040 8518.2200.1040 8518.2990.1040 | All origin | US\$ 0.55 per PC |

7. It is pertinent to note here that previous Valuation Ruling No. 1868/2024 dated 29.03.2024 (serial No.5) at US\$1.00 per PC China origin was on higher side. The Director General of Valuation, noted the aspect of high valuation, remanded the matter to the Director Valuation for re-visit & issuance of fresh Valuation Ruling. Consequently, the Director of Valuation revised the value from US\$1.00 per PC to US\$0.55 per PC.
8. That the Honorable High Court of Sindh at Karachi vide Reported Judgment 2015 PTD 22 (Collector of Customs through Additional Collector of Customs V/s Khas Trading Co in identical case reported as under:
9. I have heard the learned counsel for the parties and examined the record. It is clear and obvious that the valuation Ruling No 350 dated 2-7-2011 was sought to be revised by way of revision application. The subsequent ruling is a result of such revision and would be deemed to have taken effect from the date when the original ruling was given. There is no lawful or logical reason to burden the petitioner with the effects of an valuation ruling, which the department itself found to be erroneous. The argument of the learned counsel for the Respondent that the subsequent ruling cannot have retrospective effect has not impressed me."
10. It is settled law that the benefit of ambiguity or error, if any, relating to status or the interpretation of ruling must go to the taxpayer. Further, the department itself has, after considering all facts and circumstances, arrived at the conclusion that the rates fixed in the earlier ruling were excessive and there is consensus between the parties that the subsequent ruling is based upon all relevant factors as incorporated and visualized in section 25 of the Customs Act. I, therefore, find substance in the argument of the learned counsel for the petitioner that it is just and fair that this provisional assessment be finalized on the basis of latest Ruling under section 25-A of the Customs Act, 1969. Even otherwise, it is just and fair that the petitioner may be given the benefit of the revised ruling.
11. In view of above, the previous Valuation Ruling No.1868/2024 dated 29.03.2024 (serial No.5) was on higher side, same was found defective, got revised by subsequent Valuation Ruling No.1899/2024 dated 05.07.2024, as such the fresh Valuation Ruling is applicable retrospectively. The Customs Appeal filed by the Collectorate is dismissed. The Appellant (Department) is directed to assess as per Valuation Ruling no. 1899/2024 dated 05.07.2024 at US\$ 0.55 per piece.
12. The case is disposed of in the above mentioned terms."

While numerous questions of law were proposed, they were primarily found to be argumentative. For the purpose of this reference it is appropriate to clinch the controversy by deciding the following question of law:-

- Whether the learned Customs Appellate Tribunal erred in law by overlooking that the assessment of the subject goods was made in accordance with Valuation Ruling No.1868/2024, dated 29.03.2024, which was in force and applicable at the

time of import and by misapplying the fresh valuation ruling, as retrospectively?

In our considered view the question framed for determination is clinched in favour of the importer by virtue of Divisional Bench judgment of this Court in the case of *Collector of Customs v. Khas Trading Co* reported as 2015 PTD 22, therefore, *mutatis mutandis* application of the reasoning and exposition of law illumine the question framed for determination is answered in favour of the respondent and against the applicant department. As a consequence, this reference application is dismissed in *limine*.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.

Judge

Judge

B-K Soomro