

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. NO. D-5382 / 2020
Olympia Trading Co. v Federation of Pakistan & Others

Date	Order with signature of Judge
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PRIORITY.

- 1) For orders on office objection No. 10 & 18.
- 2) For hearing of CMA No. 22941/2020.
- 3) For hearing of main case.

18.11.2020.

Mr. Shehzada Mazhar Advocate for Petitioner.
Mr. Kafeel Ahmed Abbasi Deputy Attorney General.

Through this Petition the Petitioner has sought directions against Director Customs, Valuation to issue a Valuation Ruling of the products i.e. PVC/UPVC, CPVC Solvent Cements in terms of Section 25-A of the Customs Act, 1969.

Notice was ordered and today Mrs. Masooda Siraj has affected appearance on behalf of Respondents and seeks time to file Vakalatnama and comments.

However, learned Counsel for the Petitioner submits that a very short point is involved, whereas, he comes from Lahore therefore, Petition can be heard and decided without filing of comments. According to him, the Petitioner imports US origin PVC/UPVC, CPVC Solvent Cements and approached Director Valuation under Section 25-A of the Act for issuance of a Valuation Ruling as other importers were involved in heavy under invoicing, and thereafter, a meeting was called through notice dated 10.09.2019; but the issue was never decided finally. According to him, in terms of Section 25-A any person can approach the Director Valuation for issuance of a Valuation Ruling; hence, he may be directed to issue the Valuation Ruling of the goods in question under Section 25-A of the Act. In the alternative he has prayed that at least an order for rejection be passed. In support he has relied upon ***M/s. Toyo International Motorcycle V. Federation of Pakistan and 3 others (PTCL 2008 CL 409)***.

We have heard the learned Counsel for the Petitioner and perused the record. At the very outset, we had confronted the learned Counsel as to maintainability of this Petition and the relief being sought inasmuch as

though in terms of Section 25-A of the Act, any person can approach the Director of Customs Valuation to determine customs value of any goods imported into or exported out of Pakistan; however, as to what vested right accrues in favour of the Petitioner, if no Valuation Ruling is issued. He could not satisfactorily respond and made reference to the judgment reported as ***M/s. Toyo International Motorcycle*** (supra). With respect the said judgment is not at all relevant to the issue in hand. In our view, merely for the fact that an importer can approach the Director of Customs Valuation under Section 25-A, it does not necessarily compel the Director Valuation to issue Valuation Ruling in all such cases. Moreover, Section 25-A provides that the Director ***may determine*** the value, and not ***shall determine*** the value. Therefore, in our view no right accrues to an importer to seek a writ against the Director Valuation for issuing a Valuation Ruling.

The law of assessment of imported goods is primarily governed by Section 25 of the Act and not 25-A, whereas, even all rulings under Section 25-A can only be issued by following the methods provided under Section 25 of the Customs Act. If there is no Valuation Ruling in field, the assessment has to be made under Section 25 of the Customs Act and mere non-issuance of a Valuation Ruling, as contended by the Petitioner, neither prejudices nor gives a cause of action to seek remedy by way of a Constitutional Petition in the manner it has come before us. The Petition appears to be wholly misconceived and amounts to sheer wastage of courts time; therefore, by means of a short order, the same was dismissed with cost of Rs. 10,000/- to be deposited in the account of Sindh High Court Clinic and these are the reasons thereof.

However, before parting, we may observe that this does not precludes or retrains the Petitioner from approaching the concerned Collectorates to assess the goods of persons allegedly involved in under invoicing in terms of s.25 of the Act, keeping in view the values declared by the Petitioner.

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Arshad/