

IN THE HIGH COURT OF SINDH AT KARACHI
Special Customs Reference Application No.348 of 2018

<i>Dated</i>	<i>Order with signature of Judge</i>
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PRESENT:

Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Arshad Hussain Khan

1. For hearing of CMA No.2848 of 2018.
2. For regular hearing.

28.11.2024

Mr. Iqbal M. Khurram, Advocate for Applicant.
None present for the respondents, despite being served.

ORDER

Through this reference application the applicant has impugned the order dated 01.04.2018 in Customs Appeals No.K-1449/2017 passed by the Customs Appellate Tribunal at Karachi, proposing various questions of law, however, on 05.09.2022 this reference application was admitted on question 'A' which reads as under:

"Whether in the light of facts and circumstances of the case, the learned Appellate Tribunal erred in law to hold that the Director (Valuation) is not authorized to determine the value of the imported goods in terms of Section 25-A of the Customs Act, 1969?"

2. Heard the learned counsel for the applicant and perused the record. Record reflects that the Director General of Customs Valuation had issued Valuation Ruling No.1071/2017 dated 06.03.2017 and the relevant observation of the Director Valuation in determining the values in question reads as under:

"5. **Method adopted to determine customs values:** valuation method given in Section 25 of the Customs Act, 1969 were followed. Transaction value method provided in Section 25(1) was found inapplicable because the requisite information was not available as per law. Identical similar goods value methods provided in Section 25(5) and (6) were examined which provides some reference values but not found helpful in determination of values due to variation in values. Market enquiry as envisaged under Section 25(7) of the Customs Act, 1969 could yield no results because the subject goods are industrial item. Online values were also checked. Since the manufacturers costs and raw material prices of producing the goods in question in the country of exportation were not available, computed value method as provided in Section 25(8) could not be applied for valuation of the aforesaid goods. All the information so gathered was evaluated and consequently reliance was placed upon Sub-Section (9) of Section 25 of

the Customs Act, 1969, and customs values of Non Cellular Rubber Sheet were determined under Section 25(9) of the Customs Act, 1969.”

3. The respondent was aggrieved and preferred a revision against such valuation ruling in terms of Section 25-D of the Customs Act, 1969 and the said revision was dismissed vide order dated 31.10.2017 with the relevant finding of Director General of Customs Valuation read as under:-

“4. After listening to the detailed discussions/arguments of the respondents/petitioners during hearing and perusal of case record it is evident that the Valuation Department had duly taken the stakeholders on board while issuing the impugned valuation ruling. The DR presented details of comprehensive market inquiry reports as available on record to support the values determined by them vide impugned Valuation Ruling No.1071/2017 dated 06.03.2017. The petitioners on the other hand failed to substantiate the cause of their grievance with conclusive evidence.

5. I, therefore, conclude that the Customs values of Non Cellular Rubber Sheet as notified vide the impugned Valuation Ruling No.1071/2017 dated 06.03.2017 under Section 25-A of the Customs Act, 1969 have been determined in accordance with law after taking into account the prevailing market realities. Therefore, the impugned valuation ruling is upheld and the petition being devoid of merit is hereby rejected accordingly.”

4. The respondent still aggrieved preferred appeal under Section 194-A of the Customs Act, 1959 before the Customs Appellate Tribunal and through the impugned order the appeal has been allowed.

5. On perusal it reflects that the mode and method adopted and followed by the Director General Valuation, for determining the values in question was based on Section 25(9) of the Customs Act, 1969, as according to the Director Valuation, the other methods of valuation could not be applied for the reasons so stated hereinabove. On the other hand the order of the Director General Valuation passed under Section 25-D of the Customs Act, 1969 states that the values were determined on the basis of market enquiry i.e. section 25(7) of the Act, whereas according to the Director General Valuation, the departmental representative had even presented details of comprehensive market enquiry to substantiate the values determined through the impugned valuation ruling. We are at a loss to understand as to how Director General Valuation came to the conclusion that values were determined on the basis of market enquiry when the Director Valuation himself has observed that market enquiry as envisaged under Section 25(7) of the Customs Act, 1969 could yield no results because the subject goods are industrial items and despite

such observations the Director General Valuation has observed that the values have been determined under Section 25(7) and even certain data was also presented before her. We have not been assisted with any such data in the present Reference Application.

6. In view of hereinabove facts and circumstances of the case, we do not see that any substantial question of law arises from the impugned order of the Tribunal, therefore, there is no need to answer the proposed question and as a consequence this Reference Application is dismissed along with listed application. Let a copy of this order be delivered to the Appellate Tribunal as required under Section 196(5) of the Customs Act, 1969.

J U D G E

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Farooq-ps/Farhan-ps