

IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry
Mr. Justice Muhammad Jaffer Raza

1.	Const. P. 5148 / 2025	M/s Imperial Panel Industries (Pvt.) Ltd. versus Federation of Pakistan & others
2.	Const. P. 5149 / 2025	M/s. Akbari Ploymers Pvt Limited Versus Federation of Pakistan & others
3.	Const. P. 5150 / 2025	Ameer Hamza versus Federation of Pakistan & others
4.	Const. P. 5151 / 2025	Sadaf Zahid Versus Federation of Pakistan & others

Petitioners:

**Through M/s. Muhammad Maaz
Waheed, Umer Ilyas Khan &
Muhammad Usman Khan,
Advocates.**

**Respondents
No. 2 to 5:**

**Through M/s. Sardar Zafar Husain
& Faheem Raza Khuhro, Advocates.
Ms. Ishrat Ayaz, Principal Appraiser**

Date of hearing:

06.11.2025

Date of Judgment:

10.11.2025

J U D G M E N T

Muhammad Jaffer Raza, J. - Through the instant Petitions, the Petitioners have impugned the issuance of Letter dated 04.08.2025¹ (“**Impugned Letter**”) whereby, according to the Petitioners, Respondent No. 3 on his own discretion expanded and altered the scope of Valuation Ruling No. 1948/2025 (“**Ruling**”) to PVC Non-Flexible (Decorative/Printed) Sheets/Films for Wall-Panels (“**Products**”).

2. Succinctly stated, the grievance of the Petitioners is that the assessment orders passed are either based on the Impugned Letter or highly influenced by the same. Learned Counsel for the Petitioners in this respect

¹ Reference No. File No. Misc./07/2010-II/829

has stated that he is not aggrieved with the Ruling noted above, as according to him, the said Ruling is not applicable on the Products imported by the Petitioners². However, the Petitioners, according to the learned counsel, are aggrieved with the Impugned Letter as the same alters the scope of the noted Ruling and makes the same applicable to the Products imported by the Petitioners. In this respect, the learned Counsel has stated that the Impugned Letter has been issued by the Deputy Director, Directorate General of Customs Valuation (**“Deputy Director”**) and the said individual has no jurisdiction to explain, clarify, amend or alter a Ruling issued under Section 25-A³ of the Customs Act, 1969 (**“Act”**).

3. Conversely, learned Counsel appearing on behalf of the Respondents has contended that the assessment orders have not been based on the Impugned Letter and squarely rely on the noted Ruling. In this respect, he has submitted that if the Petitioner is aggrieved with the noted assessment orders, his remedy lies under Section 193⁴ of the Act. To further substantiate his arguments the learned counsel has averred that considering the Petitioner has not filed an appeal under the provision noted above, this Court does not have the jurisdiction to adjudicate the present dispute. Lastly, he has prayed for dismissal of the noted Petitions.

² The said assertion is based on the fact that PCT pertaining to the Products of the Petitioner does feature in the Ruling.

³ **[25A. Power to determine the customs value.-** (1) Notwithstanding the provisions contained in section 25, the Collector of Customs on his own motion, or the Director of Customs Valuation 88[on his own motion or]on a reference made to him by any person 88[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.

(2) The Customs value determined under sub-section (1) shall be the applicable customs value for assessment of the relevant imported or exported goods.

(3) In case of any conflict in the customs value determined under subsection (1), the Director-General of Customs Valuation shall determine the applicable customs value.] 93

[(4) The customs value determined under sub-section (1) or, as the case may be, under sub-section (3), shall be applicable until and unless revised or rescinded by the competent authority.]

⁴ **[193 Appeals to Collector (Appeals).-** [(1) Any person including an officer of Customs aggrieved by any decision or order passed under sections 33, 79, 80 [,131] [,] 179 [and 195] by an officer of Customs below the rank of Additional Collector may prefer appeal to the Collector (Appeals) within thirty days of the date of communication to him of such decision or order: Provided that an appeal preferred after the expiry of thirty days may be admitted by the Collector (Appeals) if he is satisfied that the appellant has sufficient cause for not preferring the appeal within that period.]

(2) An appeal under this section shall be in such form and shall be verified in such manner as may be prescribed by rules made in this behalf.

(3) An appeal made under this Act shall be accompanied by a fee of one thousand rupees to be paid in the manner that may be prescribed by the Board.

5. We have heard both the learned Counsels and perused the material on record. It is evident that in at least two of the noted Petitions⁵ the assessment orders have been passed whilst referring to the Impugned Letter. The argument of the learned counsel for the Respondents that the assessment orders were passed independent of the Impugned Letter, therefore has no force and belies the record before us. In reference to the remaining two assessment orders⁶, it is evident that whilst no reference has been made to the Impugned Letter, the noted orders are clearly influenced by the same.

6. Therefore, the scope of the instant adjudication shall be restricted to the powers of the Deputy Director to issue the Impugned Letter. Bare perusal of Section 25-A reveals that it is only the Director of Customs Valuation who has the jurisdiction to issue a Valuation Ruling and the same can only be revised by him either on his own motion or on the review preferred by a party under Section 25-D⁷ of the Act. It is apparent that the Director of Customs Valuation has not amended or altered the scope of the noted Ruling and an interpretation, perhaps for the sake of clarity, was rendered by the Deputy Director. Whilst we agree with the contention of the learned Counsel for the Respondents that the Impugned Letter is only an internal correspondence of the department, it is evident from the bare perusal of the assessment orders, that the noted assessments were rendered either relying on the Impugned Letter or being influenced by the same.

7. A similar issue arose in the case of *Universal Recycling*⁸ in which a learned Division Bench this Court held as under: -

⁵ Const. P. 5150 / 2025 and Const. P. 5151 / 2025.

⁶ Const. P. 5148 / 2025 and Const. P. 5149 / 2025.

⁷ **[25D. Review of the value determined.**- Notwithstanding the provision contained in section 25A, the Director General Valuation may on his own motion or in pursuance to a review petition made to him within thirty days from the date of determination by any person or an officer of Customs may rescind or determine the value afresh: Provided that the proceedings so initiated shall be completed within sixty days of the filing of the review petition or initiation of proceedings as the case may be.

⁸ *Universal Recycling through Authorized representative V. Federation of Pakistan through Secretary, Revenue Division /Chairman FBR and 2 others* reported at **2024 PTD 754**. The noted judgment

“At the very outset, we have confronted the Assistant Collector present in Court to refer to or cite, as to any authority or powers vested in his office or for that matter the Collector concerned or the competent authority, to fix or determine the values of goods in question; and then circulate the same amongst its sub-ordinate officers, and to this no satisfactory response has been given. It may be noted that under section 25A of the Customs Act, 1969 (post Finance Act, 2019) it is the Director of Valuation, who can determine the values after following the methods as provided under section 25 ibid and notify the same and against this determination, an aggrieved person can approach the Director General for its revision under section 25D of the Act. Presently, the Collector of Customs can only make a reference to the Director Valuation for determination of Value(s) in terms of Section 25A of the Act, and nothing beyond that. In the instant matter, as informed, apparently a reference has already been made. Insofar as the impugned assessment alert is concerned, it is not a Valuation Ruling; but is an advice at the most, which per settled law has no binding force; nor the Collector has any jurisdiction to do so. Moreover, and without prejudice, it is also settled proposition of law that a Valuation Advice (and not a Valuation Ruling) is nothing but an advice which has no binding effect, whereas, it is not to be taken as a conclusive evidence while making assessment of goods¹; and reliance upon the valuation advice simpliciter is not a valid basis of assessment of the value of imported goods within the framework of section 25 of the Act².....”

Under the scheme of the Customs Act, even otherwise, the Collector, on its own motion cannot determine the values and notify the same by way of any circular, letter, assessment alert or even an advice. The Collector through his authorized officers can only assess and determine the values in terms of section 25 of the Act, however that power is restricted to and is applicable on consignments imported by the respective individuals and does not confer any authority, across the board for fixation or determination of values. Therefore, in our considered view, the impugned assessment alert has no legal basis; whereas the law i.e. the Customs Act, 1969, does not support any such determination of values by the Collector of Customs or for that matter by the Assistant Collector of Customs by way of any purported delegation of powers. When the Collector himself is not competent in law to issue any circular, letter, assessment alert or even an advice under the Act; as a natural corollary he cannot delegate such powers to any sub-ordinate officer.”

8. It is evident from the perusal of Section 25A and the judgment cited above, that the Deputy Director transgressed into the **exclusive** mandate of Director of Customs Valuation and in this light the Impugned Letter is declared to be illegal and without jurisdiction. Consequently, the same is set aside along with the subject assessment orders that were premised thereupon.

relied upon earlier judgements in the cases of Kings Pen Company versus Collector of Customs reported at **2005 PTD 118**, Habib ur rehman and Company versus Collector of Customs reported at **2005 PTD 69** and M.M.M Traders versus Deputy Collector of Customs reported at **2006 PTD 313**.

9. In light of what has been held above we direct the Respondents to assess the consignments of the Petitioners afresh under Section 80 of the Act, expeditiously. It is clarified that whilst passing the assessment order the concerned officer shall not be influenced in any way or manner with the Impugned Letter, which has been set aside vide instant judgement. Needless to mention that the Petitioners, if still aggrieved with the fresh assessment, will be at liberty to impugn the same under the provisions of the Act. The noted petitions are allowed in the above terms.

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