

GOVERNMENT OF PAKISTAN  
DIRECTORATE GENERAL OF CUSTOMS VALUATION  
CUSTOM HOUSE KARACHI

C.No.108(1)-Estt/2009  
STANDING ORDER NO.04/2010 (VALUATION)

dated 10.2010

In view of the fact that now an appeal can be filed by an aggrieved person against Order in Review passed under section 25-D of the Customs Act, 1969, before the double bench of the Appellate Tribunal (Customs and Excise) under section 194-A *ibid*, the following guidelines are laid down for compliance. These guidelines are prescribed to facilitate the concerned officer/staff of the Directorate General Valuation to properly defend the case in accordance with law and rules framed there under. Any violation of these guidelines will be viewed seriously.

1. On receipt of a hearing memo from the Appellate Tribunal, the concerned Deputy/Assistant Director in charge of the group will request in writing the Assistant Register Tribunal to furnish copy of appeal before the due date of hearing.
2. The concerned Group of the Directorate will prepare parawise comments and submit the same to the Assistant Director Valuation.
3. Parawise comments duly vetted by the Additional Director Valuation (Legal) will be submitted in the Tribunal under the signature of Assistant /Deputy Director Valuation Incharge of the Group.
4. On receipt of hearing notice from the Tribunal, The Additional Director (Legal) will send it under proper dispatch and receipt system to the concerned Assistant Director Group for necessary action in accordance with these guidelines read with any other guidelines prescribed by the Board.
5. Hearing of the case in the Tribunal shall be attended by the Assistant Director incharge of the Group and in his absence by the PA Group alongwith relevant AO.
6. Record of each proceeding held in Tribunal shall be submitted in writing by the Assistant Director to the Additional Director (Legal) in the relevant file of the Group for seeking guidance and further course of action.
7. On receipt of judgment of the Tribunal, the Additional Director (Legal) will submit a note in the relevant file for preferring or otherwise an application to the High Court in accordance with section 196 *ibid*.
8. Where necessary, the Directorate may engage a lawyer from the approved panel to defend department case in the Tribunal, keeping in mind legal and financial implication of the case.
9. Each case file relating to the Appellate Tribunal shall be maintained in the relevant Group and its safe custody shall be responsibility of the Principal Appraiser Group.
10. A preliminary check list (Annex-A) has been prepared which may be helpful in defending the case in the Tribunal. However, this list is not exhaustive and addition or deletion may be made as per requirement and circumstance of each case.
11. These guidelines are to supplement any other instructions, instrument or direction prescribed by the Board.

(Amir M. Khan Marwat)

Director General

Copy for information and necessary action to:-

1. Director Customs Valuation, Karachi
2. Additional Director Valuation-I, Karachi
3. Additional Director Valuation-II,(Legal) Karachi
4. All Assistant /Deputy Director Valuation, Karachi
5. All Principal Appraisers, Customs Valuation, Karachi

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Check list for defending Order in Review in the Appellate Tribunal (Annex-A)

1. Order in Review passed under section 25-D of the Customs Act, 1969 prior to 30.06.2010 falls outside the ambit of Appellate Tribunal. It was in the Budget 2010-2011 passed in June,2010 that an amendment was inserted in section 25-D making Order in Review appealable before double bench of Appellate Tribunal under section 194-A ibid.
2. As per Section 194-A(3) an appeal before Appellate Tribunal can be filed against Order in Review within two months. Any appeal filed after expiry of two months will be hit by period of limitation.
3. In the Budget 2010-2011 it has been made mandatory to file a review application under section 25-D ibid within 30 days of determination of customs value under section 25-A ibid. Any review application filed after July 01, 2010 after expiry of more than 30 days of the determination of customs value, will be hit by period of limitation and will be legally not maintainable.
4. The applicant has to prove through valid sales tax invoices that the incidence of duties and taxes paid on the basis of Valuation Ruling has not been passed on to the ultimate consumers. In case of his failure to submit such proof, his appeal under section 194-A will be hit by section 19-A ibid, as not maintainable. The honorable Supreme Court of Pakistan in case of M/S Belarus Tractors (case pertaining to MCC Port Qasim) has upheld this principle in favour of the department.
5. If appellant presents sales tax invoices in his favour, the same require verification through DG (I&I) Karachi and such invoices should also bear NTN and STN numbers of the appellant.
6. M/S PRAL data may be consulted to ascertain whether other importers have paid duties and taxes on the basis of impugned Valuation Ruling. If the answer is yes, the Appellate Tribunal may be informed that other importers have accepted the customs

value and any change in the value by the Tribunal may not be appreciated with those importers.

7. As per sub-section 2 of section 25-A, the customs value determined under sub-section (1) shall be the applicable customs value for assessment of the relevant imported and exported goods.

8. Valuation Ruling issued under section 25-A ibid provide level playing field across the board to the manufacturers and importers.

9. As per amendment in section 25-A in the Budget 2010-2011, customs value determined under section 25-A shall remain valid till revised.

10. Customs value is usually determined to curb group under invoicing by the importers and thus to save local industry from unfair competition and to safeguard legitimate revenue.

11. The Director Valuation is empowered under section 25-A ibid to determine customs value after following the methods laid down in section 25, whichever is applicable.

12. It is the sole right of an aggrieved person to approach Appellate Tribunal under section 194-A ibid. The appellant has to prove through valid import documents like goods declaration, invoice, bill of lading, proforma invoice, packing list to manifest that he is adversely hit by the Valuation Ruling. The Counsel himself is not an aggrieved person, therefore he must present valid power of attorney on behalf of the aggrieved person.

13. The customs administration has got a right to verify truth and accuracy of the transaction value of the importer. Under the WTO/GATT Valuation Agreement (Article 17) the customs administration can make further inquiry and can call for additional documents to verify truth and accuracy of the transaction value declared.

14. The Directorate can requisition documents under section 26 ibid and the applicant was requested accordingly, but he failed to submit valid import documents.