

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Yahya Afridi, CJ
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Miangul Hassan Aurangzeb

Civil Petitions No.86-K to 115-K of 2023

[Against judgment dated 16.11.2022 of the High Court of Sindh, Karachi passed in Special Customs Reference Application Nos.34 to 63 of 2020]

*The Collector of Customs, Customs Collectorate of Appraisement (East), Karachi.
[In all cases]*

... *Petitioner*

Versus

*M/s. Forte Marketing Services, Lahore.
[In CPs.86-K- to 94-K/2023]*

*M/s. RAK Trading Marketing Services, Lahore.
[In CPs.95-K to 115-K/2023]*

... *Respondents*

For the Petitioner:
[In all cases]

Mr. Muhammad Nadeem Qureshi, ASC.
Raja Muhammad Iqbal, ASC.
Mr. Muhammad Bilal Bhatti, ASC.

For the Respondents:

Nemo.

Date of Hearing:

16.06.2026.

JUDGMENT

Muhammad Shafi Siddiqui, J. Through these petitions, filed under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner seeks leave to appeal against the judgment dated 16.11.2022, passed by a learned Division Bench of the High Court of Sindh, Karachi, in Special Customs Reference Applications No.34 to 63/2020.

2. The issue before us essentially concerns the continued operation of a Valuation Ruling issued under Section 25A of the Customs Act, 1969, (hereinafter referred to as '**the Act**') and the effect, if any, of the lapse of

ninety days upon such operation. In the present case, the issue arises with reference to Valuation Ruling No. 874 of 2016 and the interpretation placed by the forums below on the period for which such ruling could remain operative.

3. The Valuation Ruling No. 874 of 2016 in the present case has its own importance, as it was still a live valuation in terms of Section 25A(4) at the relevant time. The Tribunal and the High Court, in the reference jurisdiction, however, outscored it on account of a ninety-day life span notwithstanding, which of two jurisdictions it exercised. This life span of ninety days was taken into account by the Tribunal and the High Court below on account of the jurisprudence settled in *Sadia Jabbar*¹. *Sadia Jabbar*'s case has its own frame and limitation, as it arose from imports and Valuation Rulings substantially pertaining to the period 2008–09, while Section 25A(4) was introduced subsequently through the Finance Act, 2010, and hence the interpretation provided therein has to be understood in that statutory and factual context. The two jurisdictions, i.e., the jurisdiction being exercised under Section 25A and the jurisdiction of an independent assessment under section 25 of the Act, irrespective of the Valuation Ruling, are two different and distinct jurisdictions, and one cannot visualise them to overlap each other. While passing the assessment order, indeed, the Valuation Ruling, unless otherwise challenged under the hierarchy, has its own force, which cannot be avoided on the touchstone of lapse of ninety days, especially after the amendment carried out in Section 25A.

4. The common question thus before the High Court was whether, in the facts and circumstances of the case and in the presence of Sections 25A(3) and 25D of the Act, the Valuation Ruling could validly remain operative

¹ *Sadia Jabbar v. Federation of Pakistan* (2018 PTD 1746).

beyond ninety days. The Tribunal and then the High Court, by judgments dated 05.09.2019 and 16.11.2022, answered the question against the Department, whereafter the present petitions for leave to appeal were filed.

5. The issue, therefore, centres upon the legal effect and period of operation of a Valuation Ruling issued under Section 25A of the Act. Whether a Valuation Ruling, once validly issued, remains the applicable customs value for assessment of the imported goods until revised or rescinded in terms of Section 25A(4), or whether the passage of ninety days renders the value determined under the ruling inapplicable by reason of the temporal requirements contained in the valuation methodology prescribed under Section 25, the WTO Valuation Agreement and Rule 107 of the Customs Rules, 2001. This requires us to examine the distinction between the methodology by which a customs value is determined under Section 25A and the statutory effect and continued operation of a Valuation Ruling once such determination has been made.

6. Section 25 of the Act, provides the statutory framework for the determination of the customs value of imported goods. The provision adopts a sequential valuation mechanism, with Section 25(1) prescribing the transaction-value method, namely, the price actually paid or payable in a *bona fide* sale for export to Pakistan. Where the transaction value is rejected by the customs authorities, the subsequent provisions of Section 25 prescribe alternative methods to be applied sequentially, including the value of identical or similar goods, deductive value, computed value and, ultimately, the residual method. The customs duties and other taxes leviable upon imported goods are thereafter assessed on the basis of the customs value so determined. The statutory scheme thus places the transaction value

at the forefront of the valuation process, while providing successive methods for determination of customs value where that basis cannot be accepted.

7. The preference accorded to the transaction-value method is consistent with the customs valuation framework embodied in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, 1994 (the “WTO Valuation Agreement”), which forms the international basis of the valuation regime reflected in Section 25. The underlying principle is that, save where the conditions governing acceptance of the transaction value are not satisfied, the customs value should ordinarily be determined by reference to the price actually paid or payable for the imported goods. The transaction value therefore constitutes the primary basis of valuation, while the other methods prescribed under Section 25 operate sequentially where that basis cannot be adopted. This framework is intended to ensure that customs valuation is based upon the actual commercial value of the goods, rather than an arbitrary or artificially assigned value, subject, of course, to the statutory adjustments and conditions governing the acceptance of the declared transaction value.

8. The acceptance of the declared transaction value, however, is not unconditional. Section 25 prescribes conditions that must be satisfied before the declared price can be accepted as the transaction value, including, *inter alia*, that there are no restrictions of the kind specified in the provision on the disposition or use of the goods by the buyer; that the sale or price is not subject to any condition or consideration for which a value cannot be determined; that no part of the proceeds of any subsequent resale, disposal or use of the goods accrues directly or indirectly to the seller unless an appropriate adjustment can be made; and, where the buyer and seller are related, that the relationship did not influence the price. The statutory

conditions thus ensure that the price actually paid or payable is a transaction value capable of acceptance under the valuation regime.

9. This statutory framework assumes particular significance in the present case because Section 25A expressly requires a determination made thereunder to be undertaken after following the methods laid down in Section 25, whichever is applicable. Section 25 thus provides both the primary basis of customs valuation and the prescribed means of determining value where that basis cannot be accepted. It is within this statutory framework that the specific mechanism introduced by Section 25A falls to be examined.

10. Section 25A of the Act introduces a distinct mechanism within this general valuation framework. It empowers the Director of Customs Valuation, on his own motion or upon a reference made to him, to determine the customs value of any goods or category of goods imported into or exported from Pakistan. The provision begins with the words “Notwithstanding the provisions contained in section 25” and, while providing a specific mechanism for determination of customs value, expressly requires that such determination be made “after following the methods laid down in section 25, whichever is applicable.” Section 25A, therefore, does not dispense with the valuation methods prescribed by Section 25; rather, it enables the competent authority to determine the customs value of particular goods or a category of goods in accordance with those methods.

11. The significance of such determination lies in the legal consequence attached to it by subsection (2). Once the customs value has been determined under subsection (1), the value so determined shall be the applicable customs value for assessment of the relevant imported or exported goods. Thus, where a determination made under Section 25A covers the goods in question, the value so determined constitutes the applicable customs value

for assessment. Subsection (2) therefore gives legal effect to the determination made under subsection (1), by making the value so determined the applicable customs value for assessment of the relevant goods.

12. The temporal operation of a determination made under Section 25A is addressed expressly by subsection (4). It provides that the customs value determined under subsection (1), or, as the case may be, under the relevant subsequent determination, shall be applicable until and unless revised or rescinded by the competent authority. The language is significant. It expressly attaches continued legal effect to the value determined under Section 25A unless and until the competent authority revises or rescinds the determination. The provision thus contemplates continuity of the determination and identifies revision or rescission by the competent authority as the statutory means by which its continued application may be brought to an end. However, that end cannot be related to 90 days alone, no matter whichever jurisdiction was being exercised to rescind it. There has to be some tangible reasons for such rescission, in law.

13. Read as a whole, Section 25A establishes a mechanism for the pre-determination of customs value within the broader valuation framework prescribed by Section 25. While subsection (1) requires the applicable methods under Section 25 to be followed in making such determination, subsection (2) gives legal effect to the value so determined, and subsection (4) governs its continued applicability. It is against this statutory structure that the question of the temporal relevance of a Valuation Ruling, and in particular the significance of the ninety-day period contemplated by the Rules, falls to be considered.

14. The temporal dimension of the valuation methodology is addressed in Rule 107(a) of the Customs Rules, 2001. Before its amendment through S.R.O. 564(I)/2017 dated 01.07.2017, the expression “at or about the same time” was defined to mean within ninety days prior to the importation or within ninety days after the importation of the goods being valued. The ninety-day period thus served to identify the temporal proximity of the valuation data to the importation in cases where the applicable valuation method required recourse to comparable transactions or values. The significance of this definition, however, lies in the valuation methodology to which it applies; it does not, by its terms, prescribe a period of validity for a Valuation Ruling issued under Section 25A.

15. The position was expressly clarified by S.R.O. 564(I)/2017 dated 01.07.2017, whereby Rule 107(a) was amended to provide that the ninety-day definition of “at or about the same time” would apply except in cases where a Valuation Ruling issued under Section 25A exists. In such a case, the Rule expressly provides that the Valuation Ruling shall remain in the field unless rescinded, modified or replaced by a new Valuation Ruling. The amendment is significant because it does not merely preserve the ninety-day period as a general measure of temporal proximity; it expressly removes an existing Section 25A Valuation Ruling from the operation of that ninety-day definition and provides a separate rule governing its continued operation. Thus, following the amendment, the ninety-day period continued to regulate the temporal proximity of valuation data where applicable, whereas the continued operation of a Section 25A Valuation Ruling was made dependent upon its rescission, modification or replacement by a new Valuation Ruling.

16. The question of the temporal operation of a Valuation Ruling came before the High Court of Sindh in *Sadia Jabbar's* case (*supra*). While examining the scope of Section 25A, the Court held that a Valuation Ruling constitutes a pre-determination of customs value and must be founded upon the valuation methods prescribed by Section 25 and the WTO Valuation Agreement. The Court emphasised that Section 25A could not be employed as an instrument for arbitrary fixation of customs value. In considering the temporal operation of a Valuation Ruling, the Court referred to those valuation methods which require the relevant value to be determined “at or about the same time” as the goods being valued and, with reference to Rule 107, observed that “a valuation ruling must therefore ordinarily be regarded as valid for a period of ninety days from the date of issuance.” The Court also considered subsection (4) of Section 25A, which had been introduced through the Finance Act, 2010, and observed that, although a Valuation Ruling would continue to hold the field unless revised or rescinded, an aggrieved importer could, after the expiry of ninety days, approach the concerned officer and seek revision or rescission of the ruling.

17. The aforesaid observation in *Sadia Jabbar* must, however, be understood in its proper statutory and factual context. The imports and Valuation Rulings forming the subject matter of that case substantially related to the period 2008–2009, while subsection (4) of Section 25A had been introduced subsequently through the Finance Act, 2010. The Court nevertheless considered subsection (4) and, notwithstanding its language providing for continued applicability until revision or rescission, read the ninety-day period into the operation of the Valuation Ruling by reference to the valuation methodology under Section 25 and Rule 107. The judgment, therefore, cannot be read, without regard to its statutory and factual context, as establishing that the mere passage of ninety days invariably extinguishes

the legal operation of a Valuation Ruling under Section 25A. Moreover, Rule 107(a) was subsequently amended through S.R.O. 564(I)/2017 to expressly provide that, where a Valuation Ruling issued under Section 25A exists, the ruling shall remain in the field unless rescinded, modified or replaced by a new Valuation Ruling. The effect and temporal applicability of that amendment to the present case, however, require separate consideration.

18. The subsequent decision of this Court in the case of *Wasim Radio Traders*², further elucidates the legal effect of a Valuation Ruling issued under Section 25A. While examining the scheme of Sections 25 and 25A, this Court observed that Section 25A enables the Director of Customs Valuation to pre-determine the customs value for assessment purposes for a certain kind or category of goods, after following the methods laid down in Section 25, whichever is applicable. The Court held that the Valuation Ruling is the assessed value of the goods imported and that a Valuation Ruling issued under Section 25A is applicable and binding until revised or rescinded by the competent authority. The Court further observed that Section 25A itself provides a mechanism for resolving a conflict concerning the applicable customs value and that an aggrieved person has a remedy against a Valuation Ruling under Section 25D.

19. The significance of *Wasim Radio Traders* for present purposes lies in its recognition that, while the determination of customs value under Section 25A must follow the applicable valuation methods prescribed by Section 25, the Valuation Ruling, once issued, constitutes the assessed value of the goods and remains applicable and binding until revised or rescinded by the relevant authority. Thus, while the methodology employed in arriving at a Valuation Ruling cannot be divorced from Section 25, the continued

² Collector of Customs, Customs House, Lahore v. Wasim Radio Traders (2023 SCMR 1716).

applicability of an operative ruling cannot, in the absence of revision or rescission, be treated as dependent merely upon the passage of a specified period. This distinction assumes particular significance in the present case, where the controversy is not as to whether the Valuation Ruling was required to conform to Section 25, but as to whether its applicability came to an end merely because ninety days had elapsed.

20. The statutory scheme also makes it necessary to distinguish between a challenge to the Valuation Ruling itself and a challenge to an assessment made pursuant thereto. A Valuation Ruling issued under Section 25A is not merely an evidentiary aid or a piece of information available to the assessing officer; once duly issued and notified, it constitutes the statutory determination of the applicable customs value for the goods or category of goods to which it relates. Consequently, so long as such determination remains operative, the assessment made thereunder cannot be treated as though the assessing authority were at liberty to disregard the ruling and independently determine the customs value under Section 25(1). The statutory scheme provides a specific mechanism for calling the determination into question through Section 25D, and the legal effect of the ruling cannot be displaced except in accordance with that mechanism or upon its revision or rescission by the competent authority.

21. The distinction also bears upon the consequence which may follow where a Valuation Ruling is found unsustainable. A challenge to the determination made under Section 25A cannot, by its very nature, be treated as if it were an appeal against an assessment independently made under Section 25. Where the assessment has proceeded on the basis of an operative Valuation Ruling and the assessing authority has applied the value made applicable by that ruling, the methods provided under Section 25 cannot be

triggered or made effective by the party unless a challenge is made to such ruling under the scheme. Consequently, if the Valuation Ruling is separately challenged and subsequently set aside under its statutory hierarchy, the declared value does not, merely by that fact, acquire the status of the transaction value. In such circumstances, the customs value would have to be determined by the competent authority in accordance with Section 25 and the valuation methods prescribed thereunder. The declared value would first fall for consideration under Section 25(1), and, if the statutory conditions for acceptance of the transaction value are not satisfied, the competent authority would proceed to the other applicable methods in accordance with the statutory scheme.

22. In our view, the statutory scheme does not support the proposition that the mere expiry of ninety days operates to extinguish an otherwise operative Valuation Ruling. The ninety-day period in Rule 107(a), in its application to the valuation methodology, identifies the temporal proximity relevant to valuation data used in determining customs value; it does not, in itself, prescribe the period for which a determination made under Section 25A remains legally operative. That question is expressly addressed by Section 25A(4), which provides that the customs value determined under subsection (1) shall be applicable until and unless revised or rescinded by the competent authority. The subsequent amendment to Rule 107(a) through S.R.O. 564(I)/2017 is consistent with this distinction, as it expressly provides that, where a Valuation Ruling issued under Section 25A exists, the ruling shall remain in the field unless rescinded, modified or replaced by a new Valuation Ruling. The two provisions therefore operate in different fields: Rule 107(a) addresses the temporal relevance of valuation data in the application of the valuation methods, whereas Section 25A(4) addresses the continued operation of the value once determined under Section 25A. This

distinction is important because the validity of a Valuation Ruling as a determination made in accordance with the statutory valuation methodology is a question separate from the continued legal operation of that determination once it has been validly made. Section 25A requires the competent authority to undertake the determination within the framework of Section 25, whereas subsection (4) governs the duration of the determination so made.

23. Applying the aforesaid discussion to the present case, Valuation Ruling No.874 of 2016 dated 22.06.2016 was issued under Section 25A in respect of the goods in question and was operative at the time of the relevant assessments. There is nothing on record to suggest that the said Valuation Ruling had, before the assessments in question, been revised or rescinded by the competent authority under the statutory hierarchy, requiring reasons of its rescission, other than just 90 days. It could not, therefore, be regarded as having ceased to operate merely because ninety days had elapsed from the date of its issuance. In terms of Section 25A(2), the value determined thereunder was consequently the applicable customs value for assessment of the goods falling within its scope, subject to the proviso contained therein.

24. In view of the foregoing, the approach adopted by the learned High Court in treating the expiry of ninety days as determinative of the continued applicability of the Valuation Ruling cannot be sustained. The Tribunal, and consequently the learned High Court further fell in error in directing that the goods be assessed under Section 25(1) merely on the premise that the period of ninety days from the issuance of Valuation Ruling No.874 of 2016 had elapsed. Such an approach conflates the temporal requirement applicable to valuation material used in determining customs value with the statutory duration of a Valuation Ruling once issued. The existence of an operative

Valuation Ruling precludes resort to the transaction value under Section 25(1) merely by reason of the passage of ninety days, subject always to the proviso to Section 25A(2) and to the power of the competent authority to revise or rescind the ruling in accordance with law.

25. In the present case, Valuation Ruling No.874 of 2016 dated 22.06.2016, thus, was in force in respect of the goods in question at the time of their assessment, and no material has been brought on record to establish that the said ruling had, before the relevant assessments, been revised or rescinded by the competent authority under the statutory hierarchy. Therefore, the impugned judgment dated 16.11.2022 of the High Court is not sustainable and is set aside in view of the aforesaid reasoning. The question brought for our consideration is thus answered. The petitions are therefore converted into appeals and the same are allowed.

Chief Justice

Judge

Judge

Announced in open Court on 24.09.26 at Islamabad.

Judge

Approved for Reporting
(Simra Sohail, L.C)