

# MINISTRY OF COMEMRCE

## NOTIFICATION

New Delhi, the 12th November, 1998

**Subject:-** Review of anti-dumping duties concerning imports of Theophylline and Caffeine -Final Findings.

**No. 38/2/98-ADD.-**Having regard to the Customs Tariff Act, 1975 as amended in 1995 and Custom Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Articles and for Determination of injury) Rules, 1995, thereof:

### A. PROCEDURE

1. The procedure described below has been followed:

- i. The Designated Authority (hereinafter referred to as the Authority) issued a public notice vide Notification No. 38/2/98-ADD dated the 27th Jan., 1998, initiating of definitive Anti Dumping Duty recommended on imports of Theophylline and Caffeine originating in or exported from People's Republic of China (also referred to as China PR hereinafter) vide Notification No. ADD/24/94-95 dated 26th July, 1995.
- ii. The investigations concluded by the Authority vide Notification No. ADD/24/94-95 dated 26th July, 1995 have been referred to as "the previous investigations."
- iii. The Authority issued a public notice dated 27th Jan., 1998 published in the Gazette of India, Extraordinary, initiating review of anti dumping concerning imports of Theophylline classified under customs heading 293950 and Caffeine classified under customs sub-heading no. 293930 of Schedule I of the Customs Tariff Act, 1975 originating in or exported from China PR..
- iv. The Authority forwarded a copy of the public notice to all the known exporters and industry associations (whose details were made available by the petitioners in the previous investigations) and gave them an opportunity to make their views known in writing in accordance with Rule 6(2).
- v. The Authority forwarded a copy of the public notice to all the known importers and consumers of Theophylline and Caffeine in India (whose details were made available by the petitioner in the previous investigations) and advised them to make their views known in writing within forty days from the date of the letter.
- vi. Request was made to the central Board of Excise and Customs (CBEC) to arrange details of imports of Theophylline and Caffeine in India during the past

three years including the period of review. No information was however, received from CBEC.

vii. The Authority sent questionnaire, to elicit relevant information to the following exporters, in accordance with the rule 6 (4).

- Wuhan Medicines & Health Product
- Human Provincial Medicines
- Tianjin Medicines & Health Products
- Jiangs Medicines & Health
- Shanghai Chemicals Imports & Export Corpn.
- China National Chemicals I & E Corpn.
- Oringdao National Chemicals Medicines

None of the exporters, however, filed response to the questionnaire.

viii. The Embassy of the subject country in New Delhi was informed about the initiation of the review in accordance with rule 6(2) with a request to advise the exporters/producers from their country to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the exporters was also sent to the Embassy, alongwith a list of known exporters/producers.

ix. A questionnaire was sent to the following importers and/or consumers of Theophylline and Caffeine in India calling for necessary information in accordance with rule 6(4). None of the parties, however, filed response to the questionnaire.

x. A questionnaire was sent to Kores (India) Ltd. Bakul Aromatics & Chemicals Ltd. and Suven Pharma Ltd. in accordance with rule 6(4) calling for necessary information.

xi. The Authority held a public hearing on 27th May, 1998 to hear the views orally. The hearing was attended by Koreas (India) Ltd., Bakul Aromatics & Chemicals Ltd. and German Remedies Ltd. The parties attending the public hearing were requested to file written submission of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and were requested to offer their rebuttals, if any.

xii. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained and kept open for inspection by an interested party;

xiii. Investigation was carried for the period starting from 1st Jan., 1997 to 31st Dec., 1997.

xiv. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to all known interested parties and comments received on the same have also been duly considered in these findings.

## **B. VIEWS OF DOMESTIC INDUSTRY, EXPORTERS, IMPORTERS AND INTERESTED PARTIES AND EXAMINATION AUTHORITY**

2. The submissions made by domestic industry, exporters, importers and other interested parties have been examined, considered and, wherever appropriate, have been dealt hereinafter in the relevant paras.

## **C. PRODUCT UNDER CONSIDERATION, AND LIKE ARTICLES**

3. There is no argument raised by any interested party with regard to product under consideration and like articles. The final findings notified earlier with regard to the product under consideration, and like articles remain unchanged.

## **D. DOMESTIC INDUSTRY**

4. In the investigations conducted earlier, the Authority had considered the following units as forming part of the domestic industry:

- Korea (India) Ltd.
- Bakul Aromatics & Chemicals Ltd.
- Suven Pharma Ltd.

5. The Authority requested the above mentioned three producers to furnish costing information. The information was filed by all the three producers. Collective production of these companies accounted for major proportion of the total production of Theophylline and Caffeine in India. These companies, therefore, collectively constitute domestic industry within the meaning of the Rules.

## **E. DUMPING**

6. The Authority sent questionnaire to the known exporter for the purpose of determination of normal value in accordance with Section 9A(1)c. However, none of the exporters responded to the Authority nor furnished any information. The Authority, therefore, holds that none of the exporters from the subject country have co-operated with the Authority as envisaged under the Rules.

7. The domestic industry has furnished information with regard to normal value, based on constructed value. The normal value has been determined by the Authority on the

basis of cost of production constructed for China PR in view of non-cooperation from the exporters from China PR.

8. The domestic industry has claimed export prices on the basis of data compiled by the Directorate general of Commercial Intelligence and Statistics (SGCI&S). Since none of the exporters from China PR and importers in India have furnished any information with regard to export price, the Authority has determined export price on the basis of the information compiled by the Directorate General of Commercial Intelligence and Statistics. The CIF export price has been adjusted for ocean freight and insurance to work out FOB export price, as has been done in the previous investigations in view of non-cooperation from the exporters from China PR and importers in India.

9. The export price and normal value so determined have been considered as ex-works prices.

10. Since none of the exporters from the subject country has responded to the Authority's request for information, the Authority has not determined dumping margins for individual exporters. The Authority took into account the best information available, as none of the exporters from China and importers in India furnished any factual information, for the purpose of fair comparison between the normal value and the export price and compare normal value with weighted average export price. The comparison shows dumping margin as under.

### **Product Dumping Margin**

(% of export Price)

Theophylline 99.55

Caffeine 111.94

## **F. INJURY AND CAUSAL LINK**

11. It would be in appropriate to hold that the imports from the subject country would not cause injury to the domestic industry in the light of the economic parameters affecting the domestic industry. The improvement in any or all the economic parameters affecting the domestic industry could be a result of the existing anti-dumping duties. The injury to the domestic industry would, however, recur in case the product is being sold at dumped prices (as the situation is in the instant case) and the imports are entering at such prices in India which is significantly lower than the fair selling price of the domestic industry. The improvement in the economic parameters

affecting the domestic industry does not warrant removal of anti dumping duty. The Authority has, therefore, not analysed any economic parameter affecting domestic industry with regard to injury.

12. The Authority has determined fair selling price for the domestic industry. The fair selling price for the domestic industry has been compared with the landed value of imports without charging the level of anti-dumping duties in force to ascertain whether the injury would recur in case the anti dumping duties in force are removed.

## **G. LANDED VALUE**

13. The landed values have been calculated considering the weighted average export price as per the statistics compiled by DGCI&S, after adding the prevailing level of customs duties and one percent towards landing charges. The anti dumping duties in force on imports from this country has not been included in the landed values.

## **H. FINAL FINDINGS**

14. The Authority concludes, after considering the foregoing, that:

- Theophylline and Caffeine originating in or exported from the subject country has been exported to India below its normal value;
- The domestic industry would suffer material injury in case the anti-dumping duty in force is removed.
- The injury to the domestic industry would be caused from imports from China PR in case the anti-dumping in force is removed.

15. It is considered appropriate to continue the imposition of anti dumping duty in force on imports of Theophylline and Caffeine on goods originating in or exported from China PR. The anti dumping duty shall be the difference between the amounts mentioned in column 3 and landed value of imports, subject to a minimum of amounts mentioned in column 4.

<b>S. No.</b>	<b>Name of the Product</b>	<b>Amount (Rs. Per Kg)</b>	<b>Minimum Price (Rs. per Kg.)</b>
1.	Theophylline	562.55	190.54
2.	Caffeine	594.50	223.09

16. Landed value of imports for the purpose shall be the assessable value as a determined by the Customs Act, 1962 and all duties of customs except duties levied under Section 3, 3A, 8B and 9, 9A of the Customs Tariff Act, 1975.

19. Subject to above, the final findings notified vide notification no. ADD/24/94-95 dated the 26th July, 1995 remains unaltered.

20. An appeal against this order shall lie to the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act supra.

**RATHI VINAY JHA,**  
Designated Authority