

Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)
New Delhi

Dated, the 12th February, 2009

NOTIFICATION

Final Findings

Subject: Sunset Review of Anti Dumping Investigations concerning imports of Plastic Ophthalmic Lenses from People's Republic of China (China PR) and Chinese Taipei (Taiwan) – Termination of Initiation.

F.No.15/18/2008-DGAD- Having regard to the Customs Tariff Act 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof, the Designated Authority (hereinafter also referred to as Authority), under the above Rules, initiated a Sunset Review investigation vide Notification of even number dated 22.8.2008 into the alleged dumping of imports of **Plastic Ophthalmic Lenses from People's Republic of China (China PR) and Chinese Taipei (Taiwan)** to examine the likelihood of continuation or recurrence of dumping and injury. The Sunset Review investigation has been initiated in conformity of the judgement of the Hon'ble High Court of Delhi, in Writ Petition No.WP(C) No.16893/2006 dated 1.11.2007, wherein it has been held that:

(a) A Sunset Review is mandatory and the contention of the Respondents to the contrary is rejected.

(b) A Sunset Review is required to be conducted in accordance with procedure laid down in Rule 23 of the Rules.

2. The background of this case is that the Designated Authority under Rule 5 of the Rules, decided to initiate an anti dumping investigations concerning the import of **Plastic Ophthalmic Lenses from People's Republic of China (China PR) and Chinese Taipei (Taiwan)**. Consequently, an Initiation Notification dated 27th August, 2002 was issued to determine the existence, degree and effect of the alleged dumping of the subject goods originating in or exported into India from the subject countries. On preliminary investigation, the Authority issued Preliminary Findings vide Notification No.14/16/2002 –DGAD dated 8th August, 2003 and the provisional Anti Dumping Duty was imposed on the subject goods vide Notification

No.139/2003-Customs dated the 5th September, 2003. The Designated Authority issued Final Findings vide Notification No 14/16/2002-DGAD on 25th February, 2004 and recommended definitive Anti Dumping Duty on ad velorem basis .The definitive anti dumping duty was imposed by the Govt. of India vide Notification No.55/2004- Customs dated 19th April,2004. The Anti Dumping Duty was applicable for a period of five years from the date of imposition of the provisional duty. The duty was, therefore, applicable upto 5th September, 2008.

3. On completion of 4 years of the anti dumping duty imposed, an alert letter was sent to the Domestic Industry stating that the Designated Authority is contemplating to undertake Sunset Review under Section 9A(5) of Customs Act with a view to ascertain whether the cessation of the anti dumping duty in this case is likely to lead to continuation or recurrence of dumping and injury and they were requested to give full information regarding extent of imports from subject countries and evidence relating to dumping, if any, and impact of cessation of the anti dumping duty in this case.

4. The Sunset Review Initiation Notification dated 22nd August,2008 was issued with a request to all concerned, i.e. Domestic Industry, exporters and importers etc. to furnish relevant information in the prescribed questionnaire within 40 days from the date of issue of letter as per normal procedure. The Domestic Industry was also requested to submit the necessary petition as per Period of Investigation from 1-4-2007 to 31-3-2008 as the data provided for the POI should not be older than 6 months besides 3 previous years to ascertain dumping and injury.

5. The Domestic Industry neither submitted requisite information within the stipulated time nor asked for extension of time for submission of documents/information.

6. And whereas the domestic industry were addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Authority relating to the present review and were allowed forty days (40 days) from the date of publication of the review notification to submit the information related to the case and it was also made clear that if no information is received within the prescribed time limit or the information received is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with the Rules supra.

7. In the absence of any cooperation and information from the domestic industry, no case for continuation of dumping and injury to the domestic industry or likelihood of recurrence of dumping and injury has been made out by the domestic industry requiring continued imposition of anti dumping duty in terms of Sec 9A(5) of the Act.

8. The Authority notes that the investigation into alleged dumping and injury was initiated based upon the directions of the Hon'ble High Court as stated above and the domestic industry has not come up, within the stipulated period of 40 days, with a documented petition for the Authority to assess whether there is sufficient evidence of dumping and injury.

9. Section 9A(5) of the Customs Tariff Act provides that the anti-dumping duty imposed shall, cease to have effect on the expiry of five years from the date of such imposition, provided that the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury. In the instant case, since there is no information on record to establish that the cessation of the present duty is likely to lead to continuation or recurrence of dumping and injury, the Authority does not consider it appropriate to recommend extension of the anti dumping duties imposed earlier. Therefore, the Authority hereby terminates the investigation initiated vide Notification No.15/18/2008-DGAD dated 22nd August, 2008, with all proceedings connected with this case and recommends that the anti dumping duties need not be extended further.

10. Any appeal against the Orders of the Central Government that may arise out of this recommendation shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(R. Gopalan)
The Designated Authority