

# **MINISTRY OF COMMERCE & INDUSTRY**

## **(Department of Commerce)**

### **NOTIFICATION**

New Delhi, the 27th April, 2000

**Subject.-** Anti-Dumping Duties concerning imports of Bisphenol-A from European Union (EU) and Taiwan--Preliminary Findings.

**No. 47/1199-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.

### **A. PROCEDURE:**

1. The procedure described below has been followed with regard to the investigations:-

- i. The Designated Authority(hereinafter referred to as Authority), under Rules received written application from M/s. Kesar Petro Products Ltd., Mumbai alleging dumping of Bisphenol-A(hereinafter referred to as subject goods), originating in or exported from the European Union(EU) and Taiwan(hereinafter referred to as subject countries);
- ii. The Authority, on the basis of sufficient evidence submitted by the petitioner, decided to initiate investigations against imports of Bisphenol-A from the subject countries. The Authority notified the Delegation of European Union and Economic and Cultural Center of Taiwan about the receipt of dumping allegation before proceeding to initiate investigations in accordance with sub-rule 5(5) of the Rules;
- iii. The Authority issued a Public Notice dated the 6th January, 2000, published in the Gazette of India, Extraordinary, initiating Anti-Dumping investigations concerning imports of Bisphenol-A classified under Custom sub-headings 2907.23 of Schedule I of the Customs Tariff Act, 1975, originating in or exported from the subject countries;
- iv. The Authority forwarded a copy -of the Public Notice to the known exporters (whose details were made available by the petitioner) and industry associations 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 the known importers of Bisphenol-A in India 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 Bisphenol-A for the past three years, including the period of investigations;
- vii. The Authority provided a copy of the petition to known exporters and the Delegation of European Union and Economic and Cultural Centre Taiwan in accordance with Rules 6(3) supra;
- viii. The Authority sent questionnaire, to elicit relevant information, to the known exporter from European Union(EU) and Taiwan.. as mentioned below in accordance with the rule 6(4):-

- M/s. Taiwan Proprietary Chemicals Corporation, Taiwan.
- M/s. Nan Ya Plastics Corporation, Taiwan.
- M/s. Shell Nederland Chemie BV, Netherlands.
- M/s. Bayer A.G., Germany.
- M/s. DOW Deutschland Inc., Germany.

M/s Taiwan Proprietary Chemicals Corporation and Ws. Nan Ya Plastics Corporation, Taiwan requested for extension of time which was allowed by Designated Authority. However, no information in the prescribed proforma was filed by any of the exporters from the subject countries;

- ix. The Delegation of European Union(EU) and Economic and Cultural Centre in New Delhi were informed about the initiation of the investigations 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, petition and questionnaire sent to the exporter was also sent to the Delegation of EU and Economic and Culture Centre of Taiwan, along with a list of known exporters/ producers. However, no information in the prescribed proforma was filed by any of the exporters from the subject countries;
- x. A questionnaire was sent to the following known importers/wholesales, dealers of Bisphenol-A in India calling for necessary information in accordance with Rule 6(4):-

- M/s. Jadavji & Co., Mumbai.
- M/s. Prikha Resins & Polymers Ltd., Kanpur.
- M/s. Bilt Chem Ltd., N. Marnataka.
- M/s. K. Uttamlal & Co, Mumbai.
- M/s. C.J. Shah & Co., Mumbai.

- M/s. Pragati Chemicals Ltd., Mumbai.
- M/s. Gamma Coatings, Thane.
- M/s. Ramniklal S Gosalia & Co., Mumbai.
- M/s. Goodlass Nerolac Paints Ltd., Mumbai.
- M/s. J. Kirit & Brother, Mumbai.
- M/s. Blue Bell Polymers Pvt. Ltd., Mumbai.

The response was, however, filed by the following importers of Bisphenol-A:

- M/s. Indian Chemical Manufacturers Association, Mumbai.
- M/s. Gamma Coatings, Thane.
- M/s. Pragati Chemicals Ltd., Mumbai.
- M/s. Atul Ltd., Valsad, Gujarat.

- xi. Additional information regarding injury was sought from the petitioner, which was also received;
- xii. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open *for* inspection by the interested parties;
- xiii. The Authority conducted spot verification of the domestic industry to the extent considered necessary;
- xiv. Cost investigations were also conducted to work out optimum cost of production and cost to make and sell the subject goods in India based on the information furnished by the petitioner on the basis .of Generally Accepted Accounting Principles(GAAP) so as to ascertain if Anti-Dumping duty lower than the dumping margin would be sufficient to remove injury to domestic industry;
- xv. \* \* \* in this Notification represents information furnished by the petitioner on confidential basis and so considered by Authority under the Rules;
- xvi. Investigation was carried out for the period starting from 1st April, 1998 to 30th Sept., 1999.

## **B. PETITIONER'S VIEWS:**

2. The petitioner has raised the following issues in its petition:

- a. The export price of Bisphenol-A to India has been at a price much below its normal value in the subject countries;
- b. There has been significant increase in quantum of imports from subject countries;

- c. The share of imports from subject countries has also increased from 30.32% in 1996-97 to 91.75% in 1998-99;
- d. The export price from EU countries was Rs.72.77 per Kg. and has declined to Rs.46.60 per Kg. in 1998-99;
- e. The domestic industry has suffered material injury on account of increase in quantum of losses.

## **C. VIEWS OF EXPORTERS, IMPORTERS AND OTHER INTERESTED PARTIES:**

3. None of the exporter from the subject countries has responded to the Authorities request soliciting for information in the prescribed proforma. However, the views expressed by other interested parties are as under:-

### **(a) M/S. INDIAN CHEMICAL MANUFACTURERS ASSOCIATION:**

- i. Ws. Kesar Petroproducts Ltd. has a capacity to produce 5000 MTs of Bisphenol-A of which 3600 MT is sold in domestic market;
- ii. Phenol is the basic raw material in manufacture of Bisphenol-A and it is attracting safeguards duty. As such the cost of manufacture of Bisphenol-A has gone up further compared to cost of production in international market;
- iii. The major application of Bisphenol-A is in the manufacture of Phenolic resins, Epoxy resins, Polycarbonate resins and Unsaturated Polyester resins. Kesar Petroproducts Ltd. is the only producer of Bisphenol-A in the country. In the recent past Kesar Petroproducts has resorted to closure of its plants without giving prior notice to the customers which left them without supply of Bisphenol-A for quite some time;
- iv. if the company is in a position to offer product at a competitive price to the users, there are definitely good prospects for the company.
- v. Most of the imports of Bisphenol-A are taking place under advance license for export of Epoxy resins and hence do not affect the local demand/supply.

### **(b) M/S. GAMA COATINGS PVT. LTD. :**

- i. Ms. Kesar Petroproducts Ltd. are producing Bisphenol-A to their full capacity. Hence import of Bisphenol-A is not going to affect them in anyway;
- ii. We offer specialized products where we require the standard material but with M/s Kesar Petroproducts Ltd. we face quality problem like high phenol contents and dark colour which affects final products and goodwill of company;

- iii. M/s Kesar Petroproducts Ltd has a discriminatory rate structure where price difference is as high as 25 to 30% for large and small buyer with unfavourable commercial terms to small buyer;
- iv. Anti Dumping application is to cover their own inefficiency and customer should not , be made to pay for the low grade products of single manufacturer.

**(c) M/S PRAGATI CHEMICAL LIMITED:**

- i. M/s Kesar Petroproducts Limited is taking up at a regular interval with Government of India for Anti-Dumping investigation country-wise. We do not believe that each and every country is dumping the material here. There are many factors by which a commodity may be offered cheaper to other country, the main being the exchange difference between: the currencies;
- ii. Domestic industry after anti dumping duty increased the price unreasonably high, making local epoxy manufacturer to suffer loss or close down the production.

**(d) M/S ATUL LIMITED:**

- i. The purchase of Bisphenol-A by the company indicates that the import of Bisphenol-A from Taiwan/EU constitute very small percentage and almost total purchase has been made from Ws Kesar Petroproducts Ltd. only.
- ii. M/s Kesar Petroproducts is not suffering any significant injury on account of imports of Bisphenol-A as of now.
- iii. M/s Kesar Petroproducts plant is running at full capacity and we do not think that imports of Bisphenol-A is hurting them.

**D. EXAMINATION OF THE ISSUES RAISED:**

- 4. The submissions made by the exporters, importers, petitioner and other interested parties have been examined, considered and have been dealt with at appropriate places hereinafter.

**E. PRODUCT UNDER CONSIDERATION:**

The product involved in the present investigation is Bisphenol-A originating in or exported from the European Union and Taiwan. Bisphenol-A finds uses in Phenolic resins, Epoxy resins, Polycarbonate resins and Unsaturated Polyester resins and is classified under Customs Sub-heading 2907.23 of the Customs Tariff Act, 1975. The classification is, however indicative only and is in no way binding on the scope of the present investigation.

## **F. LIKE ARTICLES:**

6. Rule 2(d) of the Anti-Dumping Rules specifies that "Like Articles" means an Article which is identical or alike in all respects to the product under investigation or in the absence of such an Article, another article, having characteristics closely resembling those of the articles under examination.

The petitioner has claimed that the Bisphenol-A produced and sold by them and those imported from the subject countries, are being used interchangeably by the customers in India. The process and technology for manufacturing the product all over world is similar in terms of machinery, raw materials, manufacturing process except for minor difference such as additives. None of the interested parties have disputed the claims made by petitioner.

In view of the same, the Authority told that Bisphenol-A being produced by the domestic industry and those being imported from the subject countries can be used interchangeably and thus are commercially and technically substitutable and therefore, are like articles within the meaning of the Rules.

## **G. DOMESTIC INDUSTRY:**

7. The petition has been filed by M/s. Kesar Petroproducts Ltd., Mumbai. The petitioner is the sole producer of the subject goods in India. Therefore, the petitioner accounts for a major proportion of the production of the subject goods in India. None of the interested parties have disputed the standing of the petitioners to represent the Domestic industry. Therefore, the Authority holds that the petitioner fulfils the requisite criteria to represent the domestic industry, as required under the Rules.

## **H. NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN:**

8. The Authority has examined the Normal value in relation to subject goods in accordance with Rules 9 A(1)(c). Accordingly, the assessment of Normal Value from subject countries is discussed below:-

### **NORMAL VALUE**

#### TAIWAN

- i. The Authority provided opportunity to the exporters from Taiwan to furnish information relevant to the investigations and offer comments, if any, in

accordance with the Section cited above. The Authority wrote to the Economic Cultural Center of Taiwan in India also. Although some of the exporters requested for extension of time to file response, none of the exporters from Taiwan has furnished the requisite information in the prescribed proforma. None of the interested party furnished any information relevant for determination of normal value. The claim made by the petitioner with regard to the determination of normal value has also not been disputed by any interested party(ies). The Authority has, therefore, proceeded on the basis of Rule 6(\$), i.e., best information available.

- ii. The Normal value was determined at the time of initiation of the investigations on the basis of the constructed cost of production of Bisphenol-A in Taiwan. The Authority has considered the same as the basis for determination of the Normal value. Therefore, the cost of production of Bisphenol-A in Taiwan has been adopted as the basis for Normal value after allowing for the reasonable margins of profits. Accordingly, the Normal value of Bisphenol-A for exporters from Taiwan has been taken at US\$ \* \* \* \* per Kg. (Rs. \* \* \* \* per Kg.).

## **9. EUROPEAN UNION(EU):**

The Authority provided an opportunity to the exporters of subject goods from European Union‘ ,to furnish information relevant to investigation and offer comments, if any. The Authority also wrote to the Delegation of European Union(EU) in India. However, none of the exporter from European Union responded to the Authorities request for information. The claims made by the petitioner with regard to Normal value has also not been disputed by any of the interested parties. The Authority has therefore,- proceeded on the basis of best available information as required under the rules. The Normal Value in case of European Union was determined at the time of initiation of investigation on the basis of domestic sales price of subject goods within European Union, as per information furnished by the petitioner. The same has been considered by Designated Authority as Normal value in case of exporters from European Union. Accordingly, the Normal value has been considered by Authority as US\$ \* \* \* \* per Kg. (Rs. \* \* \* \* per Kg.).

## **10. EXPORT PRICE:**

### **TAIWAN AND EUROPEAN UNION:**

None of the exporter of subject goods from subject countries have responded to Authorities request for relevant information. Bisphenol-A is classified under the Customs sub-heading 2907.23 of the Customs Tariff. The Authority has addressed to DGCI&S, Calcutta to furnish the relevant information with regards to imports from

subject countries. The information, as furnished by DGCI&S, Calcutta has been relied upon by the Authority for export prices.

The average CIF export price of Bisphenol-A -into India from member countries of EU and Taiwan based on available information was Rs.44.99 and Rs.43.50 per Kg. respectively. The petitioner have claimed adjustment from export price on account of ocean freight, Insurance, Commission and Port handling charges. These adjustment have been considered by Authority as claimed. Accordingly, the Ex-factory export price has been considered by Authority Rs. \* \* \* \* per Kg. and Rs. \* \* \* \* per Kg. in case of European Union and Taiwan respectively.

Based on the Normal value and the Export price, as indicated above, the Authority assess the Dumping Margins in case of all exporters from European Union and Taiwan as 49.7% and 81.0% respectively.

## **11. INJURY:**

### **(i) QUANTUM OF IMPORTS AND MARKET:**

The information with regards to quantum of imports of Bisphenol-A for the Period of Investigation (POI) has been relied upon by Designated Authority based on information furnished by DGCI&S, Calcutta. As per information, the quantum of imports of Bisphenol-A in India and the market share of subject countries was as under:-

In MTs

S1. No. Country 1997-98 1998-99 April, 1999

to Set., 1999

1. Taiwan 592 127 434

2 European 162 1194 350

Union EU

3. Others 143 54 57

**TOTAL 897 1376 842**

The Authority notes that there has been 75% increase in volume of imports of Bisphenol-A from subject countries during 1998-99 over 1997-98. Besides, the share

of imports of subject countries has gone up from 84% in 1997-98 to 96% in 1998-99. During the six months period ending Sept., 1999, the quantum of imports from subject countries have gone up by a further 18.7% over 1998-99 on an annualized basis. Besides, the share of imports of subject countries in six months ending Sept., 1999 was 93.11 %.

(ii) EXPORT PRICE:

The average export of subject goods from European Union in 1996-97 was Rs.72.77 per Kg. which declined to Rs.45.12 per Kg. during 1997-98. There was no significant change in sales price during the year 1998-99 over 1997-98. However, the average export price of subject goods from Taiwan, during 1997-98 was Rs.38.20 per Kg. whereas the average export price during POI was Rs.43.50 per Kg.

(iii) PRODUCTION:

The total production of petitioner company of subject goods during 1997-98 was 4192 MT which increased to 5242 MT in 1998-99, representing an increase of 25%. The production of Bisphenol-A in the six months period ending 30th Sept., 1999 was 2705 MT, which on an annualised basis works out to an increase of 3.20% over the financial year 1998-99.

(iv) SALES VOLUME:

The sales volumes of petitioner company during 1997-98 was 4180 MT which increased to 5438 MT in 1998-99 i.e. an increase of 30%. However, the sales volume in the six months ending 3rd Sept., 1999 was 2447 MT, which on an annualized basis represents, a decline in sales volumes of 19% over the year 1998-99.

(v) CAPACITY UTILIZATION:

The company attained a capacity utilisation of 83.84 % in the year 1997-98 which increased to 104.84% in the year 1998-99. The actual capacity usage in the six months period ending 3rd Sept., 1999 on the annualized basis was 108.20%.

(vi) SALES REALISATION:

The average sales realisation of petitioner company from sale of subject goods in domestic market during the year 1996-97 was Rs. \* \* \* \* per MT, which declined to Rs. \* \* \* \* per MT in 1997-98 representing a decline of 16.28%. The average sales realisation for domestic sales in the year 1998-99, was Rs.\* \* \* \* per MT. However, it declined to Rs. \* \* \* \* MT in six months period ending Sept., 1999.

**(vii) PROFITABILITY:**

The company made a net loss of Rs.778.88 lacs during 1997-98 which declined to Rs. 177.55 during 1998-99. However, the company suffered a net loss of Rs.493.27 lacs during the six months period ending 30th Sept., 1999 which on an annualized basis works out to a loss of Rs. 986.54 lacs.

**(viii) CLOSING STOCKS:**

The closing stock of Bisphenol-A as on 31.03.1997 was \* \* \* \* MT which increased to \* \* \* \* MT as on 31.03.1998 and it declined to \* \* \* \* MT as on 31.03.1999. However, the closing stock as on 30" Sept., 1999 was \* \* \* \* MT.

**L. CAUSAL LINK:**

11. The Authority notes that there has been significant increase in quantum of exports of subject goods from European Union and Taiwan. The market share of subject countries in the total imports have also increased. The Bisphenol-A has been exported to India from subject countries at a price below its Normal value.

The export price from European Union has significantly declined. In spite of increase in production and capacity utilisation, the petitioner company suffered a decline in sales volumes particularly in the later half of POI. The quantum of losses of petitioner company, have also increased significantly. Thus, the petitioner company was able to sell the subject goods in domestic market only at substantial losses. All these parameters cumulatively indicates that the petitioner company has suffered material injury and the injury to petitioner company has been caused due to dumped imports of subject goods.

**J. LANDED VALUE:**

13. The landed value has been determined on the basis of export price of Bisphenol-A from European Union (EU) and Taiwan, as detailed above in the para relating to dumping, after addition the prevailing level . of customs duties and one percent landing and two percent handling charges.

**K. CONCLUSIONS:**

14. It would be seen, after considering the foregoing, that:

- a. Bisphenol-A originating in or exported from EU and Taiwan have been exported to India below normal value, resulting in dumping;
- b. The Indian industry has suffered material injury;
- c. The injury has been caused cumulatively by the imports from the subject countries.

15. It is considered necessary to impose Anti-Dumping Duty, provisionally, pending final determination, on all imports of Bisphenol-A originating in or exported from the European Union and Taiwan, pending investigations.

16. It was considered whether a duty lower than the dumping margin would be sufficient to remove the injury. The average landed price of the imports, for the purpose, was compared with the Non-injurious selling price of the petitioner company, determined for the period of investigations. Wherever the difference was less than the dumping margin, a duty lower than the dumping margin is recommended. Accordingly, it is proposed that provisional duties be imposed, pending final determination on all imports of Bisphenol-A originating in or exported from EU and Taiwan. The Anti-Dumping Duty shall be the amount indicated in the table below, to be imposed from the date of Notification to be issued in this regard by the Central Government, on all imports of Bisphenol-A falling under Chapter 29 of the Customs Tariff, originating in or exported from EU and Taiwan:-

S1. No. Country Amount of Duty(Rs. per Kg-)

1. Taiwan - All exporters 5.30

2. European Union(EU) - 4.03

All exporters

17. Landed value of imports for the purpose shall be the assessable value as determined by the customs under the Customs Act, 1962 and all duties of customs except Additional duty of Customs levied under Section 3, 3A, 813, 9 and 9A of the Customs Tariff Act, 1975. \_

## **L. FURTHER PROCEDURE:**

18. The following procedure would be followed subsequent to notifying the preliminary findings:-

- a. The Authority invites comments on these findings from all interested parties and the same would be considered in the final finding;

- b. Exporters; importers, petitioner and other interested parties known to be concerned are being addressed separately by the Authority, who may make known their views, within forty days from the date of the despatch of the letter. Any other interested party may also make known its views within forty days from the date of publication of these findings;
- c. The Authority would conduct further verification to the extent deemed necessary;
- d. The Authority would disclose essential facts before announcing final findings.

**RATHI VINAY JHA...**  
Designated Authority