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Extraordinary

No.14/6/2006-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti-Dumping & Allied Duties)
Udyog Bhawan, New Delhi

NOTIFICATION

New Delhi, the 9th February 2012

Post decisional Findings (CESTAT REMAND CASE)

Subject: Post decisional Findings following post decisional oral hearing (CESTAT REMAND CASE) in the matter of **antidumping investigation concerning imports of Pre-sensitized Positive Offset Aluminum Plates (PS Plates) from Bulgaria, China PR, Malaysia, Singapore and South Korea.**

A. BACKGROUND

Having regard to the Customs Tariff Act 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, (hereinafter referred to as the Rules) thereof:

Whereas M/s Technova Imaging Systems (P) Ltd., and M/s. Stovec Industries Limited (herein after referred to as the Applicant) filed an application before the Designated Authority (hereinafter referred to as the Authority), in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as the Rules), alleging dumping of Pre-sensitized Positive Offset Aluminum plates (herein after referred to as subject goods) originating in

or exported from Bulgaria, China PR, Malaysia, Singapore and South Korea (herein after also referred to as subject countries) and requested for initiation of Anti Dumping investigations for levy of anti- dumping duties on the subject goods.

2. Whereas the Authority on the basis of sufficient evidence submitted by the Applicant on behalf of the domestic industry, issued a public notice dated 24th August, 2006 published in the Gazette of India, Extraordinary initiating Anti- Dumping investigations concerning imports of the subject goods originating in or exported from the subject countries in accordance with the Rule 6 of the Rules to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied would be adequate to remove the injury to the domestic industry. Authority issued Final findings dated 23rd August 2007 as amended on 13th September 2007 and definite antidumping duties was imposed by the Ministry of Finance.
3. And whereas, M/s Technova Imaging Systems (P) Ltd., and M/s. Stovec Industries Limited filed an appeal before CESTAT, challenging the imposition of Anti-dumping duty on imports of PS Plates on the reference price basis and another appeal by M/s. Allied Enterprises challenging the imposition of Anti-dumping duty vide Customs Notification No 108 /2007-Customs dated 25th September 2007 The Hon'ble CESTAT vide its order No. AD/31-51/2011 dated 11th August 2011 remanded the matter back to Designated Authority for fresh decision after granting a reasonable opportunity of hearing to the appellants within a period of 6 months.

B. PROCEDURE:

4. The procedure described below has been followed:
 - i. On 24th August 2006, the Designated Authority (hereinafter also referred to as Authority), under the above Rules, issued an initiation notification published in the Gazette of India, initiating an anti dumping investigation with regard to imports of Pre-sensitized Positive Offset Aluminum plates originating in or exported from subject countries. The Anti dumping proceeding was initiated following an application received from M/s Technova Imaging Systems (P) Ltd., and M/s. Stovec Industries Limited (hereinafter referred as applicants) on behalf of the domestic industry representing a major proportion of the domestic production of said product. The application contained evidence of dumping of the said product and material injury resulting there from, which was considered sufficient to justify the initiation of the proceedings.

- ii. The Authority notified the Embassies of subject countries in India about the receipt of fully documented application made by the applicant before proceeding to initiate the investigation in accordance with sub-rule (5) of Rule 5 supra.
- iii. According to sub rule (2) of the rule 6 supra, the Authority forwarded copy of the said initiation notification to the known exporters, importers, industry associations, embassies of the subject countries and to the applicants and gave them an opportunity to make their views known in writing.
- iv. According to sub-rule (3) of Rule 6 supra, the Authority provided a copy of non confidential version of the application to all the known exporters in subject countries and their embassies in India. As per Rule 6 supra, the Authority provided a copy of the relevant questionnaire to all the known exporters and their embassies in India. The Embassy of subject countries in New Delhi were also informed about the initiation of investigation and were requested to advise the exporters/producers from their countries to respond to the questionnaire within the prescribed time. A copy of the letter and questionnaire sent to the following exporters and producers were also sent to the respective embassies along with the name and address of the exporters.
 - 1) M/s. Jungdo Chemical Company Ltd. South Korea
 - 2) M/s. Kodak Polychrome Graphics Singapore Pvt. Ltd, (KPG) Singapore.
 - 3) M/s. Fuji Offset Plates Mfg. Ltd, Singapore
 - 4) M/s. GED Limited, Bulgaria.
 - 5) M/s. Fuji Photo Film (Malaysia) Sdn. Bhd. Malaysia
 - 6) M/s Kodak Polychrome (KP) , Bulgaria
- v. In response to the initiation notification, M/s Kodak Polychrome Graphics, Singapore (KPG, Singapore), an exporter and M/s Kodak Polychrome, Bulgaria (KP, Bulgaria) , the producer responded to the exporters questionnaire and submitted substantial information. Their information was subsequently verified by the Authority after conducting on site verification at the premises of the cooperating exporters and a verification report was issued to the cooperating producer and exporter for their comments. The comments received from the producer and exporter has been examined and are reflected in the disclosure statement.
- vi. A questionnaire was sent to the known importers/user associations of the subject goods for necessary information in accordance with Rule 6(4) as mentioned in para 4 of the final findings.
- vii. The submissions of the printers and associations have been examined by the Authority and have been appropriately dealt with in the final findings. It is stated that subsequent to the initiation of the antidumping investigation the import statistics of product under consideration which was filed by the domestic industry was kept in the public file for information of all interested parties. Subsequently, a copy of

culled out data of the subject goods (as defined in the product under consideration) was also kept in the public file and it was inspected and copies were made available to other interested parties who so requested after inspection of public file. With regard to the claim of confidentiality, it is stated that the Designated authority, upon being sufficient reason given to it by various interested parties have treated the financial reports of domestic industry (M/s Technova Imaging systems Pvt Ltd, Mumbai) and transaction wise import information giving import qty and price and other adjustments of the importers data as 'confidential'. After the public hearing, a copy of the non-confidential version of the financial statements of M/s. Technova Imaging System was also kept in the public file for information to all concerned. The authority also communicated to various interested parties about the availability of this information in the public file when they made request to the authority for collecting copies of these documents.

- viii. A copy of the non-confidential application was also provided to other interested parties, wherever requested.
- ix. The Authority kept available non-confidential version of the evidence presented by various interested parties in the form of a public file maintained by the Authority and kept open for inspection by the interested parties as per Rule 6(7).
- x. Additional details regarding injury were sought from the applicant, which were also received. The Authority sought and verified all the information it deemed necessary for the purpose of determination of dumping and resulting injury. The Authority conducted on the spot investigation of the domestic industry to the extent considered necessary. The cost of the production of the domestic industry was also analysed to work out the cost of the production and the cost to make and sell the subject goods in India on the basis of Generally Accepted Accounting Principles based on the information furnished by the domestic industry so as to ascertain if anti dumping duty lower than dumping margin would be sufficient to remove injury to the domestic Industry.
- xi. The Authority held a public hearing on 5th January, 2007 to hear the interested parties orally, which was attended by a number of interested parties. The parties attending the public hearing were requested to file written submissions of views expressed orally. The Authority in this finding has considered the written submissions thus received from interested parties. The parties were also asked to file rejoinder submissions on views expressed by other interested parties.
- xii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded findings on the basis of the facts available.
- xiii. The Authority has considered data relating to cost of production and selling price of all interested parties as confidential as it would give competitive advantage to their

competitors. The other information has not been considered as confidential unless the responding party has given sufficient justification for keeping the information as confidential.

- xiv. **** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules on merits. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings was disclosed to known interested parties on 25th July and comments received on the same has been considered in Final Findings. Post disclosures, the following interested parties have submitted their comments

1. M/s Allied Enterprises
2. M/s. KP, Bulgaria and M/s KPG Singapore.
3. M/s. Kapoor Imaging
4. M/s. All India Federation of Master Printers
5. Domestic Industry
6. All Bengal Printers Association

The submissions made by all these interested parties have been taken into account and dealt with at the relevant heads in this final finding.

- xv. Investigation was carried out for the period starting from 1 April 2005 to 31st March 2006 (12 months) i.e. the period of investigation (POI). The examination of trends in the context of injury analysis covered the period 2002-03, 2003-04, 2004-05 and the POI.
- xvi. M/s Technova Imaging Systems (P) Ltd., and M/s. Stovec Industries Limited filed an appeal before CESTAT, challenging the imposition of Anti-dumping duty on imports of PS Plates on the reference price basis and another appeal by M/s. Allied Enterprises challenging the imposition of Anti-dumping duty.
- xvii. The Hon'ble CESTAT vide its order No. AD/31-51/2011 dated 11th August 2011 remanded the matter back to Designated Authority for fresh decision after granting a reasonable opportunity of hearing to the appellant within a period of 6 months. The order stated as follows:

“ 15. Accordingly we allow these appeals by remand to the DA for affording post decisional hearing to the appellants and for making such modifications to the final findings as may be necessary as a result of such post-decisional hearing. The respondent- domestic industry and other interested parties, if any, shall be allowed to participate in such post decisional hearing. Any modifications made in the final findings would be considered by giving effect to the same by the Government by carrying out the necessary amendments to the impugned notifications imposing anti-dumping duty. This process shall be completed within 6 months from the date of this

order and status quo shall be maintained meanwhile. Since we are allowing these appeals by remand, the related stay petitions, MAs, and COs stand disposed off.”

- xviii. Further, pursuant to the order of CESTAT, the Authority provided an opportunity to all interested parties to present their views orally in a Public Hearing held on 14th December, 2011. The interested parties who presented their views orally in the Public Hearing were requested to file written submissions of the views expressed by them orally and were allowed to give rejoinders to the submissions made by opposing parties. It is noted that written submissions following oral hearing pursuant to CESTAT order were received from M/s Kodak (Bulgaria, Singapore And India) and domestic industry M/s Technova Imaging systems (I) Ltd.
- xix. Submissions made by various interested parties during the course of the investigations and pursuant to the oral hearing held by the Authority were examined in detail in the light of facts and legal provisions and the same have been considered in the present findings.

C. PRODUCT UNDER CONSIDERATION, LIKE ARTICLE AND DOMESTIC INDUSTRY:

I. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE

Submissions and issues raised before the final findings dated 24th August 2007

5. The product under consideration in the present investigation is Pre-sensitized Positive Offset Aluminum plates (also referred to as “PS Plates” or subject goods). The subject goods is primarily used in the printing establishments. There are various kinds of Aluminium Offset Plates, designed to suit the quality, speed & cost requirements of the users, and the imaging technology available to them e.g. Non-sensitised Grained Plates; Pre-sensitised Plates (Positive or Negative working); Digital Plates (Thermal or Violet or UV sensitive). The thickness of the subject goods ranges between 0.15 mm to 0.40mm. The present application covers PS PLATES of all types of thickness ranging from 0.15 mm to 0.40mm with a variation of 0.03mm on either side.
6. PS Plates serve as an image-carrier on an offset printing machine, and is the final link in the lithographic offset printing process. It is used by the printing Industry on sheet-fed & web-fed offset printing machines for printing of newspapers, flexible packaging materials, books, general commercial printing, and stationary, business forms. The subject goods are manufactured from coils or sheets of “litho-grade”

Aluminium by electro-chemically treating the surface, followed by photo-sensitive coating, drying, and cutting the sheets to required dimensions. The subject goods falls under Chapter 84 of the Custom Tariff Act, 1975. While the classification of the PS plates at the eight digit level is 84425020, the subject goods are reported to have been imported under sub-headings 37013000, 37040090, 37051000, 76069190, and 76069290 as well. However, the Customs classification is indicative only and is in no way binding on the scope of the present investigation. Subsequent to the initiation, various interested parties have submitted that scope of the product under consideration should be clarified so that it does not include other products like negative plates and digital plates. The Authority has examined the contention of other interested parties and it holds that product under consideration does not cover negative plates and digital plates,, negative offset plates and all plates other than “Pre-sensitized Positive Offset Aluminum plates with thickness ranging from 0.15 mm to 0.40mm with a variation of 0.03mm on either side” are outside the scope of the investigation.

7. Rule 2(d) of AD Rules defines Like Article as

“an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation.”

8. The applicants have claimed that the subject goods, which are being dumped into India, are identical to the domestic like product produced by the domestic industry. There are no differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced subject good. On the issue of like article, some of the interested parties have stated that the domestic industry is considering their top quality high priced plates and the imported PS plates come in the various plates known as short run, medium run and high run. They therefore, have disputed the domestic industry’s claim of comparing the indigenous plates with the plates imported from the subject countries as one like product. It has also been stated that the plates imported by them do not have high overhead costs unlike the Indian manufacturers.
9. On the other hand, it has been submitted by the domestic industry that the issue of the quality of the plates manufactured by the Domestic Industry has been introduced by the opposing interested party. It has also been submitted that such arguments are frivolous and only made with a view to distract an objective investigation into the dumping from the subject countries. No technical or scientific evidence has been provided to substantiate this issue. It has also been submitted that the subject goods are produced in various types whether short run, long run or medium run. All the so called grades/types/forms of the subject goods are the subject matter of this petition within the specific width size as mentioned in the said Initiation Notification. It has

further been submitted by the domestic industry that the Petitioners are manufacturing all grades and types of plates which are included in the product under consideration, which can clearly complement and substitute the dumped subject goods. Thus, there is no difference in the subject goods produced by the domestic Industry and imported from the subject countries. It has also been submitted that while the said importer is only importing the so called one quality of plates, which is clearly within the purview of the investigation, it does not absolve his imports from the said allegations made in the Petition and thus the process set by the Designated Authority has to be complied with. On the issue raised in the submissions as regards the marketing cost incurred by the manufacturer, or the power cost or the state of the art production line, it has been submitted that the Korean Manufacturers / Exporters have not complied with the timelines framed by the Designated Authority and have also not submitted any information as mandated under the Exporters Questionnaire, which requires submitting greater and credible information related to the investigation.

10. The Authority has examined the contention of all interested parties and after examination, it is noted that short run, medium run and long run denotes the number of copies or impressions that could be made out of the PS Plates. However, none of the exporters from subject countries with the exception of M/s Kodak Bulgaria and M/s KPG, Singapore have cooperated with the investigation and submitted any data regarding these different grades or variants of the subject goods. Even the sole cooperating exporter M/s KP, Bulgaria and M/s KPG, Singapore have not submitted or classified their subject goods in these three grades or commented anything on these different types of runs. None of the interested parties have submitted any evidence that these three variants of the subject goods imported from subject countries are not like products to the subject goods produced by the domestic industry. The Authority considers that different types of subject goods are produced from the same production technology, manufacturing process, raw materials, plant & equipment and perform the same general purpose. There is a great amount of substitutability between different types of subject goods. Even though the product has been grouped in discrete types according to thicknesses, and runs, these specific characteristics merely differentiate various types of subject goods. . The imported product is also used by same category of consumers. Further, neither the exporters nor the interested parties have disputed the fact along with evidence that there is any difference in the subject goods imported from subject countries and the subject goods manufactured by the domestic industry After examining the claims, the Authority holds that the subject goods produced by the domestic industry and produced and sold by the subject countries being technically and commercially substitutable are considered as 'like articles' under the Anti Dumping Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the applicants in India are being treated as 'Like Articles' to those being imported from the subject countries. Post disclosure, none of the interested parties has made any comments with regard to product under consideration and like article. In view of that, the authority confirms the product under consideration and like article as determined in the disclosure statement.

Submissions raised in written submissions and rejoinders after the second oral hearing on 14th December 2011 pursuant to CESTAT orders dated 11th August 2011.

By Kodak (Bulgaria, Singapore And India)

Scope of Product Under Consideration

11. Technova has misled the authority with regard to scope of the product under consideration. Customs authorities have collected anti-dumping duties on imports of CtCP plates, holding that CtCP plates are the same as PS Plates or Analogue Plates.
12. Distinguishing feature adopted by the authority in describing CtCP, Analog and Digital Plate is without any technical basis.

By Domestic Industry (Technova)

13. Instead of transferring the image first to a film and then to a plate, one may also use a Computer-To-Plate (CTP) technology wherein the image is transferred from the computer to the plate directly through a plate setter. The plates used for such purposes are known as Digital Plates or CTPs. The product under investigation does not include PS negative plates and digital plates. It is restricted to PS Positive plates only.
14. Kodak has not provided any evidence with regard to collection of antidumping duties by Customs authorities on CtCP plates holding the same as PS plates.

Examination by Authority

15. The Authority has examined the issue of scope of product under consideration in detail in the final findings and notes that digital plates are outside the purview of the investigation and the same were excluded from product scope of PS Plates in the final findings as dealt in para 6. In fact, subsequently, it has been noted that CtCP plates are UV CTP plates and hence are outside the purview of the definition of the PS plates as defined in the para 6 of the final findings. In view of the above, the Authority maintains its earlier decision and reconfirms the product scope as per final findings dated 24th August 2007.

DOMESTIC INDUSTRY

16. It is noted that the application was filed by M/s. Technova Imaging Systems (P) Limited, (Technova) and M/s. Stovec Industries Limited (Stovec) . From the examination of the information on record, it is noted that the collective production of the

aforsaid producers constituted a major proportion of the total domestic production of the like article and therefore they represented the domestic industry within the meaning of Rule 2(b) of the Rules supra and they have the required standing to file the application under rule 5(3)a of the Anti dumping rules.

17. Subsequent to the initiation, another domestic producer of the subject goods M/s Lastra Niraj Pvt Ltd has submitted the information in the form and manner of domestic industry questionnaire. The Authority has therefore taken all three producers data into account (which account for entire production of subject goods in the country) for determining the injury of domestic industry as a whole. Post disclosure, none of the interested parties has submitted any comments with regard to standing and domestic industry status in this investigation. In view of that, the authority confirms the domestic industry and standing determination made in the disclosure statement.

Submissions and issues raised before the final findings dated 24th August 2007

Issues raised by Various Interested parties with regards to import data, confidentiality, monopoly position and procedures followed by the Authority and Other issues :

18. It is reiterated that these issues have been mentioned and analysed by the Authority from para 12 to 42 in the final findings.

Submissions raised in written submissions and rejoinders after the second oral hearing on 14th December 2011 pursuant to CESTAT orders dated 11th August 2011.

By KODAK (BULGARIA, SINGAPORE AND INDIA)

19. The petition considered one scope of the domestic industry and the Designated Authority considered that scope as the scope of the domestic industry. Post initiation and in fact as close to as oral hearing, the petitioner enlarged the scope of the domestic industry. Thus, the scope of the domestic industry in the petition, initiation notification and final findings is different.

This is illegal and violative of Rule 5 and 6 of the Anti Dumping Rules and corresponding provisions of the WTO Agreement. The decision to include other domestic producers is also inconsistent with the decision of the WTO Panel in the matter of Mexico – Anti-Dumping Duties on Steel Pipes and Tubes from Guatemala. Subsequent to Disclosure Statement, M/s Kodak (BULGARIA, SINGAPORE AND INDIA) have reiterated their submissions made earlier with regard to scope of domestic industry in this investigations.

By Domestic Industry (Technova)

20. The application was filed by two domestic producers and subsequently, the third domestic producer came forward and provided injury information. After incorporating the information so obtained during the course of the investigation, domestic industry has revised the Proforma IVA giving the consolidated data for all the three domestic producers.
21. There is no rule that prohibits submission of relevant information during the course of the investigation. Antidumping investigation is a continuous process and any interested party can submit the information to investigating authority so that correct determination can be made by the authority.

Examination by Authority

22. The Authority notes that all three domestic producers comprise of the total production of subject goods in India and therefore the injury analysis has been done with regards to the domestic industry as a whole. This is well addressed in the para 11 of the final findings.

D. DETERMINATION OF DUMPING MARGIN

23. Issues regarding the determination of dumping margin have been examined by the Authority from para 43 to 65 of the final findings.

E. INJURY AND CAUSAL LINK

24. Issues regarding injury to domestic industry and determination of injury margin have been dealt by the Authority from para 66 to 92 of the final findings.

F. Other issues raised in written submissions and rejoinders after the second oral hearing on 14th December 2011 pursuant to CESTAT orders dated 11th August 2011

By KODAK (BULGARIA, SINGAPORE AND INDIA)

Investigations against Singapore

25. It has been submitted that investigation against Singapore is illegal. There is neither finding recorded by the authority nor any evidence provided by the domestic industry or other interested parties that there is a production facility in Singapore. Information provided by the Kodak clearly established that even when the material was invoiced from Singapore, the goods were produced in Bulgaria.

Sales Channel

26. The sales channels adopted by Technova and Kodak are different. This has direct impact on the price difference between the imported and domestic product claimed by Technova. This gets established by the expenses on account of selling, general & administrative expenses considered by the Designated Authority in determining dumping margin
27. Sales cost is being incurred by Technova and are not being incurred by Kodak, Bulgaria. In case of Kodak Bulgaria, such sales functions are being performed by Kodak Indian operations. Any comparison of costs and prices of Technova which includes significant amount of sales cost with import price is highly distorting.
28. Technova is providing these sales services, in case of imports, Kodak India is providing these after sales services. Thus, any comparison of Technova's cost of production, selling price or non injurious price with import price at port is highly misleading and leads to unfair comparison.

Issue of cumulation

29. M/s Technova has misled the authority in doing cumulative price undercutting, price suppression, price depression and price underselling.

Negative Price undercutting of Kodak and Causal link

30. Price undercutting in respect of exports by Kodak is negative. While this justified de-cumulation of Bulgaria, it also shows that no injury has been caused by the exports from Bulgaria.

Significant change in the consumption pattern and the technological developments.

31. Injury to Technova has been caused due to significant change in the consumption pattern and the technological developments. Technova has misled the authority in believing that there has not been an insignificant impact of technological development and change in the consumption pattern.

Issues raised by M/s Kodak (Bulgaria, Singapore and India) After Disclosure Statement

31(a) Subsequent to issuance of Disclosure Statement, M/s Kodak (Bulgaria, Singapore and India) have reiterated the submissions made earlier by them in their written submissions and which are mentioned in the preceding paragraphs.

Submissions by domestic industry M/s Technova on the issue raised by M/s Kodak and issues raised in their Appeal to CESTAT

32. Producers of subject goods from China PR have been practicing unfair trade practices across the world. This is evident from the fact that other WTO members have also imposed AD Duty on imports from China PR.
33. Market share of the domestic industry has come down. Demand for the product increased from 100 to 133.56 recording an increase of about 33%. Inventories have increased. Dumped imports not only caused an adverse volume effect. They have also caused adverse price effect.
34. Considering the facts and circumstances of the case, AD Duty should have been recommended on a fixed rate basis and not on a reference price basis. The Duty had also been recommended at 6 digit level which is quite uncommon.
35. The antidumping duty in the form of a reference price is more prone to misuse as the payment of duties can be avoided by importers by raising the export price in collusion with exporters. After imposition of antidumping duty, exporters have increased their invoice price marginally above the reference price with the sole objective of evading antidumping duty.
36. Volume of imports reported from Singapore is quite substantial and Kodak has not provided any evidence with regard to absence of production facility in Singapore for other producers.

37. There is no prohibition for initiating investigations against countries that only export the subject goods without manufacturing them.
38. Kodak is purely misguiding the authority with false submissions with respect to sales channel and level of trade. The authority in its final findings para 48 has clearly indicated that KPG Singapore does not invoice the product to KPG India and all invoices are to unaffiliated customers in India.
39. Kodak Singapore was directly invoicing to unaffiliated end customers, the price charged by Kodak Singapore must include all the expenses to affect such sales.
40. Kodak has not stated that they do not compete with the domestic like article. So long as the imported products from the subject countries directly compete with domestic like articles, cumulative assessment of injury is permitted under the rules. In the post Disclosure comments, the domestic industry has requested the Authority to confirm the Final Findings issued earlier.

Examination by the Authority

41. It is noted that the issues raised by various interested parties as mentioned above and in their appeals before CESTAT and also made before the Authority in the public hearing have been dealt in the final findings. The issue of change in the consumption pattern and the technological developments have been specifically dealt in para 83 and 84 of the final findings. The conclusions on injury and causal link have been dealt in the para 88 of the final findings. The issue of cumulation has been dealt in the para 69 to 74 of the final findings while issue of injury including the issue of price undercutting and undercutting margins have been dealt in the para 78 of the final findings. It is also mentioned that reference price duty has been imposed by the Authority taking into account the factual matrix of the case and also taking into account submissions of interested parties.

Conclusion on Injury and Causal link

42. On the issue of injury and causal link, all the fifteen mandated parameters affecting the domestic industry have been examined. The volume and the price effect from subject countries have been cumulated as per the rules provision. From the volume and the price effect, it is gathered that the volume of the dumped imports have increased substantially during the injury period and have increased substantially during the POI. The volume of the dumped imports from subject countries is considered significant in relation to the demand as well as in relation to the production of the subject goods in the country. In

relation to prices, it is noted that there has been a decline in the prices at the CIF level as well as the landed value of subject goods from subject countries. Following decline in the landed value, it is noted that the dumped imports prices have undercut significantly the prices of the domestic industry in the Indian market. It is also noted that the dumped imports from subject countries have suppressed the domestic industry prices and there is a significant price underselling by domestic industry as the landed prices are significantly below the non injurious price determined for the domestic industry. With regard to the impact of volume and the price effects on the domestic industry, all the fifteen parameters have been examined. Factors other than dumped imports known to cause injury to the domestic industry have also been examined in the causal link. It is noted that the dumped imports started surging only from 2003-04 onwards. However, the base year for this injury period is 2002-03. It is noted from the examination that though production and sales have increased during the injury period in the absolute basis, the increase is considered insignificant from 2003-04 onwards which incidentally was the year from which dumped imports from subject countries started surging. In fact, the capacity utilization has declined significantly since 2003-04 to the POI. With regard to the change in the operating performance, it is seen that there has not been much change (marginal decline in some parameters) in financial parameters from base year to the POI, however, the changes appear significant from 2003-04 to the POI. The operating performance of domestic industry show a significant negative growth from 2003-04 to the POI in terms of profitability, ROI, cash profit.

43. Given the above analysis which has properly distinguished and separated the effects of all known factors on the situation of the domestic industry from the injurious effects of the dumped imports, it is concluded that these other factors as such did not reverse the fact that the material injury found may be attributed to the dumped imports.
44. It is, therefore, concluded that the dumped imports originating in the subject countries have caused material injury to the domestic industry within the meaning of Rule 11 of Anti Dumping rules.
45. In view of the above and after examining the submissions of appellants and other interested parties who attended the public hearing, the determination of domestic industry, dumping, dumping margin, injury and injury margin as mentioned by the authority in the final finding dated 23rd August 2007 as amended on 13th September 2007 is confirmed in this final finding.

Indian Industry interest.

46. The purpose of anti dumping duties in general is to eliminate dumping which is causing injury to the domestic industry and to re-establish a situation of open and fair competition in the Indian market, which is in the general interest of the country.
47. The Authority recognizes that the imposition of anti dumping duties might affect the price levels of the products manufactured using subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of subject goods. It is noted that the imposition of anti dumping measures would not restrict imports from subject countries in any way, and therefore, would not affect the availability of the product to the consumers. The consumers could still maintain two or even more sources of supply.

G. CONCLUSIONS AND RECOMMENDATIONS

CONCLUSION & RECOMMENDATION

48. After examining and addressing the submissions made by the interested parties pursuant to the post decisional oral hearing held by the Authority, in compliance with the orders dated 11th August, 2011 by the Hon'ble CESTAT, the Authority concludes that no modification is warranted in the final findings issued by the Authority vide Notification No.14/6/2006-DGAD dated 23rd August 2007. The Authority, therefore, hereby re-affirms its findings made vide Notification No. 14/6/2006-DGAD dated 23rd August 2007 and the recommendations made therein.

(Vijaylaxmi Joshi)
Designated Authority