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No.14/22/2014-DGAD
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Anti-Dumping & Allied Duties)
4th Floor, Jeewan Tara Building, 5, Parliament Street, New Delhi

Initiation Notification
(Anti-Circumvention Investigation)

Dated the 17th February, 2016

Subject: Initiation of anti circumvention investigation concerning the alleged circumvention of anti-dumping duty imposed on the imports of "Diclofenac Sodium", originating in or exported from China PR vide Customs Notification No. 44/2014-Customs (ADD) dated 21st November, 2014-reg.

No14/22/2014-DGAD: - Having regard to the Customs Tariff Act, 1975, as amended from time to time (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 thereof (hereinafter referred to as the Rules or AD Rules),

2. Whereas, the Designated Authority (hereinafter referred to as the Authority), in a sunset review investigation, vide its Final Findings Notification No 15/3/2013-DGAD dated 2nd October, 2014, had recommended the imposition of anti dumping duty on the imports of Diclofenac Sodium, originating in or exported from China PR, and the Ministry of Finance, vide Customs Notification No. 44/2014-Customs (ADD) dated 21st November, 2014, had imposed the anti dumping duty on the imports of Diclofenac Sodium, originating in or exported from China PR.

3. Whereas, in terms of the Section 9A of the Customs Tariff Act 1975, read with Rule 25 of the Anti Dumping Rules, M/s Amoli Organics Ltd. (hereinafter referred to as the Petitioner or the Domestic Industry), a major manufacturer of Diclofenac Sodium in India, has filed a petition before the Authority alleging that Diclofenac Sodium, which is the product subject to anti dumping duty vide Customs Notification No. 44/2014-Customs (ADD) dated 21st November, 2014, is now being circumvented into India by the exporters of Diclofenac Sodium in China (hereinafter referred to as the subject country) in an unfinished form by way of exports of Indolinone (hereinafter referred to as the subject goods), which is the penultimate unfinished stage in the process of manufacturing the end product Diclofenac Sodium, to circumvent the anti dumping duty imposed on the imports of Diclofenac Sodium, originating in or exported from China PR.

Product Under Consideration

4. The product under consideration (PUC) in the present petition is “Indolinone (1-(2,6-DICHLOROPHENYL)-2-INDOLINONE CRUDE)”.

Existing Measures

5. The measures currently in force and which are allegedly being circumvented are the anti-dumping measures imposed by the Ministry of Finance vide Customs Notification No. 44/2014-Customs (ADD) dated 21st November, 2014 on the imports of Diclofenac Sodium, originating in or exported from China PR.

Grounds for Initiation

6. The Petitioner claims that the circumvention of the anti dumping duty levied on the imports of Diclofenac Sodium originating in or exported from the subject country started after the imposition of anti dumping duty on the imports of Diclofenac Sodium vide Customs Notification No. 44/2014-Customs (ADD) dated 21st November, 2014. This circumvention comes under the category of "product circumvention". The Petitioner has submitted that Indolinone already contains the monocular structure of Diclofenac Sodium.The process involved in converting Indolinone to Diclofenac Sodium is the process of hydrolysis and since Indolinone has basic characteristics of Diclofenac Sodium and is comparable to crude Diclofenac Sodium, the purification of which leads to manufacture of Diclofenac Sodium, the value addition in the production process of finishing the unfinished Indolinone into Diclofenac Sodium constitutes less than thirty-five percent of the cost of finished Diclofenac Sodium. This value addition from the stage of Indolinone to Diclofenac Sodium is much below the limits prescribed under the relevant circumvention provisions under the anti circumvention rules in India. This circumvention is undermining the remedial effects of the anti dumping duty imposed on the imports of Diclofenac Sodium originating in or exported from the subject country vide Customs Notification No. 44/2014-Customs (ADD) dated 21st November, 2014. Even after the imposition of anti dumping duty on the imports of Diclofenac Sodium originating in or exported from the subject country, the domestic industry continues to suffer injury on account of circumvention of anti dumping duty from the subject country.

Procedure

7. Having satisfied itself on the basis of the positive prima facie evidence submitted by the domestic industry substantiating the need for an anti circumvention investigation the anti dumping duty imposed on the imports of Diclofenac Sodium originating in or exported from the subject country, the Authority has concluded that

sufficient prima facie evidence exists to initiate an anti circumvention investigation of the alleged circumvention of the anti dumping duty imposed on the imports of Diclofenac Sodium originating in or exported from the subject country vide Customs Notification No. 44/2014-Customs (ADD) dated 21st November, 2014 in accordance with Section 9A(1A) of the Act, read with Rule 25 of Antidumping Rules, to investigate as to whether imports of Indolinone originating in or exported from China PR are at dumped prices and are causing injury to the domestic industry and the need for extending anti dumping duty imposed on the imports of Diclofenac Sodium originating in or exported from the subject country vide Customs Notification No. 44/2014-Customs (ADD) dated 21st November, 2014 to the imports of Indolinone originating in or exported from China PR.

8. The country involved in this circumvention investigation is China PR.

9. The period of investigation (POI) for the purpose of the present investigation is April, 2014 - September, 2015. The injury investigation period will, however, cover the periods April'2011-March'12, April'2012–March'2013, April'2013-March'2014 and the POI.

Submission of Information:

10. The known exporters in the subject country, the Government of the subject country through its embassy in India, the importers and users in India known to be concerned with the product shall be addressed to submit relevant information in the form and manner prescribed and to make their views known to the Authority at the following address:

The Designated Authority
Directorate General of Anti-Dumping & Allied Duties
Department of Commerce,
Jeevan Tara Building, 4th Floor
5, Parliament Street
New Delhi -110001

11. Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within the time limit set out by the Authority. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

Time Limits

12. Any information relating to the present investigation and any request for hearing should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 days) from the date of communication

of initiation of this Notification. 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 Anti-dumping Rules.

13. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire responses and offer their comments to the domestic industry's application regarding the need to continue or otherwise the Anti-dumping measures within 40 days from the communication of initiation of this Notification.

Submission of information on confidential basis

14. The parties making any submission (including Appendices/Annexure attached thereto), before the authority including questionnaire response, are required to file the same in two separate sets, in case "confidentiality" is claimed on any part thereof:-

(a) one set marked as Confidential (with title, number of pages, index, etc.), and

(b) the other set marked as Non-Confidential (with title, number of pages, index, etc.).

15. The "confidential" or "non-confidential" submissions must be clearly marked as "confidential" or "non-confidential" at the top of each page. Any submission made without such marking shall be treated as non-confidential by the Authority and the Authority shall be at liberty to allow the other interested parties to inspect such submissions. Soft copies of both the versions will also be required to be submitted, along with the hard copies, in five (5) sets of each.

16. The confidential version shall contain all information which is by nature confidential and/or other information which the supplier of such information claims as confidential. For the information which is claimed to be confidential by nature or the information on which confidentiality is claimed because of other reasons, the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information cannot be disclosed.

17. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out (in case indexation is not feasible) and summarized depending upon the information on which confidentiality is claimed. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on confidential basis. However, in exceptional circumstances, party submitting the confidential information may indicate that such information is not susceptible to

summary, and a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

18. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that the request for confidentiality is not warranted or if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.

19. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim shall not be taken on record by the Authority.

20. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorization of the party providing such information.

Inspection of Public File

21. In terms of Rule 6(7) of the AD Rules, any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties.

Non-cooperation

22. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

(A. K. Bhalla)

Additional Secretary & Designated Authority