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No 15/3/2013-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping & Allied Duties

New Delhi, the 9th April, 2013

INITIATION NOTIFICATION

(Sunset Review)

Subject: Initiation of Sunset Review of definitive anti-dumping duty imposed on imports of Diclofenac Sodium originating in or exported from the China PR.

No 15/3/2013-DGAD:- Having regard to the Customs Tariff Act, 1975 as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Designated Authority (hereinafter referred to as the Authority) had recommended to the Central Government imposition of the anti dumping duty on the imports of Diclofenac Sodium (hereinafter referred to as subject goods) originating in or exported from China PR (hereinafter referred to as the subject country) vide its Final Findings Notification dated 29th May, 2008. And, on the basis of the said Final Findings, the Department of Revenue, vide Notification Nos. 91/2008-Customs dated 30th July, 2008, had levied the definitive anti dumping duty on the imports of the subject goods originating in or exported from the subject country.

Request for Review

2. WHEREAS, in terms of the Customs Tariff (Amendment) Act 1995, the antidumping duty imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition.

3. AND, notwithstanding the above provision, the Authority is required to review, on the basis of a duly substantial request made by or on behalf of the domestic industry within a reasonable period of time prior to the date of the expiry of the measure, as to whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

4. AND, WEHERAS, in terms of the above provisions, M/s Aarti Drugs Ltd. and M/s Amoli Organics Pvt. Ltd (hereinafter referred to as the applicants) representing the

Domestic Industry have approached the Authority with a duly substantiated application requesting for such a review, and the Authority on the basis of prime facie evidence considers that initiation of sunset review proceedings for the anti dumping duty in force would be appropriate to examine the need for continued imposition of such duty to offset dumping and whether the injury would be likely to continue or recur if the duty were removed or varied or both.

Grounds for review

5. The request is for continuation of the antidumping duties in force. The request is based on the grounds that dumping has continued in spite of imposition of antidumping duty on import of the subject goods from the subject country and the domestic industry continues to suffer injury on account of dumping from the subject country as the form and quantum of anti dumping duty in force has been insufficient. The applicants have further argued that expiry of the measure against the subject country would be likely to result in continuation or recurrence of dumping and injury to the domestic industry.

6. The applicants also claim that revocation of anti-dumping measures would result in intensified injury to the domestic industry and, therefore, the duty is required to be continued for a further period of five years.

Domestic industry

7. The application has been filed by M/s Aarti Drugs Ltd. and M/s Amoli Organics Pvt. Ltd on behalf of the domestic producers of the subject goods. As per information available on record, the applicants account for a major proportion in Indian production of the subject goods to the tune of 72 % and, therefore, constitutes the domestic industry within the meaning of Rule 2(b) of the AD Rules.

Initiation

8. Having satisfied itself on the basis of the positive prima facie evidence submitted by the domestic industry substantiating the need for a review, the Authority hereby initiates a Sunset Review in accordance with Section 9 A (5) of the Act, read with Rule 23 of Antidumping Rules, to review the need for continued imposition of duties in force and whether the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury.

Product under Consideration

9. In the original investigation, vide notification No. 14/4/2007-DGAD dated 29th May, 2008, the Designated Authority had defined product under consideration as under:

> *"The product under consideration is Diclofenac Sodium, originating in or exported from China PR. DFS is a basic organic chemical, normally classified under Chapter 29 of the Customs Tariff Act. DFS is a non-steriodal anti-*

inflammatory drug (NSAID) taken to reduce inflammation and an analgesic reducing pain in conditions such as in arthritis or acute injury. This product is classified under Customs Tariff heading no. 2942.0090 as per Indian Trade Classification. The Customs and ITC HS classifications are, however, indicative only and in no way binding on the scope of the present investigation."

10. Present investigation being a review investigation, product under consideration remains the same as has been defined in the original investigation. There has been no significant development in the product over the period.

Procedure

11. The investigation will determine as to whether the expiry of the measure would be likely to lead to a continuation or recurrence of dumping and injury. The Authority will examine as to whether the continued imposition of the duties is necessary to offset dumping and whether the injury would be likely to continue or recur if the duty were removed or varied, or both.

i). The review will cover all aspects of Notification No. 14/4/2007-DGAD dated 29th May, 2008.
ii). The country involved in this review investigation is China PR.
iii). The period of investigation (POI) for the purpose of the present review is from October 2011- December 2012. The injury investigation period will, however, cover the periods Apr'09-Mar'10, Apr'10-Mar'11, Apr'11-Mar'12 and the POI.
iv). The provisions of Rules 6,7,8,9,10,11,16,17,18,19 and 20 of the Rules supra shall be mutatis mutandis applicable in this review.

Submission of Information

12. The exporters in the subject country, their governments through their Embassy in India, the importers and users in India known to be concerned and the domestic industry are being addressed separately 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 and Allied Duties
Ministry of Commerce and Industry
Department of Commerce
Room No 240, Udyog Bhavan, New Delhi-110011

13. 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 below. 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 Limit

14. Any information relating to the present review 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 publication 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 AD Rules.

15. 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 within 40 days from the date of publication of this Notification.

Submission of information on confidential basis

16. In case confidentiality is claimed on any part of the questionnaire response/submissions, the same must be submitted in two separate sets- (a) marked as Confidential (with title, index, number of pages, etc.) and (b) other set marked as Non-Confidential (with title, index, number of pages, etc.). All the information supplied must be clearly marked as either "confidential" or "non-confidential" at the top of each page.

17. Information supplied without any mark shall be treated as non-confidential and the Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Five (5) copies each of the confidential version and the non-confidential version must be submitted.

18. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or 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.

19. 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 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.

20. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim may not be taken on

record by the Authority. 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.

J S Deepak
Designated Authority