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SECTION-1

F.No.15/5/2009-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti Dumping Duty & Allied Duties
Udyog Bhavan, New Delhi

Dated the 15th October, 2009

Initiation Notification (Sunset Review)

Sub: Sunset Review of Anti-Dumping investigations concerning imports of Mica Pearl Pigment from China PR, Japan, USA & European Union.

No.15/5/2009-DGAD – Whereas the Designated Authority, 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, recommended imposition of definitive Anti Dumping Duty on imports of Mica Pearl Pigment (hereinafter referred to as subject goods) originating in or exported from China PR, Japan, USA & European Union (hereinafter referred as subject countries), vide Notification No. 14/22/2003-DGAD dated 22nd December, 2004 and such definitive duty was imposed by the Govt. of India vide Customs Notification No. 30/2005 dated 21st March, 2005.

2. Request for Review and Initiation:

AND WHEREAS in terms of the Customs Tariff (Amendment) Act, 1975 as amended in 1995 the Anti Dumping Duty imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition and the Rules supra require the Authority to review from time to time, the need for continued imposition of Anti Dumping Duty.

AND WHEREAS following the completion of 4 years of the anti dumping duty imposed, alert letters dated 4th May,2009 and 21st August,2009 were 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.

AND WHEREAS M/s. Sudarshan Chemicals Industries Ltd., 162, Sangam Brdige Dr. Ambedkar Road, (Wellesley Road), Pune – 411001, who was the domestic industry in the original Final Findings dated 22nd December, 2004 have so far not filed duly substantiated petition for Sunset Review .

And whereas the Hon'ble High Court of Delhi in Writ Petition (Civil) No. 16893/06 vide Judgement dated 1.11.2007 has held that

- “(a) Sunset Review is mandatory
- (b) Sunset Review is required to be conducted in accordance with the procedure laid down in Rule 23 of the Rules”

Pursuant to the above said Order of the Hon'ble High Court of Delhi, the Authority hereby initiates this Sunset Review investigation to examine the likelihood of continuation or recurrence of dumping and injury on imports of Mica Pearl Pigment originating in or exported from China PR, Japan, USA & European Union on the event of cessation of the duty.

3. Product under consideration and Like Article:

In the original Initiation Notification the product was considered and described as “certain inorganic pigments/colouring agents giving lustrous/shinning/frosted effects, such pearl scent effects, metallic effects, commercially known in the market place as Titanium Dioxide or Iron Oxide coated Mica Pearl Pigment or Pearl Luster Pigments or Pearl Pigment” and during the course of investigation the issue regarding the product under consideration was raised by the exporters and importers and requested for exclusion of automotive and cosmetic grades of Mica Pearl Pigment stating that Mica Pearl Pigment is manufactured and used for three applications mainly automotive, cosmetic and industrial applications and accordingly are available in following three grades;

- (a) industrial grade used for textile printing, plastic industries and many more industrial applications,
- (b) cosmetic grade used in colour cosmetics and toiletries, and
- (c) automotive grade used for manufacture of automotive paint and other paints.

The Authority in the original Final Findings excluded Mica Pearl Pigment for automotive and cosmetic applications. The present investigation is a Sunset Review and the product under consideration remains the same as has been defined in the original investigation “Mica Pearl Pigment excluding automotive and cosmetic grades”.

The subject goods under consideration are like articles to the goods originating in or exported from the subject countries. Subject goods produced by the domestic industry are being treated as Like Articles to the goods imported from the subject countries/territories within the meaning of the Rules.

There was no difference found between the subject goods manufactured by the domestic industry and the imported product from subject countries. The subject goods produced by the applicant are commercially and technically substitutable to the imported product and hence conditions of like article are satisfied. The Authority found that the domestic subject goods are similar to the imported product based on the information

received from the exporters. The Authority, therefore, held that the goods produced by the domestic industry and those exported from the subject countries are like article within the meaning of the Rule 2(d) of AD Rules.

4. Countries involved:

The territories/countries involved in the present Sunset Review are China PR, Japan, USA & European Union. (referred to as subject countries hereinafter).

5. Period of Investigation:

The Period of Investigation for the purpose of the present review is from 01.04.2008 to 31.03.2009. However, injury analysis shall cover the period 2005-06, 2006-07, 2007-08 and POI.

6. Procedure:

Having decided to review the Final Findings issued vide Notification No. 14/22/2003-DGAD dated 22nd December, 2004 and final duty imposed vide Customs Notification No. 30/2005 dated 21st March, 2005, the Authority hereby initiates investigations to review whether cessation of Anti Dumping duty is likely to lead to recurrence of Dumping and injury on imports of subject goods originating in or exported from subject countries in accordance with the Customs Tariff (Amendment) Act, 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. The review covers all aspects of Notification No.14/22/2003-DGAD dated 22nd December, 2004 (Final Findings of the original investigations). The Authority proposes to consider domestic producer as mentioned in paragraph 3 above as domestic industry in accordance with the Rules supra as they constitute the major proportion of the production of the subject goods in India.

7. Submission of Information:

The exporters in subject countries, the Governments of subject countries through their Embassies in India, the importers and users in India known to be concerned with the product 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 Designated Authority at the following address:

Government of India
Ministry of Commerce and Industry
The Directorate General of Anti-Dumping and Allied Duties
Department of Commerce
Room No.240, Udyog Bhavan,
New Delhi-110107.

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.

8. Time Limit:

Any information relating to the present review 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 publication of this Notification. If no information is received within the prescribed time limit or the information received is incomplete, the Designated Authority may record its findings on the basis of the facts available on record in accordance with the Rules supra.

9. Submission of information on Non-confidential basis:

In terms of Rule 7 the interested parties are required to submit non-confidential summary of any confidential information provided to the Authority and if in the opinion of the party providing such information, such information is not susceptible to summary, a statement of reason thereof is required to be provided.

10. Inspection of public file:

Any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties in terms of Rule 6 (7). 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.

(R. Gopalan)
Designated Authority