

NO.15/17/2006-DGAD
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
DIRECTORATE GENERAL OF ANTI DUMPING ALLIED DUTIES
UDYOG BHAWAN
NEW DELHI 110001 INDIA

New Delhi, the 4th November, 2008

Subject:-Anti Dumping Duty on exports of Vitrified / Porcelain Tiles by Qingyuan Southern Building Materials and Sanitary Ware Company Limited (Producer) and New Zhongyuan Ceramic Import and Export Company Limited of Guangdong (Exporter) – Inclusion of another trading company named as Anjaneya Trading Pte Ltd. Singapore.

In accordance with the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, I am directed by the Designated Authority to disclose essential facts under consideration before the Designated Authority in the matter relating to antidumping investigations relating to Vitrified porcelain tiles, and relating to Inclusion of another trading company named as Anjaneya Trading Pte Ltd. Singapore as final exporter in respect of Qingyuan Southern Building Materials and Sanitary Ware Company Limited (Producer) and New Zhongyuan Ceramic Import and Export Company Limited of Guangdong (Exporter).

2. The information contained in this statement contains the essential facts under consideration of the Designated Authority, which would form the basis for the decision. The reproduction of facts does not tantamount to either acceptance or rejection of any facts/arguments or the claim by the applicant. Notwithstanding, facts given in this statement, the Designated Authority would consider all replies received, on merits, in order to arrive at a final decision.

3. The procedure described below has been followed so far with regard to imposition of anti dumping duties on imports of this product from China.

i. The Designated Authority (hereinafter referred to as Authority), under the Rules, received written application from M/s SPL Ceramics Ltd., Mundka, Bahadurgarh, Haryana, M/s H&R Johnson India Ltd, Maharashtra and M/s Murudeshwar Ceramics Ltd, Hubli alleging dumping of Vitrified/Porcelain tiles originating in or exported from Peoples' Republic of China and UAE.

- ii. The Authority, on the basis of sufficient prima facie evidence submitted by the petitioner decided to initiate investigations against imports of subject material from the subject countries. The Authority notified the Embassies of the subject countries about the receipt of dumping allegation before proceeding to initiate the investigations in accordance with sub-rule 5(5) of the Rules;
- iii. The Authority issued a public notice dated 6th August, 2001 published in the Gazette of India, Extraordinary, initiating anti-dumping investigations concerning imports of Vitrified/Porcelain tiles 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 Vitrified tiles in India and advised them to make their views known in writing within forty days from the date of the letter;
- vi. The Authority provided a copy of the non-confidential petition to the known exporters and the Embassies of the subject countries in accordance with rules 6(3) supra;
- vii. The Embassies of the subject countries 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 Embassies, along with a list of known exporters/producers;
- viii. The Authority notified Preliminary Findings vide Notification No. 37/1/2001-DGAD dated the 3rd December, 2001 forwarded a copy of the Preliminary Findings to known interested parties, who were requested to furnish their views, if any, on the Preliminary Findings within forty days of the date of the letter;
- ix. The Authority also forwarded copy of the Preliminary Findings to the Embassies of subject countries in New Delhi with a request to furnish their views on the Preliminary Findings;

x. The Authority held a public hearing on 2nd July 2002 to hear the interested parties orally, which was attended by representatives of the domestic industry, importers and exporters from UAE. The parties attending the public hearing were requested to file written submissions/rejoinders of views expressed orally. The written submissions/rejoinders thus received from interested parties have been considered by Designated Authority in this finding;

xi. Investigations were carried out for the period starting from 1st April, 2000 to 31st March, 2001.

xii. Authority notified final finding on 4th Feb 2003 and recommended imposition of anti dumping duty on dumped imports from subject countries as detailed below:

1	China PR	8.28 USD per SQM
	UAE – RAK Ceramics	0.74 USD per SQM
2		
	Other than RAK Ceramics	5.54 USD per SQM

xiii. Government of India, imposed final duty recommended vide notification no. 73/2003 dated 01.05.2003.

xiv. M/s. Southern Building Materials and Sanitary Co., Ltd., of Qingyuan City, China PR (Producer) through M/s. New Zhong Yuan Ceramics Imp. & Exp. Co., Ltd., of Guangdong, China PR(Exporter) requested the Designated Authority for determination of dumping margin under Rule 22 of AD Rules. The applicants declared that they were not related to any of the exporters/producers in China subject to the anti dumping measures with regard to the product concerned. Furthermore, they also declared that they have not exported the product concerned during the original period of investigation.

xv. The Authority initiated New Shipper Review on the basis of request made under Rule 22 of AD Rules, vide notification No. 15/15/2004-DGAD, dated 25.8.2004;

xvi. The Authority recommended provisional assessment of all exports of Vitrified/porcelain Tiles made by M/s. Southern Building Materials and Sanitary Co., Ltd., of Qingyuan City, China PR (Producer) through M/s. New Zhong Yuan Ceramics Imp. & Exp. Co., Ltd., of Guangdong, China PR (Exporter) till the completion of the review in accordance with Rule 22 of AD Rules and having regard to the Notification no.73/2003-Cus dated 1.5.2003;

xvii. The Authority sent a copy of exporters questionnaire and market economy treatment (MET) questionnaire to M/s. Southern Building Materials and Sanitary Co., Ltd., of Qingyuan City, China PR (Producer), M/s. New Zhong Yuan Ceramics Imp. & Exp. Co., Ltd., of Guangdong, China PR (Exporter) and the Bureau of Fair Trade (BOFT), Government of China PR to elicit relevant information. The Authority

sought and verified all information deemed necessary for the purpose of determination of dumping margin. The Authority conducted verification of the data furnished by M/s. Southern Building Materials and Sanitary Co., Ltd., of Qingyuan City, China PR(Producer) and M/s. New Zhong Yuan Ceramics Imp. & Exp. Co., Ltd., of Guangdong, China PR(Exporter) and a copy of the verification report was kept in the public file also.

xviii. The period of investigation in the new shipper investigation was 6 months i.e, 1st September 2004 to 28th February 2005 for dumping determination.

xix. The Authority provided an opportunity to all interested parties to present their views orally in the public hearing held on 3.6.2005. All parties presenting their views orally were advised to file written submissions of the views expressed orally. The parties were also advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any.

xx. Authority, after a detailed investigation, issued final finding on dated 29.12.2005 and concluded that

a. Export price of Vitrified/porcelain Tiles exported to India produced by M/s. Southern Building Materials and Sanitary Co., Ltd., of Qingyuan City, China PR and exported from M/s. New Zhong Yuan Ceramics Imp. & Exp. Co., Ltd., of Guangdong, China PR is above its normal value during the period of investigation.

b. The Authority, therefore, recommended that no anti dumping duty be imposed on imports of Vitrified/porcelain Tiles falling under Chapter 69 of the Custom Tariff Act, 1975 produced by M/s. Southern Building Materials and Sanitary Co., Ltd., of Qingyuan City, China PR and exported from M/s. New Zhong Yuan Ceramics Imp. & Exp. Co., Ltd., of Guangdong, China PR

xxi. Domestic industry filed application for review and continuation of anti dumping duty against China PR and UAE. Based on the duly substantiated application in terms of Section 9A (5) of the Customs Tariff Act, Authority initiated sunset review investigations vide notification dated 30.04.2007, to examine whether the expiry of the duty would lead to continuance or recurrence of injury to the domestic industry.

xxii. Investigation was carried out for Jan06 – Dec 06 period.

xxiii. The Authority held a public hearing on 23.10.2007 and again on 7.12.2007 to hear the interested parties orally, which was attended by representatives of the domestic industry as well as those of responding producers and exporters. The parties attending the public hearing were requested to file written submissions of views expressed orally. The written submissions received from interested parties have been considered by Designated Authority in this disclosure;

xxiv. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties for inspection, upon request.

xxv. Authority notified final finding on 21st April 2008 and recommended continued imposition of anti dumping duty which was imposed by Government of India vide notification no.82/2008 Dated 27.6.2008. Duty recommended has been as under:

SN	Producer	Exporter	Duty Rs. SQM
1	Foshan Chancheng Oulian Construction Ceramics Co Limited	Prestige General Trading FZE, UAE	NIL
2	Foshan Chancheng Oulian Construction Ceramics Co Limited	Any other than Prestige General Trading FZE, UAE	155
3	Heyuan Wanfeng Ceramic Co Limited	Foshan Lungo Ceramic Co Limited (China) Through Enterprize Trading FZE (UAE)	Nil
4	Heyuan Wanfeng Ceramic Co Limited	Any other than Foshan Lungo Ceramic Co Limited (China) Through Enterprize Trading FZE (UAE)	155
5	Qingyuan Southern Building Materials and Sanitary Ware Co Limited	New Zhongyuan Ceramic Import & Export Co Limited of Guangdong	Nil
6	Qingyuan Southern Building Materials and Sanitary Ware Co Limited	Any other than New Zhongyuan Ceramic Import & Export Co Limited of Guangdong	155
7	Guangdong Newpearl Ceramic Group Co comprising of Foshan Shunshui Huiwanjia Ceramic Co Ltd and Foshan Summit Ceramic Co Limited	Foshan Newpearl Trade Co Limited	Nil
8	Guangdong Newpearl Ceramic Group Co comprising of Foshan Shunshui Huiwanjia Ceramic Co Ltd and Foshan Summit Ceramic Co Limited	Any other than Foshan Newpearl Trade Co Limited	155
9	Foshan Chen Cheng Jinyi Ceramic Co Limited	Joyson Ceramic Materials Co Limited – China through Able Ace (M) Sdn. Bhd. Malaysia	Nil
10	Foshan Chen Cheng Jinyi Ceramic Co Limited	Any other than Joyson Ceramic Materials Co Limited – China through Able Ace (M) Sdn. Bhd. Malaysia	155
11	Any other than above	Any other than above	155

4. The present request has been made by Qingyuan Southern Building Materials and Sanitary Ware Co Limited – China, New Zhongyuan Ceramic Import & Export Co Limited of Guangdong and Anjaneya Trading Pte Ltd, a company incorporated in Singapore.

5. The applicants have stated that it intends to export goods produced by Qingyuan Southern Building Materials and Sanitary Ware Co Limited – China, which would be procured by the applicant from New Zhongyuan Ceramics Imp. & Exp. Co.

6. The following procedure has been followed with regard to the present petition: -

i. The present petition has been filed by Qingyuan Southern Building Materials and Sanitary Ware Co Limited – China, New Zhongyuan Ceramic Import & Export Co Limited of Guangdong and Anjaneya Trading Pte Ltd, requesting consideration of M/s. Anjaneya Trading Pte Ltd, as the eventual shipper.

ii. The applicants have submitted that the Authority had earlier determined dumping margin in respect of their exports and found that their export price was significantly higher than the normal value, resulting in negative dumping margin. The exporter has stated that they now wish to ship the goods through M/s Anjanaya Trading Co. as the eventual shipper.

iii. The applicants have submitted that M/s Anjanaya would buy the product from the current exporter in the same manner as has been done by the exporter earlier while selling the goods in the Indian market. M/s Anjanaya would add a mark up of 2% in order to account for their selling, general & administrative expenses and a reasonable amount of profit.

iv. M/s Anjanaya has provided its annual reports for the past three years and has argued, based on its income statements, that mark-up of 2% would be sufficient enough to account for its indirect selling general and administrative expenses and would provide sufficient profit commensurate with the activities proposed to be provided by Anjanaya.

v. The applicants have argued that the Authority has imposed anti dumping duties in a particular combination where M/s Qingyuan Southern Building Materials and Sanitary Ware Co Limited – China has been identified as a producer and M/s New Zhongyuan Ceramic Import & Export Co Limited of Guangdong has been identified as the exporter. Further, the Authority has imposed duties in such a manner that if goods produced by M/s Qingyuan Southern Building Materials are exported /shipped by any company other than New Zhongyuan Ceramic Import & Export, residual duty, as provided in the notification, is applicable.

vi. The Authority had recommended anti dumping duties at the rate specified above which were subsequently imposed by Ministry of Finance.

vii. The applicants have argued that in a situation where the dumping margin in respect of their exports was found negative, not only during the course of New Shipper Review investigations, but also in the subsequent Sunset Review investigations, even if Anjanaya Trading adds no further mark-up, the eventual dumping margin would continue to remain de-minimus. Nevertheless, M/s Anjanaya would add 2% mark-up on the prices.

viii. It has been claimed that M/s Qingyuan Southern Building Materials and Sanitary Ware and M/s New Zhongyuan Ceramic Import & Export Co are related companies. However, M/s Anjanaya is a company not related to the present producer and exporter. The information on record also does not show any relationship between M/s Anjanaya Trading and the producer/exporter.

ix. The applicants have argued that they are entitled to plan the shipments in a manner considered most appropriate by them. While past shipment might have been made in a particular manner, it is not necessary that all future shipments must be made in the same manner. Since the Authority had satisfied that the dumping margin in respect of the producer and exporter were negative, it would be appropriate to permit the companies concerned to plan their shipments in a manner considered most appropriate by them.

x. The information relating to the previous two investigations and the dumping margin determined in the previous two investigations have been reviewed. It is found that the dumping margin would continue to be de-minimus, even if it is assumed that the export price will remain unchanged as a result of the present arrangement. For the purpose, the Authority has considered income statements of Anjanaya Trading and has determined its selling, general and administrative overheads and the profit earned by the company. It is found that even after accounting for these expenses and profits, the dumping margin would continue to be de-minimus.

7. The Authority, therefore, proposes not to impose any duty on material produced by Qingyuan Southern Building Materials and Sanitary Ware Co Limited – China, and exported by New Zhongyuan Ceramic Import & Export Co Limited of Guangdong through Anjaneya Trading Pte Ltd. Singapore.

8. Having regard to the above, the Authority seeks views of all parties by placing this information on the Website. Interested parties may offer their comments, if any, latest by 30th Nov., 2008 in Room No. 216C, Udyog Bhavan, New Delhi-110011.

(M K Parimoo)
Deputy Secretary
(Foreign Trade)
For Designated Authority
Tel no-23062817

To

1. Domestic Industry Through

Sh. Sharad Bhansali

APJ-SLG Law Offices

F-21, Geetanjali Enclave,

New Delhi-110017

2. Applicants Through

Sh. A.K.Gupta

TPM Consultants

K-3/A, Saket,

New Delhi 110017

3. All Other Interested parties through Official Website of DGAD