

**MINISTRY OF COMMERCE AND INDUSTRY
(DEPARTMENT OF COMMERCE)
(DIRECTORATE GENERAL OF ANTI-DUMPING AND
ALLIED DUTIES)**

NEW SHIPPER REVIEW NOTIFICATION

FINAL FINDINGS

New Delhi, the 29th December 2005

Subject: New Shipper Review (under Rule 22) of Anti-Dumping duty imposed on imports of Vitrified/Porcelain Tiles requested 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).

No. 15/15/2004-DGAD - 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, thereof,

A. PROCEDURE:-

1. The procedure described below has been followed:

- i. 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;
- ii. The Authority received a request to initiate a 'new Shipper' review of notification no 37/1/2001 dated 4.2.2003 from 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). They had declared that they are not related to any of the exporters/producers in China PR subject to the anti dumping measures in force with regard to the product concerned. Furthermore, they have also declared that they have not exported the product concerned during the original period of investigation. The Authority prima-facie examined the application submitted by the Chinese producer concerned and considered

- sufficient to justify the initiation of a review in accordance with the provisions of the Rule 22 of Anti-dumping Rules.
- iii. The Designated Authority initiated the New Shipper Review on the basis of request 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) under Rule 22 of AD Rules, vide notification No. 15/15/2004-DGAD, dated 25.8.2004;
 - iv. The aforesaid New Shipper Review was initiated in the matter of import of Vitrified/porcelain tiles falling under Chapter 69 of the Customs Tariff Act, 1975 originating in or exported from China PR where the Designated Authority vide its Final Findings No 37/1/2001 dated 4.2 2003 had come to the conclusion that;
 - a. The export price of Vitrified/porcelain tiles from UAE and China PR is below its normal value during the period of investigation;
 - b. The Indian industry has suffered material injury;
 - c. The injury has been caused cumulatively by the imports from UAE and ChinaPR;
 - v. The Central Government imposed anti-dumping duty vide Notification No. 73/2003-Customs, dated 1.5 2003, in the original investigation on imports of vitrified and porcelain tiles from UAE and China PR, other than vitrified industrial tiles, falling under Chapter 69 of Customs Tariff Act, with effect from the date of imposition of the provisional anti dumping duty i.e., 2.5 2002;
 - vi. 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;
 - vii. Ministry of Finance issued Notification No. 102/2004-Customs, dated 30th September, 2004 which inter-alia provided that pending the outcome of the review by the Designated Authority, all imports of vitrified/porcelain tiles, other than vitrified industrial tiles, falling under Chapter 69 of the Customs Tariff Act produced 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) would be subjected to provisional assessment till the review was completed;
 - viii. Further, in exercise of the powers conferred under sub-rule (2) of the Rule 22 of the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules

1995, the Central Government after considering the aforesaid findings of the Designated Authority, and its notification no.73/2003-Cus 1.5.2003 decided that pending the outcome of the said review by the Designated Authority, no anti dumping duty shall be levied on exports of Vitrified/porcelain Tiles manufactured 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)when imported into India & further provided that the imported subject goods shall be subjected to provisional assessment and a guarantee for the amount of duty calculated at per rate of anti-dumping duty vide notification no73/2003-Customs, dated 1.5.2003.

- ix. 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 it 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.
- x. The period of investigation in this new shipper investigation is for 6 months i.e,1st September 2004 to 28th February 2005 for dumping determination.
- xi. The authority officially intimated the authority of the exporting country of the initiation of the New Shipper Review and gave opportunity to all the interested parties concerned to make their views known in writing within 40 days from the expiry of the POI (i.e. 1st September 2004 to 28th February 2005).
- xii. The Authority provided an opportunity to all interested parties to present their views verbally in the public hearing held on 3.6.2005. All parties presenting their views verbally were requested to file written submissions of the views expressed verbally. The parties were also advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any.
- xiii. The Authority made available the public file as per Rule 6(7) to all interested parties containing non-confidential version of all evidence submitted by various interested parties for inspection, upon request.
- xiv. In accordance with Rule 16 of the anti dumping Rules supra, the essential facts/basis considered for these findings were disclosed on 21/10/2005 to interested parties responded in this investigation and comments received on the same have been duly considered in these findings at appropriate places.

- xv. **** in the Notification represents information furnished by interested parties on confidential basis and so considered by Authority under the Rules. The information concerning prices and costing filed by respective interested parties claimed the interested parties confidential and the Authority treated these as confidential.

B. Product Under Consideration and Like Article:-

2. The product under consideration in this investigation is a Vitrified/Porcelain tile as determined in the original case. There is no argument made by any of the interested parties on the product under consideration and like article. The Authority notes that the Vitrified/porcelain Tiles produced by the domestic industry is 'like article' to Vitrified/porcelain Tiles being exported 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) within the meaning of the Rules. In view of the foregoing, the Authority holds that product under consideration in the present investigations is the same as considered in the original investigation i.e., "Vitrified/Porcelain Tiles", classifiable under Chapter 69 of the Custom Tariff Act,1975.

C. Views expressed by the interested parties and their examination

C-I. Views of Domestic Industry

3. The initiation of the present New Shipper Review is bad in law. The mandatory requirements and pre-conditions of Rule 22 have not been satisfied prior to determination of initiation of new shipper review. The application filed by the exporter and the producer for the initiation of new shipper review is grossly inadequate and unsubstantiated in view of the following;

- i. No evidence was placed in support of the claim that production was started by the producer w.e.f from May 30, 2003. The producer could have provided certificate of incorporation and certificate of commencement of business in support of its claim.
- ii. No details have been provided whether it is the new plant or has taken over an old plant by the producer ,
- iii. Both the exporter and producer have claimed that they are intending to export tiles to India. Both cannot be termed exporters in view of the strictness with which the terms are required to be used in any anti-dumping investigation. It may also be noted that if both of them have received the export order, then

there should have been two initiations in place of one. In other words, under the present initiation only the producer seems to be claiming for determination of its dumping margin only and the exporter is only supplying its information.

4. They have submitted that as per Rule 22 of the Indian AD Rules, a case for new shipper review cannot be initiated each time an application is received for a new shipper. It may be noted that the authority may decide to initiate cases for new shippers annually or semi-annually or based on a periodical basis fixed by the authority.
5. The domestic industry has submitted that the exporter and producer have stated that the producer has recently set up the plant for manufacturing vitrified tiles. In this connection, the producer/exporter has not supplied adequate information whether it is the new plant or an old plant has been taken over by the producer. It is very important in view of the fact that the new shipper review is initiated only for the new exporter but not the exporters who were party to the original investigations or exported the subject goods in the period of investigation of the original investigation.
6. The exporter and the producer both have failed to provide the requisite information to rebut the criteria of non-market economy, therefore, normal value may be determined in accordance with Para 7 of the Annexure I of AD Rules.
7. Neither the exporter nor the producer provided reasons for claims of confidentiality on certain documents and no reasons have also been provided as why the same is not susceptible to summarization. Meaningful non-confidential submissions were not provided. The Designated Authority did not disclose any reason for acceptance of such confidentiality even the names of the companies were kept confidential. Exporters have neither disclosed the list of shareholders nor indicated the no. of shareholders in the company. They have submitted that confidentiality cannot be claimed on the name and number of the shareholders. Moreover, it is necessary to know the names of the shareholders, as it would indicate whether there are any shares held by State or State owned companies. The name of the holding company is kept confidential. It is important not only to know the names of the holding company but also all its affiliates with a view to find whether there is any State interference.
8. They have also stated that it is a joint stock company in the form of joint venture of the two companies without disclosing the names of two companies. In the exporter questionnaire they have just stated that the producer is a private company. Moreover, in response to the MET questionnaire they have stated that it is a Chinese-foreign equity joint venture. The Joint Venture Company located in Macao has also not provided any details about its ownership. Further, the details of origin and citizenship

of Mr. Zeng Yan Chi and the shares he is holding in other ceramic companies in China have not been disclosed.

9. Appropriate and sufficient material were not placed before the Designated Authority as a pre-condition to initiation under Rule 22 to initiate new shipper review. It is necessary under Rule 22 that the exporter or producer in the exporting country must not have exported the subject goods to India during the period of investigation. This condition is required to be examined together with the relationship of such entities with other related entities as well. If the related entity has exported directly or indirectly, then it is presumed that the exporter or producer has exported in the investigation period through actually no exports may have been made directly. If the relationship exists with any other producer or exporter, then it would be assumed that the exporter is not a new shipper eligible for determination of individual dumping margin.

10. There is ample evidence to show that another company of the same group is controlling the present exporter and the producer. It is also clear from the records that another group company of the New Zhong Yuan Group had participated in the original investigation. Since the same group who had in fact participated in the initial anti-dumping investigations in the main case controls the producer and exporter, the conditions of relationship could not have been examined properly as material facts were suppressed from the Designated Authority. Since, one of the group companies had earlier exported the subject goods during the original period of investigation, the second pre-condition of Rule 22 could not have been examined.

11. The producer or exporter did not disclose that there was a common group entity indirectly controlling both the producer and exporter. There was no separate certification provided about authenticity of the information in the form of statements made in the application. The statement that the producer has not exported during the original period of investigation ought to have been viewed in the backdrop of their relationship with the group company, which was never disclosed to the authority. The name of the importer was also not disclosed to the authority to enable the authority to cross check the averments made in the application. Even the quantities were not disclosed to examine the seriousness of the exporter.

12. The producer's letterhead appears to be made only for the purpose of new shipper review as the name of the company has also been wrongly spelt in the letterhead. Even the address, telephone number and fax number have been changed in the letterhead to create false impressions. It is submitted that the information on net shows that the exporter's address is actually New Zhong Yuan Building, Shinan Road, Foshan, Guangdong, China 528061 with phone no. 0086-757-85387816, Fax No. 0086-757-85387387 and e-mail address as Gordon-xie@163.net whereas the

letterhead shows a totally different address and the telephone number. It may be noted that there is another company with different address is having the same telephone number and fax numbers. However, the exporter has not informed whether the facilities are shared among different companies or the kind of relationship between those companies and the exporter having the same telephone number.

13. The law on Rule 7 has been very well clarified by the Hon'ble Supreme Court in the case of Sterlite industries and thereafter by the Hon'ble Tribunal in Vitrified Tiles New Shipper Review case. It has also been clarified by the Hon'ble Tribunal that every information is not by itself required to be treated as confidential merely because a party in the course of investigations provides it to the Designated Authority on a confidential basis.

14. There are certain disclosures made at the stage of the written submissions about the names of the shareholding companies which, if made known to the Designated Authority prior to initiation, the case would not have been initiated. Such suppression of material facts and conduct of the producer and exporter clearly show the malafide intent in securing an unwarranted initiation.

15. It is submitted that the exporter, besides responding to the exporters questionnaire, ought to have provided non-confidential version of annexures to the questionnaire responses and details about their operations. In view of the fact that defects, deficiencies etc pointed out in the written submissions have not been rectified as revealed from the public file. In the event some of the defects have been rectified, copies of the same have not been provided to us till date to offer any comments and submissions.

16. With regard to comments to the disclosure statement they have submitted that no documents were available in the public file in support of statements made in the disclosure statement in respect of verification visit. Under no circumstances, such documents can be claimed as confidential. Assuming that confidentiality could have been claimed on such documents, then also the party claiming confidentiality is under an obligation to give reasons in support of such claims of confidentiality and also place on record a non-confidential version of the documents on which confidentiality has been claimed.

17. The examination of related person as envisaged under Rule 22 has not been carried out in the present case. The requirement of the new shipper to show that they are not "related" is a corresponding obligation on the part of the designated authority to verify that there is no circumvention of anti-dumping duty being attempted by invoking the review. It is submitted that the Designated Authority has rightly observed in paragraph 3 (on page 2) of the verification report that the

producer/exporter had neither provided information with regard to their related companies at the time of filing the application nor in response to the exporter questionnaire. Thus, it is an admitted and established fact that the producer/exporter willfully suppressed vital facts from the Authority and no reasons defending such suppression have been advanced by the producer/exporter. The initiation of the present new shipper review is bad in law as the authority was misled by admittedly false declarations about relationships. The only basis for the Authority to reach such a conclusion was a clarification by the exporter/producer that none of such companies could have exported the subject goods as license of the group companies was received after the original period of investigation i.e., in September 2001. There is neither a declaration nor any examination if the said group companies had indeed exported through other exporters.

18. The domestic industry has submitted that even after it came to the notice of the Designated Authority that there are at least 11 entities which are related to the producer/exporter, no details relating to these entities have been disclosed nor verified. It may be appreciated that it is for the applicant to come out with all the facts before the Authority. There is also no indication in the verification report or in the disclosure statement that there are no other entities related to the present applicant, directly or indirectly. No examination was done to ascertain regarding the shareholders of NYC and Macao (Group) so as to determine if these two entities were controlled by a third entity who was an exporter during the period of investigation or whether state was indirectly controlling them. In the original investigation, NYC claimed (as per verification report) that they had exported the product concerned to India to claim interested party status. It was subsequently found that no exports were made during the period of investigation and hence they were not granted the status of interested party. The correspondence exchanged to reach such a conclusion is not available in the public file hence we are unable to offer any further comments.

C-II. Views of the exporter/producer (New Shipper)

19. The initiation of the new shipper review requested by M/s. Southern Building Material & Sanitary through M/s. New Zhong Yuan Ceramics Co., Ltd., was in accordance with the provisions of anti-dumping rules and regulations. The producer and the exporter made an application to the Designated Authority with all the relevant facts and certification as per the requirement of Rule 22 of the Anti-Dumping Rules.

Rule 22 deals with the provisions of New Shipper Review under which a review could be initiated for the purpose of determining individual dumping margin of a producer of subject goods who has not exported such goods into the importing country during the period of original investigation and who is not related to any of the producer or

exporter subjected to anti-dumping duties on such subject goods. Article 22 of the Indian Anti-Dumping Rules provides that:

(i) “if a product is subject to anti provided that these exporters or producers show that they are not related to any of the exporters or producers in the exporting country who are subjected to the anti-dumping duties on the product.

Therefore it is essential to know as to what obligation does the word “show” cast on the applicant for initiation of such review. As per Rule 22 of AD Rules and Article 9.5 of ADA an application for a new shipper review should fulfill following requisites:-

1. That there must be final anti-dumping duty levied on the subject goods,
2. That the exporter or producer in the exporting country must not have exported the subject goods to India during the period of investigation,
3. That it began to export after that period,
4. That the producer or the exporter in the exporting country should not be related to the known exporters in the exporting country.

20. The applicants in their application have claimed that neither they nor any of their related producers or exporters in the exporting country has made any exports of the subject goods to India during the period of investigation. They have further stated that the commercial production of subject goods has commenced w.e.f. 30th May 2003. Thus the applicant is found to be the new entrant to the market in the exporting country, as the period of original investigation was 1st April 2000 to 31st March 2001 and the applicant commenced its production w.e.f. 30th May 2003. In support of their claim they filed a certification with regard to the above facts and also certified that they are not related to any known producer or exporter in the exporting country. They also furnished sales confirmation order for exports of subject goods received from an importer in India.

21. The objective of New Shipper Review as stated in AD Rules and AD Agreement is very limited and confined to determine individual dumping margin of the new exporter/producer and does not deal with the injury determination as in the case of other reviews. Therefore, the term periodic as used in the language of AD Rules can't be construed as a period of six months or a period of one year or so from the anniversary date of imposition of anti-dumping measures on such goods. Further the plain reading of Article 9.5 makes it crystal clear that the word promptly has been used with the intention that initiation should be promptly carried by the investigating authorities once they satisfy themselves that prima facie information exists to show that the conditions set for the initiation of New Shipper Review are satisfied. Therefore, the term periodic used under Rule 22 should be interpreted liberally and in

conformity of the Article 9.5 of ADA which calls for prompt initiation of such reviews.

22. They have submitted that Rule 7 of Indian Anti-Dumping Rules provides for treating certain information confidential. Certain information which are either business proprietary information or any other information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the authorities. In this instant review certain business sensitive information has been claimed as confidential. This information pertains to corporate structure, marketing and selling arrangements, accounting and financial practices, details about the subject product and other sensitive information disclosure of which would be of significant competitive advantage to a competitor and would adversely affect the business of the company. The information which is not susceptible of summarization has been claimed confidential and adequate reasoning for doing so has been provided to the Authority.

C.III. EXAMINATION BY THE AUTHORITY;

23. The Designated Authority initiated new shipper review keeping in view the provisions of the anti dumping rules, which are reproduced below:

“Rule 22: (1) *If a product is subject to anti-dumping duties, the designated authority shall carry out a periodical review for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country in question who have not exported the product to India during the period of investigation, provided that these exporters or producers show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti dumping duties on the product.*

(2) *The Central Government shall not levy anti dumping duties under sub-section (1) of section 9A of the Act, on imports from such exporters or producers during the period of review as referred to in sub-rule (1) of this rule:*

Provided that the Central Government may resort to provisional assessment and may ask a guarantee form the importer if the designated authority so recommends and if such a review results in a determination of dumping in respect of such products or exporters, it may levy duty in such cases retrospectively from the date of initiation of the review”.

Rule 22 clearly specifies the circumstances under which a new shipper investigation can be carried out for the purpose of determination of individual dumping margin. Individual dumping margin in respect of any exporter or producer from the exporting country in question can be determined provided the following two conditions are satisfied, (a) that the exporter or producer has not exported the product under consideration during the period of investigation, and (b) that exporter or producer shows that they are not related to any of the exporter or producer in the exporting country who are subjected to the anti dumping duties on the product concerned. The Designated Authority in the present case on the basis of information filed by the applicant found that the exporter or producer has not exported the product under consideration during the period of investigation as production of Vitrified/porcelain tiles by SBM was started only in May, 2003 i.e, much after the period of investigation in the original investigation and provided certification that they are not related to any of the exporters or producers in the exporting country who are subjected to anti dumping duties. In support of their claim they have filed the certificate of incorporation having the date of commencement of business and the Authority also did not find anything adverse material regarding their claim of a new shipper. None of the interested parties filed any material evidence regarding any exports by the new shipper. The applicants in their response to the questionnaire claimed that they had no affiliated/related company engaged in production or sale of the product concerned. However, at the time of spot verification, on being asked regarding related companies, it was clarified that the promoter companies had number of related companies who were engaged in production and/ or sale of subject goods. With regard to the issue whether any of these affiliates had exported the product concerned to India, it was claimed and clarified that the first export licence/approval of the group companies (which includes all the companies) was received only in Sept., 2001 i.e, after the period of investigation of the original investigation. The Authority, on examination of arguments of the new shippers, notes that the any of the group companies would have exported only after Sept., 2001 i.e, after the period of investigation of the original investigation therefore nothing adverse could have been assumed against the claim of the new shipper applicant and no material evidence was brought before the Authority in this regard.

24. Claims with regard to eligibility of the applicant as a new shipper were examined whether the company has directly or indirectly exported the product to India in the original investigation. The producer, SBM was set up in 21st June, 2002 and they did not export the product in the original investigation and in support of their claim they filed a copy of business license of the company which shows the date of establishment as 21st June, 2002. The capital verification report relating to the company provided by certified practicing accountant established that the capital in the company was introduced for the first time in 2002. The team verified invoices relating to

acquisition of plant & machinery and copies of the same were obtained. It was found that the company purchased equipment required for production of the product concerned after its date of incorporation. On examination of annual report it was found that the company is owned by NYC Macao & New Zhong yuan (Group) Co, China PR which were held by private individuals. In view of the above the Authority holds that SBM could not have directly or indirectly exported the product under consideration to India in the earlier period.

25. During the course of the investigations, it was found that a letter was earlier written by Newzhong Yuan Ceramics (the holding company of both the producer and exporter, who is also engaged in production and sale of the subject goods in this new shipper review) stating that the company has exported the product concerned to India (in order to claim their status as an interested party and in order to oppose imposition of anti dumping duty). It was however found that another letter was also written to the Authority in that investigation itself, after the said letter, stating that this company made no exports in the period being investigated by the Authority. In view of the above, it is noted that NYC had neither exported any material during the period earlier investigated by the Authority nor any evidence of exports by the same was found in this present investigation. It is further noted that the claim of the applicant is consistent with the claim made before the Authority at the time of original investigation when it was claimed that New Zhong Yuan Ceramics did not export the subject goods in the investigation period of that investigation. During the investigation the Authority neither found any evidence of relationship with any of the exporters and producers in China PR who are subjected to anti-dumping duty nor any evidence was brought before the Authority. The Authority, therefore, notes that the New Shipper Review investigation was initiated in line with the provision laid down in Rule 22 of AD Rules.

26. The new shipper who is seeking review, apart from making a declaration in the application that he fulfils the conditions set out in Rule 22, cannot be expected to adduce any evidence that he had not exported the goods during the period investigation or that he is not related to the exporters in the exporting country who are subject to anti-dumping duty on the product. For prima facie satisfaction though DA is not required to conduct a detailed enquiry before initiating new shipper review, if there is material evidence to contradict the statements made in the application, then the DA can refuse to initiate the new shipper review. In the present case, on the date of initiation of new shipper review, there was no material evidence on record to show that the statements made 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) were not correct. Therefore, it cannot be said that there was no prima facie satisfaction on the part of DA before

initiating the new shipper review and the initiation of the new shipper review is in order.

27. The Authority notes that the essential facts stated in the disclosure statement are based on the information/evidence brought before the Designated Authority by the interested parties and the Authority considered such information only after satisfied itself with regard to adequacy and accuracy of information filed by the interested parties. Under these circumstances, the Authority considers that the domestic industry or any other interested party has been provided full opportunity to defend their interests and comment on the correctness or otherwise, either in law or on merits, before these final findings are being recorded. As stated in the disclosure statement, the applicants did not bring full information about the related companies either in their application or in the initial response to the questionnaire, however at the time of spot verification, the applicants provided sufficient clarifications and provided business licence and annual reports of related companies. On examination of information Authority did not find appropriate to believe that the applicants were not entitled as a new shipper. The Authority, therefore, holds that non-disclosure of such information at the stage of initiation could not have vitiated the present investigations in any manner. The Authority also notes that the domestic industry also chose to raise this issue for the first time in their rejoinder submissions which were examined to arrive at the Authority's findings.

28. It has been argued by the domestic industry that the new shipper has given contradictory and false declarations with regard to related companies, their dates of establishments and scope of business. The Authority examined the arguments raised by the domestic industry and found that the domestic industry has provided the date of incorporation of the company as the date of establishment whereas the new shipper has provided the copy of certificates showing the date on which the company commenced commercial production. As regards the arguments of the domestic industry concerning establishment of M/s. New Zhong Yuan Export and Import Company in 1995, the new shipper has submitted that this company was first setup in 1995, however that this company was purchased by Group Company M/s. New Zhong Yuan Ceramic Group only in September 2001.

29. The Authority also examined whether the applicant's intention is to circumvent the duties by creating "shell" company or by appointing a sole agent of the product and whether the intent of the present exercise was otherwise to circumvent the duties earlier recommended. On examination of various facts brought out by interested parties and the information verified at the time of spot investigation, the Authority holds that the applicant has established themselves as new shipper as per law. During the course of the investigation no material evidence was brought to the knowledge of

the Authority, which could have otherwise established that the applicant is not entitled for a new shipper review.

30. The Authority also examined the ownership structure of NYC, Macao and found that shares in this company was held by individuals. The Authority procured information with regard to related companies of the applicants' parent companies and on examination of information of related companies it was found that these companies were indirectly related to the applicant and no evidence was found regarding the direct relationship between the applicants and these companies.

31. It is argued by the domestic industry that the exporter has kept the vital information confidential depriving the opposing interested parties of the right to challenge the information and make the meaningful submissions to the Authority. The Authority notes that Rule 7 of the AD Rules provides for submission of information by the interested parties on confidential basis subject to the condition laid down therein. Certain information which are either business proprietary information or any other information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information), or which is provided on a confidential basis by parties to an investigation shall, upon good cause shown, be treated as such by the authorities. Such information shall not be disclosed without specific permission of the party submitting it. In this review investigation certain business sensitive information has been kept as confidential mainly information pertaining to corporate structure, marketing and selling arrangements, accounting and financial practices, details about the subject goods and other sensitive information, related to costs and prices, disclosure of which would be of significant competitive advantage to a competitor and would adversely affect the business of the company. The information claimed confidential by the interested parties was examined by the Authority as per confidential provision under AD Rules and such information was considered confidential on being satisfied that the information claimed confidential is indeed confidential. The non-confidential summary of the information submitted on a confidential basis is placed in the public file, which is available for the inspection, by all the interested parties in terms of Rule 6 (7) of the Anti Dumping Rules and the domestic industry has obtained the copies of the same.

D. EXAMINATION OF market economy treatment and DETERMINATION OF DUMPING MARGIN

D. I Views of the domestic industry,

32. M/s. H & R Johnson has submitted that any exporter or producer from China PR claiming Market Economy Status has to satisfy the Designated Authority as conditions laid down in paragraph 8 (3) of Annexure I of the Anti Dumping Rules. It lays down the criteria that the conversion of exchange rate at the market rate is one of the mandatory conditions to be satisfied for any firm/country to claim the market economy status. They have further submitted that China's controlled foreign exchange regime allows their exporters to export at prices, which would be considerably cheaper than their true and fair prices, and this in turn acts as hidden subsidy to the extent of under valuation. Therefore, Authority may kindly terminate and withdraw the interim exemption granted to the new shipper.

33. It has been argued by the domestic industry that the new shipper has given contradictory and false declarations with regard to related companies, their dates of establishments and scope of business. The Authority examined the arguments raised by the domestic industry and found that the domestic industry has provided the date of incorporation of the company as the date of establishment whereas the new shipper has provided the copy of certificates showing the date on which the company commenced commercial production. As regards the arguments of the domestic industry concerning establishment of M/s. New Zhong Yuan Export and Import Company in 1995, the new shipper has submitted that this company was first setup in 1995, however that this company was purchased by Group Company M/s. New Zhong Yuan Ceramic Group only in September 2001.

D.II Views of exporter/producer(New shipper) ,

34. The views of exporter/producer(new shipper) have been summarised below;

- i. The new shipper has claimed market economy treatment (MET) and has submitted evidence to substantiate the same.
- ii. Bankruptcy Law of Peoples Republic of China PR has an appropriate legal and regulatory framework for the operation of the firms and the firms can freely be declared bankrupt according to the related laws and regulations.
- iii. The major raw materials required for the manufacture of vitrified tiles are available in and around Foshan City and the company is free to procure the raw materials and other relevant inputs from the open market based on market prices set by demand and supply. No state or local authority has any say, in any manner, in setting the prices or costs of the raw material or the final product. There are no restrictions or conditions, either direct or indirect, on imports of raw materials used but the company not imported any raw materials from abroad.
- iv. The utilities are charged at normal rates without any special or subsidized rates. Electricity is being supplied by the State owned company however, water is

- supplied by private company. Water and electricity have been charged according to the consumption pattern and the prevailing prices charged by the concerned supply companies.
- v. As regard to labour, firms have the freedom to organize and remunerate their labour with the condition that the minimum wage levels are guaranteed. The company provides the housing facilities to the workers in the factory.
 - vi. According to the accounting principles in China, the firm has to maintain basic accounting records and the firms have their accounting records audited by independent auditing firms. The normal corporate financial accounting period is from January to December. The accounting practices of the applicants are in accordance with the Generally Accepted Accounting Principles (GAAP) of China
 - vii. Land, buildings and machines are used for the production and commercial purposes. The company owns these facilities. Chinese laws protect property ownership. Natural and legal persons have the right by law to possess, utilize the profit and dispose the property as per General Principles of the Civil Law of People's Republic of China. Thus, firms are subject to both bankruptcy and property laws, which guarantee the legal stability and certainty for the operations of business.
 - viii. The company has never been involved in barter-trade or counter-trade. The company has never been involved in compensation trade (also known as product buy-back).
 - ix. They have claimed that the company is operating as per market economy conditions as the prices and costs are reflective of market forces, therefore company may be granted MET and normal value may be determined as per para 1 to 6 of annexure-I of AD Rules.

D.III Examination by the Authority

35. The Designated Authority, as per para 8(2) of Annexure I of the AD Rules for the purpose of determination of Normal Value, proceeded with a presumption that any country that has been determined to be or has been treated as, a non-market economy country for purposes of an anti dumping investigation by the Designated Authority or by the competent authority of any WTO member country during the three years period preceding the investigation is a non-market economic country. In the past three years WTO members such as EU and USA have treated China PR as a non-market economy country in anti- dumping investigations. In the instant case, China PR has been proposed to be investigated as non-market economy Country.

36. The Authority sent market economy treatment (MET) questionnaires and exporters questionnaires to 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). They filed the response in support of their claim of market economy treatment and requested for determination of normal value on the basis of domestic sales of subject goods in their home market. In view of their claim of MET treatment, verification was carried out at the premises of the responding producer and exporter. The Chinese producer has claimed individual treatment on the grounds that they are operating under market economy condition irrespective of prevailing economy situation in the country without any direct or indirect State interference or influence in their business activity. Bureau of Fair Trade, Ministry of Commerce, China PR was also sent the MET general questionnaire to provide information regarding tiles industry and Government policy related with that industry and a response was filed by them.

37. In anti-dumping investigations normal value concerning imports originating in China PR, shall be determined in accordance with para 7 & 8 of Annexure I of the AD Rules. The Authority notes that para 7 of Annexure 1 of AD Rules provides that:

“In case of imports from non-market economy countries, normal value shall be determined on the basis of the price or constructed value in the market economy third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin.”

Further Para 8 of Annexure 1 of the AD Rules (as amended) provides that:

“8 (1) The term “non-market economy country” means any country which the designated authority determines as not operating on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise, in accordance with the criteria specified in sub-paragraph(3)

(2) There shall be a presumption that any country that has been determined to be, or has been treated as, a non-market economy country for purposes of an anti dumping investigation by the Designated Authority or by the competent authority of any WTO member country during the three year period preceding the investigation is a non-market economic country;

Provided, however, that the non-market economy country or the concerned firms from such country may rebut such a presumption by providing information and evidence to the designated authority that establishes that such country is not a non-market economy country on the basis of the criteria specified in sub-paragraph (3).”

38. It is noted that the responding Chinese producer/exporter furnished information/evidence as mentioned in para 8(3) of Annexure 1 of AD Rules to enable the Designated Authority to consider the following criteria as to whether

- a. the decision of concerned firms in such country regarding prices, costs and inputs, including raw materials, cost of technology and labour, output sales and investment, are made in response to market signals reflecting supply and demand and without significant State interference in this regard, and whether costs of major inputs substantially reflect market values;
- b. the production costs and financial situation of such firms are subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts;
- c. such firms are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of the firms, and
- d. the exchange rate conversions are carried out at the market rate;

Provided, however, that where it is shown by sufficient evidence in writing on the basis of the criteria specified in this paragraph that market conditions prevail for one or more such firms subject to anti-dumping investigations, the Designated Authority may apply the principles set out in paragraphs 1 to 6 instead of the principles set out in this paragraph.

39. Detailed questions regarding ownership, management, control, determination of commercial and business policies and on financial situation etc. were addressed to the applicant. The responses filed by the new shipper were analyzed to determine whether the applicant exercised a degree of independence from the Chinese Government comparable to what would prevail in a market economy country. The Authority sought general and certain specific information with regard to the following parameters from the applicants:-

- Ownership details
- Shareholding patterns
- Information on promoter/holding company/companies
- Constituents of Board of Directors, their legal status and person/party being represented by them.
- Raw Material Inputs and Costs
- the existence or otherwise of any minimum wage stipulation by the State and if the enterprises are free to decide wages as per market demand.
- Production Facilities and Costs
- Loans and subsidies
- Barter Trade/ Counter Trade

- Profit Distribution
- Bankruptcy and property laws
- Exchange rates conversions

40. In order to examine whether there was any degree of State influence or interference over the allocation of resources and decisions of the applicant, whether directly or indirectly, the ownership pattern of the petitioner was examined. The claims/ counter claims of the interested parties were taken into account and details in this respect were verified. The Authority examined the composition of Board of Directors of these companies, identity of each persons in the Board, their functions, other position held by these persons etc. to determine whether there is any interference or involvement of the State in the management and working of the companies. The Authority relied upon the relevant provisions relating to constitution of Board of Directors, Board of Supervision, General Manager, their functions & powers, appointment & dismissal, autonomy of the company in matters of appointment etc and the role which State or State owned/controlled persons/bodies plays, if any, in such companies whether directly or indirectly. In their response to the MET questionnaire and in the oral hearing held, the applicant claimed that SBM (producer) is a wholly privately owned limited liability company. The shareholding pattern and list of shareholders given in response to exporters' questionnaire and MET questionnaire indicated that M/S New Zhongyuan Ceramics Company Limited of Guangdong and M/S New Zhong Yuan (Group) Company Limited, Macao are the principal shareholders with 100% of the total shareholding. It was also clarified while names of the company translated in English, it resulted in different translations/names for the same company, however, it implies nothing but Southern Building Material and Sanitary Co. Ltd. (SBM), the applicant producing company.

41. The Designated Authority notes that the company was engaged in production of the subject goods and other products (Sanitary Items). It was also found that the plant was in fact a new plant, which had not even started utilizing its full capacity. The company claimed that the new plant was established since the existing plant(s) of the company were almost fully operational and the company needed more material due to the expanding demand in the market and at the same time while the other plants of the company were relatively old, the group needed a new plant in order to provide wider range of product with more newer options and choices to customers. It was explained that the capacity of the plant (10,000,000 SQM) was far too high to be set up keeping in mind only the Indian demand. It was explained that company is selling a very small volume to India (below 1% of its capacity in investigation period) as compared to Chinese and the world market. It was further clarified that as against 3262558 Sq. Meter demand assessed by the Authority in the investigation period of

the original investigation, the capacity of this plant is far higher (more than 3 times) than entire Indian demand.

42. It was found that the company was selling substantial volumes of the subject goods through their affiliate NZYIE. It was also found that NYC is not making huge profits out of SBM product sold by them. Profitability of NYC was also provided as an evidence of the fact that NYC was not making huge profits out of sales of SBM product. It was also found that sales made to other unrelated parties were significant, viable and representative. M/s Southern Building Material & Sanitary Co. Ltd., (SBM) was established on 21st June, 2002 with the Business License No. 0293583 and Registration No. QHYQZFFZ No. 001110. Business license of SBM was examined and it was found that the company is a private company. The Authority notes that SBM (producer) is a new company which commenced commercial production only in May, 2003. Ownership structure of the company was examined and it was found that the company was a private company incorporated under Chinese company law.

43. Macao based investment company was held by two persons and was not involved in selling the subject goods to India during the investigation period of original investigation or in this investigation. NYC, China was producing the subject goods in the previous investigation period, however, the company did not sell the subject goods to India during previous investigation period. The claim of the NYC that none of their affiliates have directly or indirectly exported the subject goods was examined and the Authority did not find any evidence of exports by them during the investigation period of original investigation. As regards the averment made by NYC in the original investigation, it is found that it was in fact clarified in that investigation period itself that NYC had not sold any material to India in that investigation period and a letter to this effect had been filed in that investigation itself. NYC has provided a copy of approval for Enterprises with Foreign Trade Rights in the People's Republic of China issued by Ministry of Foreign Economy and Trade Department, to the Authority to establish that NYC received permission for exports only after original investigation period.

44. SBM procured land from Xing Ke Building Material Co. Ltd. Of Quig Yuan City and the land lease agreement was signed by New Zhong Yuan (Group) Co. Ltd. (Macao). On examination of the lease agreement, it was observed that the company had entered into a lease for 50 years at lumpsum initial one time full payment and it was reconciled with the annual report of the company. The loans obtained by the company were found to be taken at market rates from China Everbright Bank and Bank of China. It was also observed that the equipments for the plant were purchased by SBM.

45. The Authority notes that the company procured electricity from State owned company and water from a private company. Since electricity procurement was from State owned enterprises, the Authority examined the tariff rates at which the company was getting electricity. A number of invoices were collected and tariff paid by the company was ascertained. It was found that the electricity and water have been charged according to the consumption pattern and the prevailing prices charged by the concerned electricity/water supply company. As regards engaging labours, the company claimed that all employment decisions were taken by the company itself. There is full freedom to the company with regard to its mode of hiring employees and they can be fired also on a very short notice. They claimed that the Chinese Government does not provide any benefit like housing, medical care etc. however, the company provided accommodation and the cost of the same was reflected in the books of accounts as an expense.

46. It was claimed that the raw materials were purchased from the open market at market prices and State is not involved directly or indirectly either in procurement or pricing of raw materials. It was also claimed that major suppliers of major raw materials were neither related with the applicant companies nor State owned enterprises. On examination of the claim of the new shipper it was found that there were sales of the subject goods in the domestic market in substantial volume and the evidence of state involvement was not found regarding determination of sale price/quantities. It was also observed that sales of subject goods in the domestic market have been made to different customers at different prices both to related and unrelated parties but wide variation was not found. It was explained by the company that there is no price list either for domestic or export sales as it varies from customer to customer which entirely depends on demand and supply position in the market.

47. The company was found to be maintaining its accounts as per Generally Accepted Accounting Principles of China. The company maintains monthly profit & loss statement which is required to file profit & loss statement along with VAT filing to Tax authority. The profit & loss statement for each of the months of the investigation period was examined and cross verified with the profit & loss statement filed by the company along with its VAT return and a separate profitability of the subject goods and other goods was determined. On examination of records it was found that the company was able to post profits on the subject goods, whereas it was facing losses in sanitary due to low level of plant utilization at the initial stages. It was reported that the company had commenced its commercial production in sanitary items only recently and the plant utilization was at the level of 56% during the POI. Accounts of the company were audited by the Auditors and no adverse comments were found in their Auditor Report with regard to the accounting practices followed by the company.

48. It was found that SBM has been selling the subject goods primarily in the domestic market and freely decides regarding the output and sales depending upon market demand and nothing adverse had been found in this regard from their records. The Authority notes that various companies in the Group including the applicant made the domestic sales, however, the entire export sales were effected by NYZIE (exporter). NYZIE has separately responded for its claim of MET and the Authority has verified the same during the verification visit.

49. The bankruptcy and property laws were examined and found that the company is free to acquire property. The company claimed that bankruptcy law is applicable to a firm when a firm becomes bankrupt and the details regarding the settlement of the dues is governed by law maintained under bankruptcy law.

50. The exchange rate conversions were also verified from their books of accounts and found that the export remittance were converted into the Chinese currency as per the exchange rate prevailing on the date of transaction. During the verification visit the export invoices were verified to see whether the realized amounts are credited into their books of accounts. The Authority observed that exchange conversions have taken place at the existing rate, which was more or less stable.

51. Even though the producer in the present investigations is SBM, the Authority found appropriate to examine the claim of market economy treatment to NZYIE (exporter) also. Business license of the company was examined and it was found that the company is a private company and established after the period of investigation of the original investigation. On examination of annual reports of NZYIE for the years 2003 and 2004, it was found that the company maintained its accounts as per generally accepted accounting principles of China and there was no adverse qualification by the auditors. It was found that the NZYIE has made profit during the POI. VAT refund application made by NZYIE was examined and it was found that the VAT refund has been claimed by the company. The exporter claimed that the company purchased duly VAT paid goods from SBM therefore, the company is entitled for VAT refund on exports of subject goods. The Authority notes that the company is entitled for a 13% VAT refund for all exports of subject goods made during the period of investigation.

52. In view of the information provided by the Chinese producer and exporter on the issue of its claim of market economy treatment with regard to para 8(3) of Annexure-I of AD Rules, the Authority considers it appropriate to treat this company as operating in market economy. The company was able to show to satisfaction of the Authority that management and control regarding production, marketing and pricing were in the hands of the management of the company, which were found to be independent from state intervention. In the light of above examination it was considered to grant Market

Economy Treatment to the company and determine normal value as per para 1 to 6 of Annexure 1 to the Anti Dumping Rules.

NORMAL VALUE:

53. Under Section 9A(1)(c), normal value in relation to an article means:

- i. The comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section(6); or
- ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either –
 - a. comparable representative price of the like article when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or
 - b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6);

54. The Authority sent exporter questionnaire to 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), for the purpose of determination of normal value in accordance with Section 9A(1) (c) of the Custom Tariff Act. In response to the questionnaire the new shipper filed the information in exporter questionnaire. They have exported two sizes of the subject goods and the detailed information regarding the entire domestic sales both to the affiliated and unaffiliated parties in their home market was provided. The normal value as per Section 9A (1) (c) is the comparable price of domestic sales of subject goods in the ordinary course of trade for the like article, which is meant for consumption in the exporting country. They have also provided break up of costs of production in prescribed format of all the sizes/models/types of the subject goods that have been produced during the period of investigation. The transaction wise domestic sales to both affiliated and unaffiliated parties were verified from their records during the course of on the spot verification. The element wise cost of production was also verified and reconciled from the books of account maintained by the company. The Authority found it appropriate to consider the domestic sales to unrelated parties for determination of normal value. An analysis of the profit and loss account of the company shows that the company has made an overall profit on the sale of subject

goods during the period of investigation and calendar year. The Normal Value based on domestic sales has been determined after considering the volume of sales to unrelated parties above per unit cost (applying 80/20 test) so as to determine that these sales are in the ordinary course of trade. In case of two models/types, it was found that there is no sales to the unaffiliated parties in the domestic market. In case of one model it was found that the domestic sale is not in the ordinary course of trade as a loss making sales is more than 20%. Accordingly for these models/types, cost of production plus SGA and reasonable profit has been considered to be the appropriate basis for assessing the Normal Value. In order to add reasonable profit to the cost of production arrived, profit earned by the company on these models /types based on profitable transactions in the domestic market was considered. For the remaining model/type of vitrified tiles exported to India and sold in the domestic market the weighted average ex factory domestic sales realisation was considered for arriving at the normal value as loss making transactions were found to be less than 20% of the sales in the domestic market.

55. As indicated above the company has exported different models/types of two sizes of Vitrified Tiles to India during the period of investigation. No adjustment with regard to expenses has been claimed by the company to arrive at ex factory normal value. Based on the methodology explained above size wise/ model/type wise ex-factory normal value for these models/ types of Vitrified Tiles is determined as :

SI No	Size /model/type	Normal Value (US\$ per Sq. Mtr)
1	600X600 (Off white)	****
2	600X600 (Super white)	****
3	600X600 (Double Charging)	****
4	1000X1000 (Anti Abression)	****

EXPORT PRICE:

56. In response to the questionnaire, the exporter has furnished invoice-wise/ size-wise details of exports made to India during the period of investigation in Appendix-2. The exporter has also furnished copies of invoices in support of the same. Adjustment as claimed by the exporter in Appendix-3 have been considered based on verified data and is proposed to be allowed to arrive at the ex-factory export price to India. The exports to India by SBM, China PR are carried out through NZYIE, China PR (exporter) who finally exported the subject goods to India. In this regard the invoices pertaining to SBM to NZYIE and finally NZYIE to Indian customers were

verified and reconciled along with the adjustments claimed by them. Details regarding their claim of adjustments were verified during the course of verification from the records maintained by the company. The size wise and model/type wise ex factory export price of subject goods comes as :-

SI No	Size /model/type	Export Price (US\$ per Sq. Mtr)
1	600X600 (Off white)	****
2	600X600 (Super white)	****
3	600X600 (Double Charging)	****
4	1000X1000 (Anti Abression)	****

DUMPING MARGIN:

57. Considering the normal value and export price as determined above, dumping margins for different sizes/ models /types of vitrified/porcelain tiles are separately determined. It has been found that the exporter has exported the subject above its Normal Value and hence the weighted average dumping margin has been determined as negative.

E. Final Findings and Recommendations of the Authority

58. After considering the foregoing the Authority concludes that

- i. 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.
- ii. The Authority, therefore, recommends 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.
- iii. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Act.

(Christy Fernandez)
Designated Authority

