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**F. No. 30/2/2019- DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Trade Remedies)  
Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

Dated 24<sup>th</sup> October 2019

**Amendment Notification**

**Subject: Amendment to the Final Finding Notification No. 6/12/2017-DGAD dated 24-05-2018 in Anti-Dumping Investigation concerning imports of “High Tenacity Polyester Yarn” from China PR.**

No. 30/2/2019-DGTR: - Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter referred to as “the Act”) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995, as amended from time to time (hereinafter referred to as “the Rules”) thereof;

**A. BACKGROUND**

2. The Directorate General of Trade Remedies ("Authority") had conducted an antidumping investigation concerning imports of High Tenacity Polyester Yarns ("subject goods" or "HTPY") originating in or exported from China PR ("subject country") and recommended imposition of definitive anti-dumping duties vide the final finding Notification No. 6/12/2017-DGAD dated 24th May 2018 ("Final Findings"). The recommendations were accepted by the Ministry of Finance and definitive duties were imposed vide Customs Notification No. 35/2018 – Customs (ADD) dated 9th July 2018 ("Customs Notification").
3. The Final Findings were amended vide Amendment Notification No. 6/12/2017-DGAD dated 7th January 2019 to allow request for change of name in the duty table for certain producers. The amendment was adopted, for the purposes of duty imposition, by the Ministry of Finance vide Customs Notification No. 10/2019-Customs (ADD) dated 12th February 2019.

**B. PROCEDURE**

4. A written request was received from M/s. Oriental Industries (Suzhou) Ltd. and M/s. Oriental Textile (Holding) Ltd. (the Applicants) in accordance with the Trade Notice No. 12/2018 dated 17.9.2018 requesting for change of name of the exporter in the duty table notified as above.

5. The Authority examined the request and noting the nature of the request decided to seek views from the interested parties, who could be directly affected by the outcome, so that the request could be considered appropriately and need of undertaking a Mid Term Review could be evaluated. The Authority held the hearing on 16th October 2019. The submissions made by the participants are recorded below and have been considered by the Authority.

### **C. SUBMISSIONS**

#### **Views of the Applicants – M/s. Oriental Industries (Suzhou) Ltd. and M/s. Oriental Textile (Holding) Ltd.**

6. During the POI (1st April 2016 to 31st March 2017) of the subject anti-dumping investigation, subject goods produced by M/s. Oriental Industries (Suzhou) Ltd. were exported to India through M/s. Oriental Textile (Holding) Ltd.
7. For the supply chain consisting of M/s. Oriental Industries (Suzhou) Ltd. as the producer and M/s. Oriental Textile (Holding) Ltd. as the exporter, an individual rate of NIL was recommended at Serial No. 5 of the Duty table in the Final Findings after due verification of the companies. The recommendations were accepted by Ministry of Finance and NIL duties were imposed / collected in terms of Notification No. 35/2018-Custom (ADD) dated 9th July 2018.
8. M/s. Oriental Textile (Holding) Ltd., the exporter is located in Bermuda. In December 2018, the Bermuda Government issued a new law, named the Economic Substance Act 2018 which came into operation on 31 December 2018. Article 3 of the said Act requires entities carrying out certain activities including distribution (like M/s. Oriental Textile (Holding) Ltd.) to maintain “a substantial economic presence in Bermuda” such that the entity is managed and directed in Bermuda, core income generating activities are undertaken in Bermuda, the entity maintains adequate physical presence in Bermuda and there is adequate operating expenditure incurred in Bermuda with respect to the relevant activity.
9. With the introduction of the Economic Substance Act, 2018, M/s. Oriental Industries (Suzhou) Ltd. decided to carry on its export to India directly without invoicing through M/s. Oriental Textile (Holding) Ltd., located in Bermuda.
10. Apart from a change in name of the exporting entity in the described sales chain, all other aspects pertaining to the export would continue to remain the same. Some of these aspects are:
  - a. the importer(s) of the subject goods in India from M/s. Oriental Textile (Holding) Ltd. will remain the same for M/s. Oriental Industries (Suzhou) Ltd.
  - b. There is no change in the status of the producer, thus normal value remains unchanged.
  - c. The ex-factory export price at which the subject goods will be exported by M/s. Oriental Industries (Suzhou) Ltd. to India will be priced similarly as the goods exported by M/s. Oriental Textile (Holding) Ltd. to India.

11. M/s. Oriental Industries (Suzhou) Ltd. is already a named producer in the duty table. It was submitted in the Application that the Authority has, recently with respect to the same investigation, allowed a similar name change request for placing the producer's name in the exporter column as well. Reference was made to the Amendment Notification No. 6/12/2017-DGAD dated 7th January 2019 and the case of Zhejiang Guxiandao Industrial Fibre Co., Ltd. and Zhejiang Guxiandao Polyester Dope Dyed Yarn Co. Ltd.
12. Accordingly, the applicants requested the change of name of exporter to "Oriental Industries (Suzhou) Ltd" in the duty table, i.e., the name of the producer, as it is intended that the producer will be exporting to India directly, going forward.

#### **Views of the Domestic Industry**

13. The Domestic Industry (M/s. SRF Limited and M/s. Reliance Industries) stated that they have no specific objection with the request for name change. However, the counsel of the Domestic Industry pointed out that the request for change of name is legitimately arising out of a business decision to change the trade route, rather than introduction of the Bermuda Economic Substance Act, 2018.
14. It was requested that the Authority may determine whether such business decisions fall within the purview of the trade notice pertaining to name change and pursuant to which the subject application has been filed.

#### **D. EXAMINATION BY THE AUTHORITY**

15. The issues and submissions made by the applicants, domestic industry and available facts as recorded in the final finding, have been examined and following observations are being made.
16. As per the Applicant, the need for change in name of the exporter has emerged from introduction of new law in Bermuda, where the exporter is located. It is noted that while the export of the subject goods happens directly from China PR to India, the invoicing for the same was being done through the exporter, i.e., M/s. Oriental Textile (Holding) Ltd. Keeping in mind the change in Bermuda's law, the producer of the subject goods has decided to carry on business and invoicing directly, without involvement of M/s. Oriental Textile (Holding) Ltd. The producer of the subject goods continues to be the same, i.e., M/s. Oriental Industries (Suzhou) Ltd. and it wants to be the exporter also.
17. The Authority observes that the questionnaire responses filed by the applicants were complete when filed at the time of investigation. The examination of the final finding indicates that this applicant did not seek market economy status and normal value was constructed on the basis of best available information and will remain unchanged. The export price was determined as per the standard adjustments. The domestic industry did not object to the request for change in the name during the hearing.

18. The examination further revealed that the request falls within the category of name change only and there is no change in the basic nature of the business. The request is covered within the scope of the trade notice.
19. The Authority, therefore, recommends following change in the duty table in para no. 128 of the final finding 6/12/2017-DGAD dated 24<sup>th</sup> May, 2018:
  - a. At S. No. 5 in column 7, the name of the exporter viz. "Oriental Textile (Holding) Ltd" be amended to read as "**Oriental Industries (Suzhou) Ltd**".
20. Accordingly, the Authority recommends the change in the Custom Notification No. 35/2018-Customs (ADD) dated 9th July, 2018.
21. An appeal against the orders of the Central Government arising out of this order shall lie before the Customs, Excise, and Service Tax Appellate Tribunal in accordance with the Act.

  
24.10.19

(Sunil Kumar)

**Special Secretary & Designated Authority**