

**TO BE PUBLISHED IN PART 1 SECTION-1 OF THE GAZATTE OF INDIA-
EXTRAORDINARY**

F. No. 14/1/2014-DGAD
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: 31st December, 2018

Amendment Notification

Subject: : Anti-Circumvention investigations concerning imports of Cold Rolled Flat Products of Stainless Steel originating in or Exported from China PR, Korea, European Union, South Africa, Taiwan, Thailand and USA – Amendment to Final Finding Notification No. 14/1/2014-DGAD dated 18.08.2017.

No. 14/1/2014-DGAD:- 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. No.14/1/2014-DGAD - Whereas having regard to the Act and Rules supra, the Designated Authority, in the Ministry of Commerce and Industry, Department of Commerce, Govt. of India, appointed under the Rules supra, (hereinafter referred to as “the Authority”) notified its Final Findings on Anti-Circumvention investigation vide Notification No.14/1/2014-DGAD dated 18.08.2017 recommending imposition of definitive anti-dumping duty on imports Cold Rolled Flat Products of Stainless Steel (hereinafter referred to as subject goods) from the People’s Republic of China, Republic of Korea, the European Union, South Africa, Chinese Taipei, Thailand and the United States of America (hereinafter referred to as subject countries).
3. And whereas definitive anti-dumping duty was imposed on the subject goods vide Customs Notification No. 52/2017-Customs (ADD) dated 24.10.2017

B. PROCEDURE

4. M/s POSCO Daewoo Corporation has requested for change of name of the exporter from M/s Daewoo International Corporation to M/s POSCO Daewoo Corporation in regard to the above investigation, in accordance with the Trade notice No. 12/2018 dated 17.9.2018.
5. The Authority noting the nature of the request sought views on the same from interested parties of the original investigation, so that the request could be considered appropriately and need of undertaking a Mid Term Review (MTR) could be evaluated. Submissions made by interested parties have been considered by the Authority.

C. SUBMISSIONS MADE BY INTERESTED PARTIES

6. Submissions by M/s POSCO Daewoo Corporation (Applicant/exporter)

- (i) The change of name of the Applicant from Daewoo International Corporation to POSCO Daewoo Corporation was placed on record in the exporters' questionnaire response filed by the Applicant in the Anti-Circumvention investigation concerning imports of "Cold Rolled Flat Products of Stainless Steel originating in or exported from China PR, Korea RP, European Union, South Africa, Taiwan, Thailand and USA", which was initiated on 19 February, 2016. The Applicant filed its response on 2 May, 2016, i.e. after the change in its name and duly disclosed this fact before the Designated Authority. This fact was also verified by the Designated Authority at the time of the on-site verification.
- (ii) The Applicant, however, inadvertently missed out on getting its name changed in the Duty Table both for the Anti-Circumvention investigation and the Sunset Review. Accordingly, the respective Customs Notifications corresponding to these investigations continue to refer to the Applicant as Daewoo International Corporation. This discrepancy went unnoticed as the Applicant did not face any difficulty in getting its goods cleared at the Customs. It was only on receipt of a demand notice by one of the importers, which letter has been filed along with our Application, that this fact came to light and the Applicant immediately took steps to submit its request for the change in name before this Designated Authority.
- (iii) It is evident from the certificates of business registrations that there has been no change in the Applicant's corporate structure other than the change in its name. The Resident (Corporation) registration No. for the Applicant is **110111-2137358** both prior and subsequent to the change in its name. The Applicant has been incorporated for and continues to be in the business of "*Wholesale of Non-Specialised Goods*". This is evident from the Certification of the Commercial Registry, which certifies the Registration No. as 110111-2137358. This Registration No. is akin to the Corporate Identification No. (CIN) in India and the Resident (Corporation) registration No. has remained the same both for the principal office and the branch office.
- (iv) As regards the issue raised by the Domestic Industry in the oral hearing regarding the existence of the Applicant, primarily on the basis of the date for the commencement

of business for the Applicant's branch office, i.e. 2015, it is submitted that the branch office commenced its business in the year 2015 while the principal office was established in the year 2000. The branch office was allotted an independent Business Registration No, which is only for tax purposes. However, the Resident (Corporation) registration No. for the Applicant as a whole (both the principal and branch office) remains the same, which in the instant case is 110111-2137358.

- (v) It is submitted that in the instant case the name change for the Applicant is a matter of "*record only*". The Applicant decided to change its name in March 2016 to optimize the goodwill associated with the name of POSCO. In this regard, it is submitted that POSCO is the major stockholder in the Applicant. Accordingly, it was commercially prudent for the Applicant to include the name of POSCO in its name to reflect this holding. The Applicant has always been a cooperating exporter before this Designated Authority.
- (vi) The fact of the Applicant's name change has been disclosed before this Designated Authority on multiple occasions. In addition to the Applicant's written submissions, the Applicant would like to invite the attention of this Designated Authority to its Final Findings dated 10 April, 2017 in the Anti-dumping investigation concerning imports of "*Hot-Rolled flat products of alloy or non-alloy steel*" originating in or exported from China PR, Japan, Korea RP, Russia, Brazil and Indonesia, which expressly records the fact of the Applicant's name change w.e.f. 14 March, 2016. Accordingly, the Duty Table in these findings records the changed name of the Applicant. The corresponding Customs Notification No. 17/2017-Customs (ADD) also refers to the Applicant's changed name.
- (vii) It is, therefore, evident that the lapse in getting the Applicant's name changed in the Designated Authority's final finding dated 18/08/2017 and Customs Notification No. 52/2017-Customs (ADD) dated 24/10/2017 and its final finding on Sunset Review dated 12/10/2015 and corresponding Notification No. 61/2015-Customs (ADD) dated 11.12.2015 is inadvertent, unintentional and bonafide.

7. The following submissions have been made by Domestic Industry.

- (i) The concerned exporter has not provided any documents or led any evidence to support their claim of change of name.
- (ii) The claim of the applicant is primarily based on a document referred to as "Notification of Company Name Change" filed as Annexure 8 to the application. It is respectfully submitted that the said document cannot form the basis of accepting the request of the applicant as the is not an official "Notification" but appears to be some kind of an internal communication accompanied by a declaration by the President & CEO of the company stating that the "Notification of Company Name Change" is "true and genuine".
- (iii) It is also important to note that the applicant has submitted two documents titled as "Certificate of Business Registration" in support of their claim. With respect, it is submitted that these documents are yet another attempt by the applicant to mislead the Authority to

believe that their case of change of name is a genuine. The said “Certificate of Business Registration” is issued by some local Tax Authority and not the body responsible for registration of companies in Korea.

- The “Certificate of Business Registration” relating to Daewoo International Corporation states as follows:

Date of business commencement: 2000.12.27

Date of business registration: 2000.11.16

- Similarly, the “Certificate of Business Registration” relating to POSCO Daewoo Corporation states as follows:

Date of business commencement: 2015.01.26

Date of business registration: 2015.01.14

- (iv) The above documents prove that POSCO Daewoo Corporation was already in existence since 14.01.2015. It may be noted that the applicant has claimed that the company’s name has changed to POSCO Daewoo Corporation with effect from 14.3.2016. It is clear from the above claims that POSCO Daewoo Corp. was already in existence prior to 14.3.2016.
- (v) The business of Daewoo International Corp. was mentioned in the “Certificate of Business Registration” as “wholesale” whereas the “Certificate of Business Registration” relating to POSCO Daewoo Corp. states the Business item as “Wholesale of Non-specialized Goods”. No explanation has been offered for this change and how the same occurred.
- (vi) There is no clarity as to how they have been effecting their clearances so far in view of the fact that Customs Notification No. 52/2017-Customs (ADD) dated 24.10.2017 refers to “Daewoo International Corporation” as the linked exporter to POSCO, a company which, according to the applicant, has ceased to exist.
- (vii) The Trade Notice No. 12/2018 dated 17.9.2018 which mandates a period of three months to make any application for change of name. While it is admitted that the said restriction need not be applied retrospectively, it needs to be appreciated that the applicant waited for more than 32 months before filing an application. Since the Authority, through the aforesaid Trade Notice, lays emphasis on the timeliness of such applications, it follows that any application of change of name, even before the issue of the Trade Notice, ought to have been made within a reasonable time. Surely, as against the time of three months now notified by way of a Trade Notice, a period of 32 months cannot be said to be a reasonable period of time.

8. No other interested party has made any submission.

D. Examination by the Authority

- 9. The Authority notes that both M/s POSCO Daewoo Corporation and M/s Daewoo International Corporation have the same Resident (Corporation) registration number and the change in name is reflected in the Company Register and also the Certificate of Business registration issued by the concerned Tax Authority.

10. The Authority notes that Domestic Industry's submissions that it is a case of amalgamation/merger has been verified as per the records of the Company Register and Certificate of Registration submitted by the applicant exporter. The Certificate referred to by the Domestic industry pertains to the branch office establishment of the erstwhile Daewoo International Corporation as has been correlated from the certificate of business registration dated 20.01.2015 also issued to M/s Daewoo International Corporation mentioning the same details of the branch office. The Authority therefore holds that the request is of name change only and that there is no change in shareholding pattern of ownership which therefore do not alter the basic nature of business operations of the exporter.

E. Conclusion and Recommendations

11. Having considered all aspects, the Authority holds that the name of the exporter i.e. M/s Daewoo International Corporation has been changed to POSCO Daewoo Corporation with effect from 14.3.2016. Thus, Daewoo International Corporation and POSCO Daewoo Corporation are the same companies. The Authority has recommended the above change in the Duty Table under para 196 of the Final Finding No. 15/04/2014 dated 12.10.2015 in the Amendment Notification no. 15/04/2014-DGAD dated 31.12.2018. The Authority has also recommended change in the Custom Notification No. 61/2015-Customs (ADD) dated 11.12.2015

12. In the Anti-Circumvention investigation whose Final Finding No. 14/1/2014-DGAD was issued on 18.08.2017, the Authority in Para 111 of this finding had recommended extension of ADD imposed vide Custom Notification No. 61/2015-Customs (ADD) dated 11.12.2015 to the Product Under Investigation considered in Final Finding No. 14/1/2014-DGAD dated 18.08.2017.

13. Based on the above Ministry of Finance had issued Custom Notification No. 52/2017-Customs (ADD) dated 24.10.2017

14. In view of the above, the Authority recommends correction in the Custom Notification No. 52/2017-Customs (ADD) dated 24.10.2017 also as under:

- i. Against Serial No. 3 in Col. 8, the name of the exporter 'Daewoo International Corporation' may be amended to read as 'POSCO Daewoo Corporation'.

F. 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.

Sunil Kumar
Additional Secretary & Designated Authority