

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

**EXTRAORDINARY**

F. No. 15/4/2014-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: 8<sup>th</sup> November, 2019

**Amendment Notification**

**Subject: Anti-Dumping investigation 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 Notification No. 15/4/2014-DGAD dated 31/12/2018 and Notification No. 61/2015-Customs (ADD) dated 11<sup>th</sup> February 2015 and 14/1/2014-DGAD dated 31<sup>st</sup> December 2018 and Notification No.52/2017-Customs (ADD) dated 24<sup>th</sup> October 2017.**

No. 15/4/2014-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. 15/4/2014-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 12<sup>th</sup> October 2015 in respect of sunset review anti-dumping investigation concerning imports of Cold Rolled Flat Products of Stainless Steel (hereinafter referred to as subject countries) 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) as well as subsequent Anti-Circumvention investigation vide Notification No.14/1/2014-DGAD dated 18.08.2017 recommending imposition of definitive anti- dumping duty on imports of subject goods from the subject countries.
3. And whereas definitive anti-dumping duty was imposed on the subject goods in respect of above two investigations vide Customs Notification No.61/2015-Customs ADD dated 11<sup>th</sup> December 2015 and Customs Notification No. 52/2017-Customs (ADD) dated 24.10.2017.
4. And whereas M/s POSCO Daewoo Corporation 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. That pursuant to review, the Authority recommended correction in the Customs Notification

No.61/2015-Customs ADD dated 11<sup>th</sup> December 2015 and Customs Notification No. 52/2017-Customs (ADD) dated 24.10.2017, to change the name of the exporter ‘Daewoo International Corporation’ to ‘POSCO Daewoo Corporation’; through Customs Notification No. 8/2019-Customs ADD dated 12<sup>th</sup> February 2019 and in Customs Notification No. 9/2019-Customs ADD dated 12<sup>th</sup> February 2019 respectively.

## **B. PROCEDURE**

5. On 22.05.2019, M/s POSCO International Corporation (previously known as “POSCO Daewoo Corporation” and prior to it as Daewoo International Corporation”) filed a duly substantiated application requesting for change of name of the exporter from M/s POSCO Daewoo Corporation to M/s POSCO International Corporation in regard to the above investigation, in accordance with the Trade notice No. 12/2018 dated 17.9.2018.
6. Considering the nature of the request and in terms of Trade notice No. 12/2018 dated 17.9.2018, the Authority circulated the non-confidential version of the application to the interested parties and sought views on the same from interested parties, 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.
7. An oral hearing was conducted on 02.07.2019, wherein all the interested parties were given an opportunity to make their submissions. The interested parties were also required to file their written submissions and rejoinder submissions within the specified date. The submissions filed by the interested parties are summarized below:

## **C. SUBMISSIONS MADE BY INTERESTED PARTIES**

8. **Written submissions by M/s POSCO International Corporation (Applicant/exporter)**
  - (i) On 19<sup>th</sup> March 2019, POSCO International Corporation changed its name from POSCO Daewoo Corporation to ‘**POSCO INTERNATIONAL CORPORATION**’ with a view to achieve uniform branding of the company across the world. In this regard, following documents has been attached with the application:
    - a. Certificate of Business Registration dated 26<sup>th</sup> March 2019 issued by Namdaemun District Tax Authority
    - b. Certificate of Business Registration dated 22<sup>nd</sup> March 2019 issued by Namincheon District Tax Authority
    - c. Certification of Commercial Registry dated 19<sup>th</sup> March 2019
    - d. Board Resolution dated 18<sup>th</sup> March 2019 passed by the company in respect of change of name to POSCO INTERNATIONAL CORPORATION.
    - e. Articles of Association of POSCO INTERNATIONAL CORPORATION
    - f. Financial Statements of POSCO INTERNATIONAL CORPORATION

- (ii) Despite the change of name to POSCO INTERNATIONAL CORPORATION, (a) both POSCO INTERNATIONAL Corporation and M/s Daewoo International Corporation have the same Resident (Corporation) registration number. Further; (b) the change in name is reflected in the Company Register as well as Certificate of Business registration issued by the concerned tax authority and; (c) there is no change in shareholding pattern of ownership and therefore there is no alteration to the basic nature of the business operations of the exporter.
- (iii) The Resident (Corporation) Registration number (110111-2137358) has remained the same throughout in all the certifications, that is, in Certificate of Business Registration dated 26th March 2019 issued by Namdaemun District Tax Authority, Certificate of Business Registration dated 22nd March 2019 issued by INCHEON District Tax Authority and Certification of Commercial Registry dated 19<sup>th</sup> March 2019. Further, Certification of Commercial Registry filed previously with DGTR, when the name changed from Daewoo International Corporation to Posco Daewoo Corporation also states the same Registration Number – 110111-2137358.
- (iv) Company's shareholding has not undergone any change over the past 3 years, which establishes that the entity has remained the same throughout, regardless of the change of name.
- (v) After the change of name for the second time to POSCO International Corporation, the company has started receiving number of demand notices and enquiry letters from customs authorities demanding anti-dumping duty at 'all others rate of 13.44%' instead of 5.39% applicable to Daewoo International Corporation and subsequently to POSCO Daewoo Corporation. As a direct fall out of this, while the company was liable for anti-dumping duty of 5.39% for specific producer-exporter combination, however, now customs department is demanding anti-dumping duty at the rate of 13.44%. Thus, there exists an anomalous situation, wherein there exists a difference in the present name of the exporter vis-à-vis the name mentioned in the Customs Notification No. 61/2015-Customs (ADD) dated 11<sup>th</sup> December 2015 (as amended), however, fact remains that mere change of name does not mean that there is a change in the exporter, per-se. This was confirmed by DGTR in its previous amendment notification dated 31<sup>st</sup> December 2018 at para 11, after considering all the relevant factors.
- (vi) Accordingly, in view of the earlier DGTR determination, the present amendment notification should be issued by DGTR by specifically recommending to the Ministry of Finance to apply the name change in Customs Notification No. 61/2015-Customs (ADD) dated 11<sup>th</sup> December 2015 read with Customs Notification Nos. 08/2019-Customs (ADD) dated 12<sup>th</sup> February 2019 and 09/2019-Customs (ADD) dated 12<sup>th</sup> February 2019. As a result of specific omission to mention that the earlier notification will be applied from the date of change of name of entity, a lot of practical difficulties are arising in our client's day-to-day operations and are facing avoidable hardship due to customs departments' insistence on full duty instead. Accordingly, there is an urgent need to notify the change in the name of the company from the date of change of name of the entity.

## 9. **Written submissions by Domestic Industry.**

- (i) Change of name is change of ownership: The exporter is coming before the Authority for the second time for name change. In the first instance, the company's name changed from Daewoo International Corporation to POSCO Daewoo. This was not a case of mere name change but involved change in legal structure and status. The exporter has not placed any documents on record to show that it was a case of mere name change and there was no change in legal structure and status of the company. Since the first name change has not been adequately established, and since second change is a subsequent event consequent upon first change, the present request should not be accepted without applicants providing all relevant information; domestic industry getting opportunity to comment on such information and authority satisfying on accuracy and adequacy of such information.
- (ii) Daewoo International Corporation and POSCO Daewoo Corporation existed before the alleged name change: there is enough reason to suspect that the two entities who have claimed mere change of name existed before alleged change of name. There is no document to show that these entities did not exist before. Both Daewoo International Corporation and POSCO Daewoo existed in the year of 2000 and 2015. It is hard to believe that the company merely changed the name in 2016. The exporter has the onus to prove that there was no change of ownership and but was only name change.
- (iii) Contradictory claims have been made in three different applications: Referring to claims made by the applicant in three different applications (two present applications and the previous application), it is seen that there is no consistency in the claims made with regard to the reasons for the alleged change. This clearly establishes that the applicants are trying to create confusion in order to seek change of name in a situation where there is indeed a change in ownership.

**10. Rejoinder submissions by the M/s POSCO International Corporation (Applicant/exporter)**

- (i) The earlier change in name was also verified by the Authority who arrived at a categorical finding vide its Amendment Notification dated 31.12.2018 that upon verification of the records of the exporter, the Domestic Industry's submissions regarding amalgamation and merger were without any merit and therefore, "*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*"
- (ii) The above said findings of the Authority in the Amendment Notification dated 31.12.2018 have not been challenged by the Domestic Industry though it was open for them to file an appeal against the same. Therefore, the said findings have been accepted by the Domestic Industry and have attained finality inter-se the parties. Therefore, by virtue of issue estoppel, the Domestic Industry is foreclosed from casting aspersions on such findings by repaginating the same issues again in these proceedings.
- (iii) the submission of the Domestic Industry that the present case is not only in reference to name change but also relates to change in legal structure and status of the company is also liable to be rejected since the same documents that were relied upon by the Authority in the previous instance to come to the finding that it was only a case of

- name change and not legal structure i.e. the Certificate of Business registration issued by the concerned Tax Authorities as well as Certification of the Commercial Registry, have been provided by POSCO International in the present case as well.
- (iv) Certification of the Commercial Registry clearly reveals the crossing out of previous names and replacement of the previous names with the new name. Further, the said certificate also demonstrates when the last amendment in the name was carried out which corresponds to the previous finding that “*the name of the exporter i.e. M/s Daewoo International Corporation has been changed to POSCO Daewoo Corporation with effect from 14.03.2016*” by the Authority in the Amendment Notification dated 31.12.2018.
  - (v) The shareholding pattern for 2017 and 2018 as provided in published annual reports available in website - <http://www.poscointl.com/eng/auditReport.do> and for 2019 in the quarterly report for first quarter of 2019 clearly indicates that there has been no change in the structure of the company.
  - (vi) As regards the submission of the Domestic Industry that exporter has not placed any documents to show that there was a mere name change and there was no change in the structure of the company, the company submitted the relevant documents along with the applications as also mentioned in the written submissions. The said documents combined with the annual report for previous years and quarterly report for first quarter of 2019 also clearly prove that the structure of the company has not undergone any change and that there has only been a mere change of name.
  - (vii) Documents submitted by the POSCO International have not been appreciated by the Domestic Industry in the correct perspective. The two certificates of business registration provided along with the application, on which domestic industry has raised doubts relate to two different districts where the company has registered its offices and the date of registration refer to setting up of the respective offices. It may be noted that this very same argument was raised by the Domestic Industry during the previous proceedings in relation to the earlier name change of the entity from Daewoo International Corporation to POSCO Daewoo Corporation and the same was also recorded in the Amendment Notification dated 31.12.2018 issued by the Authority. Further, the dates of business commencement and business registration shown in the two “Certificate of Business Registration” submitted during the earlier proceedings in relation to name change from Daewoo International Corporation to POSCO Daewoo Corporation clearly correspond to the present Certificates of Business Registration issued by the Namdaemun District Tax Office and Namincheon District Tax Office attached with the application.
  - (viii) Besides indulging in rhetoric that ‘there is enough reason’, the Domestic Industry has actually not furnished any reason whatsoever for suspecting that POSCO International Corporation existed before 18.03.2019.
  - (ix) With respect to the Domestic Industry’s claim that “*there is no document to show that these entities did not exist before*”, it cannot possibly be expected that documents demonstrating that an entity by the name of POSCO International did not exist before 18.03.2019 can be produced as it is a negative fact. It is a basic principle of law that a person claiming non-existence of facts cannot be asked to lead evidence to prove the same. The law is that once a person has claimed non-existence of a fact, the

respondent/defendant seeking to controvert the same has to lead positive evidence regarding the existence of such facts.

- (x) Posco International Corporation is a publicly listed company in the Korea Exchange (KRX) and as such, information in relation to Posco International Corporation is readily available in the public domain. Furthermore, the securities laws in Korea RP i.e. Article 89 and Article 186 of the Securities and Exchange Act and Article 83 of the Enforcement Decree of the Securities and Exchange Act also mandatorily require disclosure of a change in legal structure, status or shareholding.
- (xi) Though the Domestic Industry has alleged that the claims made by POSCO International have been different in three applications, the Domestic Industry has failed to aver to and point out such alleged inconsistencies and discrepancies between the present Application dated 21.05.2019 and the previous applications and has merely engaged in rhetoric.
- (xii) POSCO International submits that there is no inconsistency as to the reasons for change of name. The company has changed its name in view of seeking uniform branding of the company and in view of goodwill of the name associated with POSCO. Without prejudice, there is no restriction that the company cannot seek change of its name and in fact, there is no justification needed to be given while changing the name of the company. A company is free to change its name for whatsoever reason and as many times as it deems proper for securing its legitimate interests.

#### **11. Rejoinder submissions filed by the domestic industry**

- (i) The exporter has suppressed vital fact with regard to POSCO Daewoo's merger with one of its subsidiary POSCO Processing and Service with effect from 1<sup>st</sup> March 2017. The merger is done with an aim to simplify the steel distribution channels in South Korea as well as in the global market by directly engaging in steel trading, processing and scrapping. Post name change in 2016, POSCO Daewoo merged with POSCO P&S in March 2017. After merger the company became a completely new identity with the change in shareholding pattern, paid-up capital, etc. The exporter has not only changed its name but has also changed the entire shareholding composition. The said merger was not brought on record, which amounts to suppression of facts.
- (ii) Certificate of Business issued by the tax authority and board of resolution is insufficient proof of change of name. There is no documentary evidence to demonstrate that there is no change in ownership and legal status.
- (iii) There is no legal basis given by the company why this change of name should be applied on retrospective basis.

#### **12. Sur-rejoinder by the M/s POSCO International Corporation (Applicant/exporter)**

##### **A.**

- (i) Domestic industry has raised new issues in rejoinder submissions, which is against the mandate prescribed in Trade Notice No.1 of 2007 issued specifically in respect

of contents of rejoinder. In the written submissions, the only issues raised by the Domestic Industry were (i) Change of name is change of ownership; (ii) Daewoo International Corporation and POSCO Daewoo Corporation existed before the alleged name change; and (iii) Contradictory claims made by three different applications. However, the reliance placed by the Domestic Industry on the factum of small scale merger of the steel business division of POSCO P&S Co. with that of POSCO International and alleged suppression of the same is clearly a new issue and argument that has been raised for the first time at the stage of rejoinder submissions. In this regard, it is to be noted that the excerpts produced by the Domestic Industry are from the independent auditors report for the year 2017 which was already available in the public domain and there was no reason why the said fact could not have been mentioned in the written submissions.

- (ii) The principles of constructive res judicata apply to civil proceedings including the present investigation. Hence, it is no longer open for the Domestic Industry to raise the issue as the same could and ought to have been raised by them in the previous name change application.
- (iii) The merger between POSCO International and the steel business division of POSCO P&S (then POSCO Daewoo Corporation) was only a small scale merger which did not result in any alteration in the basic nature of business operations of POSCO International.
- (iv) Since the change in name to POSCO Daewoo Corporation or POSCO International was not on account of merger/de-merger/acquisition/having off or change in ownership structure, the factum of merger of the steel and business division of POSCO P&S with POSCO International, the same was not required to be stated. Not mentioning the above said fact cannot amount to suppression under any circumstances as the same is not a vital fact. Furthermore, the said fact when the same has always been available in the public domain and as well as available on its website since the very beginning. The fact that such publicly available information came to the notice of the Domestic Industry at such a belated stage i.e. after 2 years of such information being published and available to all, cannot amount to suppression on the part of POSCO International.
- (v) POSCO P&S has not exported the subject goods to India at any point of time and therefore, merger of its steel business division with that of POSCO International is not of any relevance insofar as anti-dumping investigation on subject goods is concerned.
- (vi) The fact that POSCO P&S was a related entity to POSCO International (POSCO Daewoo Corporation at the relevant point of time) was mentioned at the relevant place in the Exporter's Questionnaire Response filed by it during the course of the anti-circumvention investigation. The said questionnaire was duly examined and verified by the Authority.
- (vii) The allegation that such a small scale merger resulted in the company becoming a completely new entity is without any basis and POSCO International has already adequately addressed the same in both its Written as well as Rejoinder Submissions

along with evidence such as the Certifications of Commercial Registry and the Certificates of Business Registration issued by the INCHEON and Namdaemun District Tax Authorities, which have also been accepted by the Designated Authority in its determination in the earlier name change application. The said documents combined with the annual reports of previous years and quarterly report for first quarter of 2019 clearly prove that the structure of the company has not undergone any change and that there has only been a mere change of name.

- (viii) The principal shareholders of the POSCO International never changed and have remained the same before and after the said merger. Increase in stake of the majority shareholder is a necessary consequence of such a merger. Such increase in itself does not mean that entire shareholding pattern has changed. POSCO International fails to understand how the Domestic Industry can allege a change in ownership and legal status when the shareholding pattern has remained the same before and after the name change.
- (ix) The Domestic Industry has not been able to furnish any evidence to substantiate the above said allegation regarding change in identity of the company and has only indulged misstatements of fact and law throughout the course of these proceedings in order to delay the same.
- (x) There is no question of any evasive replies as alleged by the domestic industry. It was stated in no uncertain terms by POSCO International that there was no change in the legal status and shareholding pattern. All the responses were given to the Authority during the hearing. The allegation that POSCO International was required to clarify this with respect to the investigation period of the previous SSR i.e. from 1<sup>st</sup> January, 2013 to 31<sup>st</sup> December 2013 is a misstatement of facts and has been concocted by the Domestic Industry. If any such information was required, the Designated Authority would have issued a notice asking for the same under Rule 6(4) of the AD Rules 1995. In any case, POSCO International had clarified in both its Written and Rejoinder submissions that POSCO International had not undergone any change in ownership and legal structure.
- (xi) The legal basis for retrospective application of name change is to be found on the basic principles of justice, equity and fairness considering the fact that it had been granted an individual rate of duty pursuant to the SSR and the anti-circumvention investigation which should be consistently applied on the same entity throughout the duration of the levy when it is only a case of name change.

**B. Response to clarification sought by the Authority through letter dated 17/10/2019 regarding merger of POSCO AST with POSCO P&S.**

- (i) POSCO P&S merged with POSCO AST in July 2016, while POSCO P&S merged with POSCO Daewoo on 1<sup>st</sup> March 2017. Post merger, POSCO AST ceased to be a separate legal entity altogether. Further, the merger of POSCO AST with POSCO P&S happened much prior to merger of POSCO P&S with POSCO Daewoo. It is subsequent to both these mergers that the company applied for its first name change

application from 'Daewoo International Corporation' to 'POSCO Daewoo Corporation'. The said request was allowed by the Authority vide Amendment Notification dated 31<sup>st</sup> December 2018 and name was changed to POSCO Daewoo Corporation. Thus, the issue relating to merger with POSCO AST, which happened prior to previous name change application has been resolved.

- (ii) Post Amendment Notification dated 31<sup>st</sup> December 2018 as well as post change of name to POSCO INTERNATIONAL Corporation from POSCO Daewoo Corporation on 18<sup>th</sup> March 2019, there has been no change in the activities of the company in respect of subject product – Cold Rolled Stainless Steel and POSCO INTERNATIONAL Corporation (previously POSCO Daewoo Corporation) continues to be only an exporter of subject goods to India.
- (iii) During the original investigation, POSCO AST was only a supplier of scrap and was involved in supply of raw material to the manufacturer - POSCO Corporation. The said fact was brought to the notice of the Authority as well during the anti-circumvention investigation carried out by the Authority, wherein the company filed its questionnaire response. In the questionnaire response, the Company provided details of all related entities involved with the product under consideration.
- (iv) During the relevant period, neither POSCO P&S nor POSCO AST were involved in either manufacture or exports of subject goods to India. The said response of POSCO Corporation and all its exporters involved in exports of subject goods to India were verified by the Authority and duly recorded.
- (v) At no point of time, POSCO AST produced the subject goods, which were exported into India. Thus, the mere fact that POSCO AST may have been previously a producer of flat products of stainless steel has no relevance in the present name change application as the both the products are different from each other.
- (vi) As regards impact of said merger with POSCO AST on business profile of the organization and the ownership structure of POSCO Daewoo Corporation, it is again reiterated that POSCO AST merged with POSCO P&S and subsequently ceased to be a separate entity altogether. Later on, POSCO P&S merged with POSCO Daewoo Corporation. It may be further noted from above that during 2015, POSCO as the parent company held 60.31% shares in POSCO Daewoo (Now known as POSCO INTERNATIONAL Corporation) and held 95.31% in POSCO P&S. Post-merger, POSCO as the parent company now holds 62.9% shares in POSCO INTERNATIONAL Corporation. The miniscule increase of 2.6% in shares between 2015 and present period is only due to merger of POSCO P&S with POSCO Daewoo. Thus, there have been no impact on the shareholding and ownership structure of POSCO Daewoo (Now POSCO INTERNATIONAL Corporation) in view of POSCO AST's merger with POSCO P&S.
- (vii) Therefore merger of POSCO P&S with POSCO AST as well as merger of POSCO P&S with POSCO INTERNATIONAL Corporation has no bearing in the anti-dumping investigation on imports of Cold Rolled Steel and consequently, on the present name change application.

13. No other interested party has made any submission.

**D. Examination by the Authority**

14. The Authority notes that M/s POSCO International Corporation has filed the present application as a result of change of name from POSCO Daewoo Corporation to POSCO INTERNATIONAL Corporation. In support of the request, the applicant has made available the following documents, which have been examined by the Authority to the extent necessary:
- a. Certificate of Business Registration dated 26<sup>th</sup> March 2019 issued by Namdaemun District Tax Authority
  - b. Certificate of Business Registration dated 22<sup>nd</sup> March 2019 issued by Namincheon District Tax Authority
  - c. Certification of Commercial Registry dated 19<sup>th</sup> March 2019
  - d. Board Resolution dated 18<sup>th</sup> March 2019 passed by the company in respect of change of name to POSCO INTERNATIONAL CORPORATION.
  - e. Articles of Association of POSCO INTERNATIONAL CORPORATION
  - f. Financial Statements of POSCO INTERNATIONAL CORPORATION for the year 2017 and 2018.
  - g. Relevant extracts of Quarterly Report for the 1<sup>st</sup> Quarter ending on 31<sup>st</sup> March 2019 of POSCO INTERNATIONAL CORPORATION, duly translated in English.
15. Prior to the present application, the name of the applicant was changed from Daewoo International Corporation to POSCO Daewoo Corporation. The applicant made an application dated 12<sup>th</sup> November 2018 to DGTR to modify its name from Daewoo International Corporation to POSCO Daewoo Corporation. The Authority considered the said request and issued an amendment notification dated 31<sup>st</sup> December 2018, wherein DGTR accepted the request for change of name to 'POSCO Daewoo Corporation'
16. In accepting the request for change of name, the Authority concluded as under in its amendment notification dated 31<sup>st</sup> December 2018:

*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.*

*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.*

17. The Authority notes that in the present case as well, POSCO International Corporation and POSCO Daewoo Corporation share 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.
18. The Authority further notes that the Certification of Commercial Registry provided by the applicant, clearly crosses out the previous name and replaces the previous names with the new name – POSCO INTERNATIONAL Corporation. The said certificate also validates the date of change of previous name, from Daewoo International Corporation to POSCO Daewoo Corporation, that is, 14 March 2016; which is also noted by the Authority in its previous finding dated 31<sup>st</sup> December 2018.
19. The Authority noting the response by the exporter regarding the merger of POSCO AST and POSCO P&S observes that the relevant facts about the merger in question at this stage are as follows:
  - a. POSCO held 93.96% in POSCO P&S.
  - b. POSCO also held 60.31% in POSCO Daewoo Corporation.
  - c. The steel business division of POSCO P&S was merged with POSCO Daewoo Corporation.
  - d. As result of the said merger of the steel business division of POSCO P&S with POSCO Daewoo Corporation, the shareholding of POSCO in POSCO Daewoo Corporation increased from 60.31% to 62.90%.
  - e. POSCO P&S continues to operate its other businesses.
20. The Authority after examining the company's shareholding for the past 3 years, including for the period post change of name claimed by the applicant. Based on the published annual reports for the year 2017 and 2018 as well as quarterly report for the first quarter ending on 31<sup>st</sup> March 2019, the Authority notes that the shareholding of the company has not undergone any major change in structure, prior to name change as well as post name change.

#### **E. Conclusion and Recommendations**

21. Having considered all aspects, the Authority holds that the name of the exporter i.e. M/s POSCO Daewoo Corporation has been changed to POSCO INTERNATIONAL Corporation with effect from 18.3.2019. Thus, POSCO Daewoo Corporation and POSCO INTERNATIONAL Corporation are the same companies.
22. In view of the above, the Authority recommends amendments in the corresponding customs notification no. 61/2015 – Customs (ADD), dated 11<sup>th</sup> December, 2015 pursuant to the sunset investigation finding 15/04/2014 –DGAD dated 12<sup>th</sup> October 2015 and notification No.

52/2017- Custom (ADD) dated 24<sup>th</sup> October, 2017, pursuant to anti-circumvention investigation, finding dated 18<sup>th</sup> August 2017 along with corresponding Customs Notification No. 08/2019-Customs (ADD) dated 12<sup>th</sup> February 2019 and customs notification no. 09/2019-customs (ADD) dated 12<sup>th</sup> February 2019 respectively in the following manner:

- a. Substitute the words “**POSCO International Corporation**” in place of “POSCO Daewoo Corporation” in;
    - i. Duty table under para 196 of the Final Finding No. 15/4/2014 dated 12/10/2015, as amended through Notification No. 15/4/2014-DGAD dated 31<sup>st</sup> December 2018.
    - ii. Customs Notification No. 61/2015-Customs (ADD) dated 11<sup>th</sup> December 2015 (as amended vide Customs Notification No. 8/2019-Customs (ADD) dated 12<sup>th</sup> February 2019).
  - b. In the Anti-Circumvention investigation whose Final Finding No. 14/1/2014-DGAD was Issued on 18/8/2017, the Authority in Para 111 of this finding has recommended extension of ADD imposed vide Custom Notification No.61/2015- Customs (ADD) dated 11/12/2015 to the product under investigation considered in 14/1/2014-DGAD dated 18/8/2017 and by corresponding Customs Notification No 8/2019- Customs (ADD) dated 12/2/2019. The Custom Notification No.52/2017 Customs (ADD) dated 24/10/2017 was amended through Custom Notification No. 9/2019-Customs (ADD) dated 12/2/2019 on the basis of Notification No. 14/1/2014-DGAD dated 31/12/2018.
  - c. Substitute the words “**POSCO International Corporation**” in place of “Daewoo International Corporation” in Customs Notification No. 52/2017- Custom (ADD) dated 24<sup>th</sup> October, 2017 (as amended vide Custom Notification No. 9/2019-Customs (ADD) dated 12<sup>th</sup> February 2019).
23. 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  
Special Secretary & Designated Authority