

**F.No.6/6/2020-DGTR**  
**Government of India**  
**Department of Commerce**  
**Ministry of Commerce & Industry**  
**(Directorate General of Trade Remedies)**  
**4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

Dated 10.02.2020

**INITIATION NOTIFICATION**

**(Case No. OI- 05/2020)**

**Subject: Initiation of anti-dumping investigation concerning imports of “Black Toner in powder form” originating in or exported from China PR, Malaysia and Taiwan.**

1. M/s Pure Toners and Developers Pvt. Ltd and M/s Indian Toners and Developers Ltd (hereinafter referred to as the “Applicants”) have filed an application before the Designated Authority (hereinafter also referred to as the “Authority”) on behalf of domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the “Act”) and 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 also referred to as the “Rules”) for original anti-dumping duty investigation on imports of “Black Toner in powder form” (hereinafter referred as “product under consideration” or “PUC” or “subject goods”), originating in or exported from China PR, Malaysia and Taiwan. (hereinafter referred to as “subject countries”)
2. The Applicant has alleged dumping of the subject goods, originating in or exported from the subject countries and consequent injury to the domestic industry and has requested for imposition of the anti-dumping duties on the import of the subject goods originating in or exported from the subject countries.

**Product under consideration**

3. The product under consideration is Black Toner in powder form. Toner is used in laser printers, photocopiers, digital multifunction devices (MFD), etc. to form the printed text and images on the paper.

4. The PUC is classified under the tariff custom classification 37079010. The PUC, however, has been also imported under the code 37079090. The customs classification is only indicative and is not binding on the scope of the product under consideration.
5. The following Toners are not covered within the scope of the investigation:
  - a) Color Toner
  - b) MICR Toner (Specialized Toner used for printing in Cheques)
  - c) Toners imported for the use by Original Equipment Manufacturers of Printing Equipment. Toner is used in Printing Equipment
  - d) Toner in Cartridges
  - e) Toner in liquid form

### **Like article**

6. The Applicants have claimed that the PUC, which are allegedly dumped into India, are identical to the goods produced by the domestic industry and that there are no known differences either in the technical specifications, quality, functions or end-uses of the dumped imports and the domestically produced goods manufactured by the Applicants. The Authority notes that the two are prima facie technically and commercially substitutable and, hence, should be treated as 'like article' under the AD Rules.

### **Domestic industry**

7. The application has been filed by M/s Pure Toners and Developers Pvt. Ltd and M/s Indian Toners and Developers Ltd. As per the claim of the Applicants, there is no other manufacturer of the like articles in India. The Applicants have claimed that neither they have imported the PUC from the subject countries nor are they related to any exporter or producer of PUC in the subject countries nor are they importer of the subject goods from the subject countries.
8. On the basis of the information available, the Authority notes that the application has been made by or on behalf of the domestic industry in terms of the provisions contained in Rule 2 (b) and Rule 5 (3) of the Rules.

### **Basis of alleged dumping**

#### **i. Normal value for China PR**

9. The Applicants have claimed that China PR should be treated as a non-market economy and the normal value should be determined in terms of paragraph-7 of Annexure I of the Rules. The Applicants have cited and relied upon Para 8(2) of Annexure I of the Rules and stated that the Chinese producers should be directed to show that market economy conditions prevail in the industry producing the subject goods in terms Para 8(3) of Annexure I of the Rules. The Applicants have claimed

that Chinese domestic costs and prices cannot be accepted unless the Chinese exporters pass the tests of market economy. The Applicants have stated that for China normal value should be determined in accordance with para-7 and 8 of Annexure I of the Rules. In view of the above, subject to rebuttal by the responding exporters from China PR, a presumption has been made regarding non-market economy for China PR and normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules.

10. The Applicants have stated that they are not in a position to obtain any price details for the subject goods prevalent in any of the market economy third country. The Applicants have proposed that, for the purpose of initiation, normal value may be constructed on the basis of actual prices paid or payable in India for the like product. Accordingly, the Authority has, for the purpose of initiation, constructed the normal value for China PR on the basis of cost of production in India and selling, general and administrative expenses along with reasonable addition for profit.

#### **ii. Normal value for Malaysia and Taiwan**

11. The Applicants have expressed their inability to furnish information in respect of domestic selling price of the subject goods in Malaysia and Taiwan. They have also not suggested any appropriate country for taking export price of subject goods from Malaysia and Taiwan to such a country, for construction of normal value. The Authority has, therefore, for the purpose of initiation, constructed the normal value for Malaysia and Taiwan on the basis of cost of production in India and selling, general and administrative expenses along with reasonable addition for profit.

#### **Export price**

12. The Authority has computed the export price for all the subject countries based on Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction-wise import data. Adjustments have been made for ocean freight, marine insurance, port expenses, bank charges, commission, credit cost and inland freight.
13. The normal value and the export price have been compared at ex-factory level, which prima facie shows significant dumping margin in respect of the PUC from the subject countries. There is sufficient prima facie evidence that the PUC are being dumped into the Indian market by the exporters from the subject countries.

#### **Injury and Causal link**

14. Information furnished by the Applicants have been considered for assessment of injury to the domestic industry. The Applicants have furnished evidence regarding the injury having taken place as a result of the alleged dumping in the form of increased volume of dumped imports in absolute terms and in relation to production and consumption in India, price undercutting, and price suppressing effect on the domestic industry. The Applicants have claimed that their performance have been adversely impacted in respect of production, sales and consequent decline in profits, return on

capital employed, and cash flow, as a result of increase in imports of PUC at a price below selling price and non-injurious price for the domestic industry. There is sufficient prima facie evidence that the injury exists and is being caused to the domestic industry by dumped imports from subject countries.

#### **Initiation of Anti-Dumping Investigation**

15. On the basis of the duly substantiated written application by or on behalf of the domestic industry, and having satisfied itself, on the basis of the prima facie evidence submitted by the domestic industry, about dumping of the product under consideration originating in or exported from the subject countries, injury to the domestic industry and causal link between such alleged dumping and injury, and in accordance with Section 9A of the Act read with Rule 5 of the Rules, the Authority, hereby, initiates an investigation to determine the existence, degree and effect of any alleged dumping in respect of the product under consideration originating in or exported from the subject countries and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

#### **Subject Countries**

16. The subject countries for the present investigation are China PR, Malaysia and Taiwan.

#### **Period of Investigation (POI)**

17. The Applicants proposed the Period of Investigation (hereinafter also referred to as "POI") 1<sup>st</sup> April, 2019 – 30<sup>th</sup> September, 2019 (6 months). However, the Authority proposes to consider the POI as 1<sup>st</sup> April, 2019 to 31<sup>st</sup> December, 2019 (9 months). The injury investigation period will cover the periods April 2016-March 2017, April 2017- March 2018, April 2018-March 2019 and the POI.

#### **Procedure**

18. Principles as given in Rule 6 of the Rules will be followed for the present investigation.

#### **Submission of Information**

19. The known exporters in the subject countries, their government through their Embassy in India, the importers and users in India known to be concerned with the PUC and the domestic industry are being informed separately to enable them to file all the relevant information in the form and manner prescribed within the time-limit set out below.
20. Any other interested party may also make its submissions relevant to the investigation in the form and manner prescribed within the time-limit set out below.
21. The information/ submission may be submitted to:

**The Designated Authority**  
**Directorate General of Trade Remedies**  
**Ministry of Commerce & Industry**  
**Department of Commerce**  
**Government of India**  
**4th Floor, Jeevan Tara Building, 5, Parliament Street**  
**New Delhi-110001**

22. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

**Time Limit**

23. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above within thirty days from the date of receipt of the notice as per Rule 6(4) of the Rules. It may, however, be noted that in terms of explanation of the said Rule, the notice calling for information and other documents shall be deemed to have been received within one week from the date on which it was sent by the Designated Authority or transmitted to the appropriate diplomatic representative of the exporting countries. If no information is received within the prescribed time-limit or the information received is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with the Rules.
24. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire responses within the above time limit.

**Submission of information on confidential basis**

25. Any party making any confidential submission or providing information on confidential basis before the Authority, is required to simultaneously submit a non-confidential version of the same in terms of Rule 7(2) of the Rules and the Trade Notices issued in this regard. Failure to adhere to the above may lead to rejection of the response / submissions.
26. The parties making any submission (including Appendices/Annexures attached thereto), before the Authority including questionnaire response, are required to file the same in two separate sets, in case "confidentiality" is claimed on any part thereof:
- i. one set marked as Confidential (with title, number of pages, index, etc.), and
  - ii. the other set marked as Non-Confidential (with title, number of pages, index, etc.).

27. The “confidential” or “non-confidential” submissions must be clearly marked as “confidential” or “non-confidential” at the top of each page. Any submission made without such marking shall be treated as non-confidential by the Authority, and the Authority shall be at liberty to allow the other interested parties to inspect such submissions. Soft copies of both the versions will also be required to be submitted, along with the hard copies in four (4) sets of each.
28. The confidential version shall contain all information which is by nature confidential and/or other information which the supplier of such information claims as confidential. For information which are claimed to be confidential by nature or the information on which confidentiality is claimed because of other reasons, the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information cannot be disclosed.
29. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out (in case indexation is not feasible) and summarized depending upon the information on which confidentiality is claimed. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on confidential basis. However, in exceptional circumstances, the party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.
30. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied the request for confidentiality is not warranted or if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.
31. Any submission made without a meaningful non-confidential version thereof or without good cause statement on the confidentiality claim shall not be taken on record by the Authority.
32. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorization of the party providing such information.

### **Inspection of Public File**

33. In terms of Rule 6(7) of the Rules, any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties.

### **Non-cooperation**

34. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

**(Bhupinder S. Bhalla)**  
**Additional Secretary & Designated Authority**