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Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi – 110001**

Dated:22 January,2021

INITIATION NOTIFICATION

(Case No. AD-SSR- 20/2020)

Subject: Sunset Review of Anti-Dumping Duty imposed on imports of “Glazed/Unglazed Porcelain/Vitrified tiles in polished or unpolished finish with less than 3% water absorption” originating in or exported from China PR.

1. Gujarat Granito Manufacturers Association, Indian Council for Ceramic Tiles and Sanitaryware, Morbi Ceramic Association and Sabarkantha District Ceramics Association (hereinafter referred to as the “applicants”) have jointly filed an application on behalf of the domestic industry seeking initiation of sunset review concerning anti-dumping duty imposed on imports of Glazed/Unglazed Porcelain/Vitrified tiles in polished or unpolished finish with less than 3% water absorption (hereinafter referred as the “product under consideration” or “subject goods”), originating in or exported from China PR (hereinafter referred to as “subject country”) before the Designated Authority (hereinafter also referred to as the “Authority”) 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”).
2. The Applicants have alleged that the expiry of duty is likely to lead to dumping and injury to and have requested for review and continuation of duties imposed on the imports of subject goods originating in or exported from China.

A. Background

3. The Designated Authority earlier initiated an anti-dumping investigation concerning imports of the subject goods from China PR vide Notification No. 4/14/2014-DGAD dated 13th October 2015. On the basis of the preliminary findings No. 4/14/2014-DGAD dated 11th March 2016 issued by the Authority, provisional anti-dumping duty was imposed by the Central Government vide Notification No. 12/2016 – Customs (ADD) dated 29th March 2016. Pursuant to the investigation, the Designated Authority, vide final findings No. 4/14/2014-DGAD dated

8th April 2017, recommended imposition of definitive anti-dumping duty, which was given effect vide Notification No. 29/2017 – Customs (ADD) dated 14th June 2017. The current duties imposed on the subject goods shall expire on 28th March 2021.

4. Gujarat Granito Manufacturers Association and Sabarkantha Distinct Ceramics Association filed Special Civil Application no. 11115 of 2017 and 11851 of 2017 before Hon'ble High Court of Gujarat challenging notification no. 29/2017-Customs (ADD) and final finding dated 08.04.2017. The matter is at present pending before Hon'ble High Court of Gujarat
5. The applicants have provided letters from a large number of domestic producers (requesting extension of ADD), production and annual reports of specific companies, and information relating to likelihood of dumping, and injury in the event of cessation of ADD from China PR and have submitted that the Designated Authority may call injury data from the domestic producers during the course of the proposed investigations.

B. Product under consideration

6. The product under consideration in the petition is the same as that in the earlier investigation that is Soluble Salt, Double Charge, GVT and PGVT Porcelain/Vitrified Tiles with less than 3% water absorption of all sizes; excluding Micro-crystal tiles, Full body tiles and Thin Panels below 5 mm thickness.
7. The product under consideration is manufactured using clay, color, powder and chemicals, which are mixed together with water. The slurry is pumped to a spray dryer, to convert it to powder form, which goes for pressing into biscuits and then entered into a dryer. The biscuits are entered into a kiln, at a temperature of 1190 – 1220 Celsius. However, in case of glazed vitrified tiles, the biscuits are first glazed and then entered into a kiln. The tile so produced goes for sizing, rectification and polishing, which gives the final product. However, glazed tiles are not required to go through a separate polishing process.
8. The subject goods are used for coverings floors and walls in buildings, homes, restaurants, cinema halls, airports, swimming pools, railway stations etc. The product under consideration is measured by weight or area. For the present application, the information has been presented in terms of area expressed in square meters.
9. The product under consideration is classified under the Chapter 69 of the Customs Tariff Act, 1975 (51 of 1975). Till 2nd February 2017, the product under consideration was classifiable under 69071010, 69071090, 69079010 and 69079090. Thereafter, the prescribed codes have been modified to 69072100 and 69072200. However, the Applicants have submitted that the product is also being imported under 69072190, 69072300, 69073010 and 69074010. Accordingly, the Authority has considered tariff heading 6907 for the purpose of the present investigation. However, the customs classification is only indicative and is not binding on the scope of the product under consideration.

C. Like Article

10. The Applicants have claimed that there is no known difference between the subject goods exported from the subject country and that produced by the domestic industry. Subject goods produced by the domestic industry and product under consideration imported from the subject country are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers use the two interchangeably. The Applicants have further claimed that the two are technically and commercially substitutable and, hence, should be treated as like article under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the domestic industry in India are being treated as 'Like Article' to the subject goods being imported from the subject country.

D. Domestic industry and Standing

11. The present application has been filed by Gujarat Granito Manufacturers Association, Indian Council for Ceramic Tiles and Sanitaryware, Morbi Ceramic Association and Sabarkantha District Ceramics Association on behalf of their members. The application has been supported by 126 domestic producers of the subject goods. Further, 78 producers have provided their annual reports and details of production.
12. The Applicants have submitted that there are about 244 producers of the subject goods in the country, of which majority belong to the fragmented MSME sector and the share of individual producers is low. The Applicants have requested the Authority to write to various domestic producers during the course of the proposed investigations and seek relevant information.
13. As per the provisions of Rule 23(1B) of the Anti-Dumping Rules, a sunset review investigation may be initiated by the Authority on its own initiative, or on receipt of a duly substantiated request, by or on behalf of the domestic industry. In the present case, the request for initiation of sunset review has been made by the Applicants on behalf of the domestic industry. However, the domestic producers who would become part of the domestic industry is not identified in the application as of now. The Applicants have submitted that the ceramic tiles industry in India is a fragmented industry with large number of small-scale producers located in Morbi and Himmatnagar in Gujarat. It has also been submitted that, in the present case, it was not feasible to collect injury data for the production of domestic producers accounting for more than 25% of the domestic production, in a short period of time. It has also been submitted that in order to provide data of producers accounting for more than 25%, the applicants would have to provide data for more than 70-80 producers.
14. The Applicants have submitted that because of fragmented nature of the industry for this product, they are not in a position to submit the required information from the domestic producers as of now, however, the associations in their letter have undertaken to make efforts to collect and provide data for domestic producers after initiation of investigation.

Likelihood of Dumping

15. The Applicants have cited and relied upon Article 15(a)(i) of China's Accession Protocol. The Applicants have claimed that producers in China must be asked to demonstrate that market economy conditions prevail in their industry producing the like product with regard to the production and sale of the product under consideration. It has been stated by the Applicants that in case the responding Chinese producers are not able to demonstrate that their costs and price information are market-driven, the normal value should be calculated in terms of provisions of Para 7 and 8 Annexure- I. The Applicants have identified USA as an appropriate third country to determine normal value for China PR and have relied upon the price of exports from India to USA to determine the price in market economy third country. Further, adjustments have been made for ocean freight, insurance and customs duty as applicable, to arrive at the ex-factory normal value.
16. The Authority has computed the export price for the subject country based on Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction-wise import data. Price adjustments have been made for ocean freight, marine insurance, commission, bank charges, port expenses, inland freight and VAT refund.
17. Considering the normal value and export price as claimed above, the dumping margin has been determined in accordance with Section 9 A(1)(a) Act. It is noted that dumping margin is above de minimis level.

E. Likelihood of Injury

18. The Applicants have claimed likelihood of injury on the grounds of dumping in third countries, imposition of trade remedy measures by other jurisdictions, reduction of import volume and increase in prices in respect of imports into India, significant surplus capacities with the Chinese producers, capacity expansion by the Chinese producers despite existing surplus capacities, high degree of export orientation, decline in exports from China to rest of the world, and price attractiveness of the Indian market.

F. Initiation of Sunset Review Investigation

19. A sunset review shall be undertaken by the Designated Authority either suo moto or on receipt of a duly documented petition. Further, the petition shall be duly documented if it contains sufficient evidence whether expiry of the duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. As per the available information, the present case is a case of an industry where more than 90% of the domestic producers are fragmented industry, and are in MSME sector. About 244 producers are engaged in production and sale of the product under consideration, and production of individual producer is quite low.

20. It is also noted that having regard to trade notice no 02/2017 dated 12/12/2017 pertaining to sunset review, the application with all necessary information as required in terms of trade notice has not been submitted by the Applicants in their request for sunset review.
21. Having regard to the facts mentioned in the preceding paragraph, considering the fragmented nature of MSME industry, and provisions of Rule 23(1B), the Authority hereby initiates sunset review investigation under the provision of “*on its own initiative* (or *Suo moto*) to review whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry. The Applicants are required to submit information in the form and manner prescribed in terms of trade notice no 02/2017 within 30 days of this initiation notification.

G. Subject Country

22. The subject country for this investigation is People’s Republic of China.

H. Period of Investigation (POI)

23. The applicants have proposed period of investigation as 1st April 2019 to 31st March 2020. However, having regard to the explanation to Rule 22 of the Anti-Dumping Rules the Authority has considered 1st April 2019 to 30th September 2020 as the period of investigation for the following reasons.
- a. The period of investigation is a recent period and covers one full financial year.
 - b. Since the present investigation involves small scale domestic producers, it is preferable to have an investigation period that includes accounting year of the industry.
 - c. The proposed investigation period is a recent period and is consistent with the law.

I. Procedure

24. The present sunset review will cover all aspects of the final findings of the original investigation published vide notification no. 14/14/2014-DGAD dated 8th April 2017 recommending imposition of anti-dumping duty on imports of product under consideration from China PR. The Authority would also undertake likelihood analysis of dumping and injury as required.
25. The provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 of the Rules shall be *mutatis mutandis* applicable in this review.

J. Submission of Information

26. In view of the special circumstances arising out of COVID-19 pandemic, all communication should be sent to the Designated Authority via email at email addresses adg13-dgtr@giv.in, adv12-dgtr@gov.in, dir13-dgtr@gov.in and dd12-dgtr@gov.in. It should be ensured that the

narrative part of the submission is in searchable PDF/MS Word format and data files are in MS Excel format.

27. As mentioned in this notification, the applicants are required to submit information to the Authority in the form and manner required under trade notice 02/2017 dated 12/12/2017 within 30 days from the date of initiation. The known exporters in the subject country, their government through their Embassy in India, the importers and users in India known to be concerned with the subject goods 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.
28. 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 on email address mentioned in paragraph 25 above.
29. 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.

K. Time-Limit

30. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses adg13-dgtr@giv.in, adv12-dgtr@gov.in, dir13-dgtr@gov.in and dd12-dgtr@gov.in within thirty days from the date of receipt of the notice as per Rule 6(4) of the Anti-Dumping 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 one week from the date on which it was sent by the Designated Authority or transmitted to the appropriate diplomatic representative of the exporting country. 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.
31. 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.
32. The interested parties are further advised to keep a regular watch on the official website of DGTR i.e. www.dgtr.gov.in for any updated information with respect to this investigation.

L. Submission of information on confidential basis

33. 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.

34. The parties making any submission (including Appendices/Annexes attached thereto), before the Authority including questionnaire response, are required to file Confidential and Non-Confidential versions separately.
35. 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.
36. 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.
37. 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.
38. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that 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.
39. 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.
40. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorisation of the party providing such information.

M. Inspection of Public File

41. 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. The modality of maintaining public file in electronic mode is being worked out.

N. Non-cooperation

42. 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.



(Bidyut Behari Swain)

Special Secretary & Director General