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**No.14/8/2006-DGAD**  
**Government of India**  
**Ministry of Commerce & Industry**  
**Department of Commerce**  
**(Directorate General of Anti Dumping & Allied Duties)**

**Notification**

New Delhi, the 10<sup>th</sup> February, 2012

**Post-Decisional Final findings(CESTAT REMAND CASE)**

**Subject: Post-Decisional Final findings on Antidumping investigation involving import of Poly Vinyl Chloride (PVC) Suspension Grade from Taiwan, China PR, Indonesia, Japan, Korea RP, Malaysia, Thailand and USA.**

Having regard to the Customs Tariff Act, 1975 as amended (hereinafter referred to as Act) and the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as AD Rules);

**A. Background:**

1. Having regard to the Antidumping Rules, the Designated Authority (herein after referred to as Authority), on the basis of a fully documented application filed by M/s Indian Petrochemicals Corporation Ltd. (IPCL), M/s. Dhargandhra Chemical & Works (DCW), M/s. Chemplast Sanmar Ltd., (Chemplast) and M/s. DCM Shriram Consolidated Ltd. (DSCL) (hereinafter referred to as the applicants) alleging dumping of Poly Vinyl Chloride (PVC)- Suspension Grade (hereinafter referred to as subject goods), originating in or exported from Taiwan, China PR, Indonesia, Japan, Korea RP, Malaysia, Thailand and USA (hereinafter referred to as subject countries) and consequent injury to them, initiated an antidumping investigation, vide notification dated 28th June 2006, published in the Gazette of India, Extraordinary, in accordance with the sub-Rule 5(5) of the said Rules, to determine the existence, degree, and extent of alleged dumping, and to recommend the amount of anti-dumping duty, which if levied would be adequate to remove the injury to the domestic industry. And whereas on the request of the Designated Authority the time period for completion of this investigation was extended by the Central Government till 28th December 2007 in terms of Rule 17 of the Rules.
2. And whereas the Designated Authority issued the Final findings vide its notification dated 26<sup>th</sup> December 2007 and Corrigenda issued thereof dated 9<sup>th</sup> January 2008 and 14<sup>th</sup> February 2008 respectively. And whereas the Central Government levied the anti-dumping duties vide its Notification No.11/2008-Customs dated 23.1.2008 and Notification No. 38/2008-Customs dated 24.3.2008.

3. Some of the interested parties had filed appeals before the designated Tribunal, CESTAT, whereby the Hon'ble Tribunal passed an order dated 11<sup>th</sup> August 2011.
4. In pursuance of the Final order No. AD/31-51/2011-AD dated 11<sup>th</sup> August, 2011 of Hon'ble Tribunal (CESTAT), a Post-decisional hearing was held on 14<sup>th</sup> December, 2011 on the captioned subject, wherein the interested parties that had participated in the instant investigation were requested to participate.
5. Upon conclusion of the said hearing, the interested parties that had made their oral submissions were advised to file the written submissions within the stipulated time as per the AD Rules. They were also advised to file the rejoinders thereafter.
6. The written submissions and rejoinders filed by the interested parties, to the extent considered relevant, have been duly considered in this order. Submissions made by interested parties have been examined by the Authority as follows:

**Written Submissions made by M/s Kaneka Corporation.**

7. The following written submissions, in brief, have been made by M/s Kaneka Corporation:

**Dumping margin**

- Individual dumping margin should be determined in respect of its exports to India as the company provided full information by which dumping margin and injury margin can be determined. If an exporter has chosen not to provide transactions-wise details of sales made in home market or cost of production, the Authority can reject the information given by the exporter with regard to normal value. It does not justify rejection of information with regard to export price.
- The meaning of the first sentence of Article 6.10 suggests that the "known exporter[s] or producer[s]" that serve as the starting point for the selection of the interested parties investigated under either of the two limited investigation techniques described in the second sentence of Article 6.10, do not always have to be all known exporters and all known producers. There is no provision in the AD Agreement that would explicitly prohibit such interpretation of Article 6.10.
- When dumping margins have been determined in respect of other producers, the same could not have been denied in respect of Kaneka Corporation. The Authority has determined individual dumping margin and injury margin in respect of some of the responding producers even when full information was not on record.
- Determination of dumping margin and individual duty in the present cases are wholly inconsistent. Individual duties have been given to other responding producers/exporters despite admitted deficiencies at the macro level itself. Kaneka Corporation has been denied individual duty despite full co-operation by the company.

8. Product under consideration

- Kaneka requested exclusion of High and Low K Value suspension resin. The Authority has held that all grades of PVC have been treated as like article and covered under the product under consideration except the specialty types specifically exempted in the findings.
- The decision of the Authority is just opposite to the decision taken by the Authority in other investigations, such as (i) STPP, (ii) CR Coil, (iii) PVC Paste Resin; wherein the test applied by the authority for excluding certain types from PUC is that non-manufacture of the identical product type by the domestic industry.
- While the Authority has excluded Low K Value PVC Paste Resin in the case of investigation relating to Paste Resin from the scope of anti-dumping duties, the Authority has included High and Low K Value Suspension Resin in the present case. The decision of the authority in the two cases is inconsistent.

**Written Submissions made by M/s Formosa Plastics Corp.**

9. M/s Formosa Plastics Corp in their written submissions has mentioned that they had cooperated with the Authority and based on the data collected and verified by the Investigating officers, the Authority has rightly come to the conclusion on dumping margin in its findings.

**Written Submissions made by M/s Taiyo Vinyl Corporation**

10. The following written submissions, in brief, have been made by M/s Taiyo Vinyl Corporation:

- At the time of initiation, M/s IPCL did not provide information about its related company RIL which was the largest producer of the product concerned in India. RIL and the domestic industry should have filed the information much before the issuance of final findings. There is no explanation in the final findings as to why the Authority did not make available the said information to other interested parties. Rule 6(7) read with Article 6.1.2 specifically require that evidence presented by one interested party shall be made available promptly to other interested parties.
- RIL did not provide the information within a reasonable period. On this ground alone, the domestic industry shall be treated as non-cooperative and the investigation shall be terminated.

**Duty determined for TVC is erroneous and in violation of Rule 4(d)**

- While determining the landed value for TVC, the Authority has erroneously taken the price at which TVC sold the subject goods within Japan to unrelated trading companies where as the records submitted by TVC to Authority shows the CIF price

to Indian customers based on which TVC had paid the commission to the trading companies.

- During the Period of investigation, TVC has exported the subject goods to India through four unrelated trading companies. Out of these four trading companies, only Mitsui & Co. provided the actual invoices to Authority, therefore Authority only determined the duty rate for the combination TVC (producer) & Mitsui & Co. (exporter) based upon the CIF price reported by them. The other three traders did not provide their actual invoices to Indian customers to Authority. The Appendix-2 submitted by TVC clearly shows the final CIF price to the Indian customers charged by the trading company based on the final breakdown price provided by the trading company. We request authority to re-compute the injury margin for TVC or in the alternative grant a separate combination rate for TVC and other three traders.

#### Injury related issues

- Authority should have excluded at least the quantities exported by the cooperating exporters from Korea as the dumping margin in respect of those goods have been found to be less than de minimis. The entire injury analysis is flawed and therefore, injury may be examined de-novo after excluding the imports from Korea.
- Authority has considered sales quantity data of Finolex Industries on 'facts available' basis and source of such data has not been disclosed. The failure to disclose such information is a clear violation of Rule 6(7) and Rule 7.
- When the domestic industry is already working at full capacity, there cannot be any adverse volume effect. The issue may be re-examined. Price undercutting from all the subject countries is negative. In such a case, causal link needs to be examined more cautiously. No information even in indexed form has been made available with regard to price depression and price suppression.
- The observation of authority that there is a distinct threat of material injury to the domestic industry is erroneous and unwarranted as a) No data on capacities and demand-supply of PVC resin in the subject countries have been disclosed b) price undercutting is negative and price underselling is marginal c) No examination of the inventories have been made.

#### **Written Submissions made on behalf of the domestic industry**

11. The following written submissions, in brief, have been made on behalf of the domestic industry:

- None of the interested parties have asked for public hearing in the instant case. Referring to the ATMA case, it emphasized that ATMA case essentially stated that only parties seeking hearing should be called for hearing and stated that the submissions from the parties who have not sought for public hearing should not be taken into account.
- The Authority has allowed only 2.64 % return on cost against 5% return of cost which has been allowed to non-cooperating exporters.

- Plants of RIL, DCW and IPCL have substantially depreciated. The return for such plants based on 22% consisting of NFA is only 2.64% return of cost. The Authority ought to have allowed return at the rate of 22% on GFA as been done on other cases. The Authority may allow a return of minimum 10% on cost as the Authority had allowed in past.
- Comments on initiation not filed within prescribed time. Therefore the parties cannot be allowed to raise objections.
- Importers have not filed questionnaire response. Therefore they can't be considered interested parties.
- Exporters have not submitted meaningful summary of confidential version and claimed excess confidentiality without justification. The non-confidential version is incomplete and deficient. The Authority has not recorded reasons for accepting claim of confidentiality as per Rule 7.
- The Authority ought not to have made comparisons based in exporter's own product nomenclatures.
- The Authority can clarify to the concerned interested parties that the specialty PVC are different from the PUC.
- Seeking information from M/s RIL was unwarranted: RIL was a supporting company but not a participating company.
- The Authority ought not to have granted individual treatment to producers who had no export price to India.
- Exporter's deliberately suppressed information and comments of domestic industry have not been recorded either in disclosure or in the final findings.
- Excise duty and CVD has not been included in NIP and landed value.
- The Authority has taken weighted average normal value of the co-operating exporters and has compared with the lowest export price of the cooperative exporters in the absence of product type wise export price for non-cooperative exporters. They could have taken the lowest export price of the cooperative exporters
- Country level calculations have been kept as confidential.
- The Authority has collected fresh data during verification for which no non-confidential version has been either kept in public file or provided. No opportunity was provided to offer any comments on such gathered data.
- Request made not to take into account Harriman Chemsult Ltd., London for Asia Region for calculation of normal value for China. Actual international prices in the form of import prices in India are available with the Authority.

**Rejoinder Submissions made by M/s Kaneka Corporation.**

12. The following rejoinder submissions have been made by M/s Kaneka Corporation:

- None of the interested parties have asked for public hearing.  
The domestic industry has referred to the ATMA case wherein it was stated that only parties seeking hearing should be called for hearing and stated that the submissions from the parties who have not sought for public hearing should not be taken into account.  
The issue is irrelevant for the authority, as authority is conducting hearing as per the directions of the CESTAT. If the domestic industry has any grievances on this

account, they could have preferred an appeal against the order. However, no such appeal has been filed and therefore the issue is immaterial to the authority.

- Authority allowed only 2.64 % return on cost against 5% return of cost which has been allowed to non cooperating exporters. Plants of RIL, DCW and IPCL have substantially depreciated. The return for such plants based on 22% consisting of NFA is only 2.64% return of cost. The authority ought to have allowed return at the rate of 22% on GFA as been done on other cases. The DA may allow a return minimum 10% on cost as the authority had allowed in past.\

We understand that it is the consistent practice of the authority to adopt 22% return on capital employed. If so, the fact that the same leads to higher or lower return in terms of percentages or cost or production is totally immaterial.

- Comments on initiation not filed within prescribed time. Therefore the parties cannot be allowed to raise objections

There is no such practice by the authority. In fact, authority has permitted comments from parties even after the last date for comments to disclosure are over.

- Importers have not filed questionnaire response. Therefore they can't be considered interested parties

The request is beyond the current practice of the Directorate. The Directorate has liberally permitted interested parties to make submissions without questionnaire response.

- Exporters have not submitted meaningful summary of confidential version and claimed excess confidentiality without justification. The non-confidential version is incomplete and deficient. The DA has not recorded reasons for accepting claim of confidentiality as per Rule 7.

The submissions are fully consistent with the rules and the practice being adopted by the authority. Nor the authority has raised any further query in this regard.

- The DA can clarify to the concerned interested parties that the specialty PVC are different from the PUC.

The petitioner was required to adequately define the product in its petition. The obligation to define the product under consideration cannot be shifted either to the interested parties or to the Designated Authority. Correct definition of the product under consideration is the core preliminary issue. However, the petition did contain sufficient description of the product under consideration.

- Seeking information from M/s RIL was unwarranted: RIL was a supporting company but not a participating company.

The Designated Authority is fully justified in seeking information from the supporting company, particularly when such supporting company is the single largest producer of

the product under consideration. No plausible reason has been given by the domestic industry so far for not including RIL data at the first place, when admittedly RIL production constituted single largest share in Indian production.

- Excise duty and CVD has not been included in NIP and landed value.

It is a consistent practice of the authority not to add excise duty and countervailing duty in calculations of non injurious price and landed value.

- Country level calculation kept confidential

This is consistent with the current practice of the authority.

- DA collected fresh data during verification for which no non-confidential version has been either kept in public or provided. No opportunity was provided to offer any comments on such gathered data.

This appears to be the consistent practice being followed by the Designated Authority.

**Rejoinder Submissions made by M/s Laxmikumaran & Sridharan on behalf of M/s Taiyo Vinyl Corporation; China Chlor-Alkali Industry Association, China; M/s Xinjiang Shihezi Zhongfa Chemical Co Ltd, China; M/s Yichang Yihua Pacific Cogen Ltd, China; M/s Shandong Ocean Chemical Import & Export Co Ltd; M/s Shandong Ocean Chemical Chlor-Alkali Resin Co Ltd and M/s Qingdao Haijing Chemical (Group) Co., Ltd etc.**

13. The following rejoinder submissions have been made by M/s Laxmi kumaran & Sridharan on behalf of interested parties represented by it:

- Domestic industry has submitted that no second public hearing before the new Designated Authority was granted in the proceedings prior to remand proceedings and tried to distinguish the present case from ATMA case rendered by the Hon'ble Supreme Court.

We wish to state that it was the practice of DGAD to grant fresh hearing by new officer when there was a change in the officer who is notified as Designated Authority. Earlier, the successor DAs had granted another hearing in a number of cases. A few instances are provided as follows:

- a. Final Finding No. 14/1/96/ADD dated 19th March, 1998 in Anti dumping investigation concerning imports of PTA from Thailand, Korea RP and Indonesia
- b. Final Finding No. 21/ADD/96 dated 19th March, 1998 in Anti dumping investigations concerning imports of newsprint from USA, Canada and Russia

- c. Final Finding No. 25/ADD/94 dated 19th October, 1995 in Anti-dumping investigation concerning imports of Acrylonitrile Butadiene Rubber (NBR) originating from Japan.
- That the Hon'ble Supreme Court in ATMA case has given decision on the following points:
  - The proceedings before the Designated Authority are of quasi-judicial in nature.
  - The Designated Authority is bound to give hearing as a part of principles of natural justice as enshrined in the Rules and Agreement before arriving at final decision. Written arguments are no substitute for an oral hearing.
  - If there is change in officer holding the post of Designated Authority, then the new officer is bound to give hearing.
  - If hearing is not granted by the officer who passed the Final Finding then such Final Finding are passed in violation of Principles of Natural Justice and are bound to be set aside.

Thus, contention of domestic industry that the authority is obligated to grant hearing to only those who did ask for a fresh hearing and not to all parties is wrong and is not in accordance with the judgment of Hon'ble Supreme Court in ATMA case. Further, the Hon'ble tribunal has also accepted the submission of the interested parties that if hearing is not granted by the same officer who passed the order then a second hearing is required to be granted and for that purpose allowed the appeals by way of remand. Without prejudice to the above submission, we submit that no hearing should have been given to Domestic Industry as per their own submission as they had not asked for second hearing and all the submissions now made either during hearing or subsequent to in writing may be discarded.

**A. Return on capital employed/cost**

- Domestic industry has submitted that authority should allow a minimum return of 10% on cost as the authority has allowed in the past in other cases, a return at the rate of 15% on cost under similar circumstances.
- In each previous investigation conducted by DGAD, non-injurious price (NIP) was computed by taking ROI @22% on net fixed assets and working capital.
- The authority should examine the return on net fixed assets and working capital earned in the industry in India as well as world over and then allow only so much return on capital employed. The Designated Authority has wrongly and arbitrarily allowed a very high rate of return @ 22% in present case though in past the Indian producers never achieved such return. We rely on the decision of the Hon'ble Tribunal in the case of Indian Spinners Association vs Designated Authority.

- Further, now it has been statutorily recognized that return is required to be granted on net fixed assets and working capital, the Domestic Industry cannot any benefit beyond the statutorily provided. Further, the designated authority provides for 5% profit on cost in case of non-cooperating exporters because the capital employed by the non-cooperating exporters is not known. The correct means of determining the competitiveness of any industry is to see whether it is able to earn a suitable return on capital employed by it in business.

**B. Time limits for commenting on initiation**

- Domestic industry has claimed that none of the interested parties have filed their comments on initiation within 40 days of initiation notification and therefore, they shall not be allowed to raise any issue relating to initiation thereafter.
- In this regard we would like to submit that neither the anti-dumping agreement nor the Indian law provides that issues regarding initiation shall not be raised after 40 days of the initiation of the investigation. Such a contention would be a violation of the first sentence of Article 6.2 which states as under:

*6.2. Throughout the anti-dumping investigation all interested parties shall have a full opportunity for the defence of their interests.*

- In any case, respondents have submitted a complete response to the exporter's questionnaire within the time limits permitted by the authority and therefore, the issues raised by the domestic industry are not relevant in so far as they are concerned.
- In the light of the above, the submission of the domestic industry is liable to be discarded.

**C. Confidentiality**

- Domestic industry has submitted that all the exporters from the subject countries have failed to fulfill their obligation under the Indian law by not providing the meaningful summary of the response to exporters' questionnaire.
- We would like to submit that respondents have furnished a meaningful summary of the information submitted in confidence. The respondents exporter have provided proper statement of reasons for claiming the confidentially. In addition, authority has issued deficiency letters in due course and a detailed reply to each query has been provided by the exporters. Exporters have furnished complete information that permit a reasonable understanding of the substance of the information submitted in confidence. Thus, the submissions of domestic industry with regard to confidentiality do not pertain to respondent.
- On the contrary, domestic industry has failed to file a non-confidential version of Part VI – Costing Information of the application. The authority may direct the domestic industry to file a non-confidential version of the same. If the information relating to

costs and prices are confidential for the domestic industry, similar treatment ought to be given to the exporters also.

**D. RIL was obliged to furnish information**

- Domestic Industry has submitted that RIL was a supporting company and not a participating company and therefore seeking information from M/s RIL was unwarranted. We would like to submit that the petition filed by domestic industry contains false information and does not contain the complete and correct information as required under the Antidumping Rules, 1995.
- If more than one company in the group manufactures the product concerned, all of them shall join the petition. DGAD shall not allow the group companies to pick and choose which information they should provide before the authority and which they should hide from the authority. Though they may be two different legal entities, so long as both of them are related and both of them are involved in the production of the product concerned in India, both of them shall provide complete information with regard to injury, more specifically when now IPCL is merged with other.
- In fact, DGAD should not have initiated the investigation as related company of one petitioner is engaged in production and sale of subject goods has not submitted the information at the time of initiation. Therefore, authority's decision to seek information from RIL was correct and data of RIL must be considered for all relevant purposes. Even if now RIL has reservation to provide the information, the Designated Authority may terminate the investigation for this reason alone.

**E. Respondents have not suppressed any information.**

- We would like to submit that respondents have not suppressed any information as alleged by the domestic industry and provided all the relevant information as requested by the authority during the course of investigation. Hence, such comments of domestic industry should not be considered by the authority.

**F. Normal Value of Japan**

- Domestic industry has submitted that DGAD has erred in determination of normal value for Japan replying upon the information of Korea and Malaysia.
- We fail to understand on what basis domestic industry is making such an unsustainable submission. The normal value for TVC has been determined on the basis of domestic sales made by the exporter in Japan. We request domestic industry to refer the paragraph no 173 of the final findings. Even for residual category the normal value has been worked out by DGAD on the basis of data submitted by cooperating exporters from Japan. The relevant paragraph of the final findings is reproduced as under:

*179. Normal value of from Japan at ex-works level determined based on cooperative exporters data has been compared with the ex-works export price of all other exporters from the said country as determined above to work out*

*the dumping margin for all non-cooperating exporters from this country which works out as follows:*

Thus domestic industry is requested to refer final findings before making such baseless comments. In view of above, it is requested that DGAD should terminate the antidumping duties recommended earlier.

- Contention of domestic industry that the Authority is obligated to grant hearing to only those who did ask for a fresh hearing and not to all parties is wrong and is not in accordance with the judgment of Hon'ble Supreme Court in ATMA case.
- Anti-dumping agreement nor the Indian law provides that issues regarding initiation shall not be raised after 40 days of the initiation of the investigation.
- The Designated Authority has wrongly arbitrarily allowed a very high rate of return @ 22% in present case though in past the Indian producers never achieved such return relying upon the decision of the Hon'ble Tribunal in the case of Indian Spinners Association Vs Designated Authority.
  - There was no information on RIL on the public file and domestic industry has not filed the consolidated injury information.
  - Violation of Rule 6(8) IPCL did not file the information of its related company till several months.
  - Duty determined for Taiyo Vinyl Corporation is erroneous as the Authority has compared the non injurious price of the domestic industry with the weighted average landed values of exports for determination of injury margin.
  - The dumping margin for the two cooperating exporters is less than *de minimis*, so it cannot be said that the dumping margin for the concerned country is more than 2 %.
  - The sales quantity data of Finolex Industries has not been disclosed.
  - There is no adverse volume effect in view of the following:
    - Sales quantity has increased by over 18 %
    - Actual production has increased by over 15 %
  - Price undercutting from all the subject countries is negative. No information even in indexed form has been made available with regard to price depression and price suppression.
  - The observation that there is a distinct threat of material injury to the domestic industry is erroneous because:
    - a. No data on capacities and demand-supply of PVC resin in the subject countries has been disclosed.
    - b. Authority should examine the likelihood of the additional capacities being utilized and the increased quantities being exported to Indian market.
    - c. The price undercutting is negative; in such a situation there is no warrant to presume that the increased imports would have price depressing effects.
    - d. No investigations of the inventories have been made.

**14. REJOINDER SUBMISSIONS ON BEHALF OF M/s. FORMOSA PLASTICS CORPORATION, CHINESE TAIPEI**

**Public Hearing** (paragraphs 3 to 5 of the domestic industry's submissions)

- It is claimed by the domestic industry that the hearing as was held on December 14th, 2011 ought to have been granted only to those parties which specifically asked for a fresh hearing and not to all the parties.

It is humbly submitted that the Exporter was a co-operating interested party throughout the investigation whereby it has every right to be part of the public hearing. The objective of the public hearing is to give all parties with an interest in the investigation to make their averments so as to provide ample evidence and information to enable the Hon'ble Designated Authority to make an informed decision. In light of the above, it would be prejudicial to allow only a limited number of domestic producers to present their views at the hearing while precluding other interested parties, irrespective of which party asked for the hearing. By its very nature, a public hearing must adhere to basic principles of natural justice whereby every party has a right to present its case and defend its interests. Therefore, the claim of the domestic industry to this extent ought to be disregarded and it is humbly submitted by the Exporter that the Hon'ble Designated Authority has rightly allowed all interested parties an opportunity to be heard at the public hearing.

**Return on Cost** (paragraph 6(a) of the domestic industry's submissions)

- The domestic industry has objected to the 2.64% return on cost for the domestic industry as determined by the Hon'ble Designated Authority. In the alternative, the domestic industry has recommended from 5 to 22% return on cost.

It is humbly submitted that as already explained by the Hon'ble Designated Authority, the 2.64% return on cost was based on the rules applicable at the time of the case. As already clarified this return on cost was based on the 22% ROCE consisting of NFA. Suggesting alternative returns on cost in the form of negotiable scale from 22% through 15% and 10% down to 5% return on cost is visibly a plea to inflate NIP without a reasonable basis for the same. Further, in the case of Indian Spinners Association vs. Designated Authority (2004 (170) ELT 144), the Hon'ble CESTAT looked at the past performances of the domestic industry and on the basis of that determined that the return on capital employed of 22% was too high and it was concluded that on the basis of historical performance, the ROCE ought to have been much lower. The domestic industry's submissions on this issue may therefore be disregarded.

**Excessive Confidentiality** (paragraphs 6(d) of the domestic industry's submissions)

- The domestic industry has alleged that the Exporter has not provided meaningful summaries of its submissions and responses. It is submitted that at all points of time, the Exporter has provided complete reasons for confidentiality as well as summaries wherever possible.

It must also be noted that the Hon'ble Designated Authority has accepted the Exporter's claims of confidentiality only after which the submissions and responses of the Exporter have been taken on record. On the other hand, it must be noted that the

domestic industry's own submissions are in contravention of basic confidentiality rules.

**Exporters Deliberately Suppressed Information** (paragraph 6(i) of the domestic industry's submissions)

- The domestic industry has alleged that the exporters have misled the authority on specific questions in the exporter's questionnaire. It is humbly submitted that firstly, the domestic industry's allegation is wide and generalist whereby replying to the same is impossible without being aware of exactly what information and questions are being referred to, let alone which exporters the domestic industry is referring to.

In any event, the Exporter would like to submit that the Confidential and Non-Confidential versions of the Exporter's responses to the exporters questionnaire are on record. Therefore, the Hon'ble Designated Authority may at any time peruse the same whereby it will become amply clear that the Exporter has provided all necessary information as required. Therefore, the domestic industry's allegation in this regard is baseless whereby it is liable to be disregarded.

**Fresh Data submitted but not conveyed to the domestic industry** (paragraph 6(m) of the domestic industry's submissions)

It is humbly submitted that the data submitted during and subsequent to the verification is predominantly business proprietary data that is confidential in nature. Therefore, all verification related data has rightly been kept as confidential and not been disclosed in the public file. Further, the domestic industry has also complained that the facts relied upon in the disclosure statement were not put through to the domestic industry at the appropriate stage and no opportunity was provided to offer comments. It is humbly submitted that any fact that has arisen prior to or subsequent to the issuance of disclosure statement is based on evidence on record. The Hon'ble Designated Authority has no obligation to notify every interested party with regard to what facts have arisen at a regular basis except through the Disclosure statement. That is the very function of the disclosure statement, whereby the Hon'ble Designated Authority may disclose the facts, methodology and calculations based on which the margins and conclusions are arrived at. More importantly, all parties are given an opportunity to comment on the facts disclosed and various other issues in the disclosure statement within a reasonable time period. Therefore it is amply clear that the domestic industry's submissions in this context are liable to be disregarded.

**15. Rejoinder Submissions made by M/s APJ-SLG on behalf of the domestic industry**

- We wish to clarify that the same are being filed without prejudice to rights and remedies available under law against Appellate Tribunal Final Order Nos. AD/31-51/2011 dated 11.08.2011. It appears from the notice of hearing that the Designated Authority has also not accepted the remand direction of the Appellate Tribunal. We may kindly be informed the grounds on which the Designated Authority has not accepted the order.

- We thank the Hon'ble Designated Authority on behalf of the Domestic Industry for providing us with the written submissions of the following interested parties:
  - (i) M/s LG Ltd, Korea RP
  - (ii) M/s Kaneka Corporation, Japan and Mitsui & Co, Japan
  - (iii) M/s Formosa Plastic Corporation, Chinese Taipei
- We wish to clarify that the submissions of certain associations, producers, and exporters have been sent to us directly through mail by their legal representatives viz. Lakshmi Kumaran & Sridharan after delay of two days from the date & time announced for filing of written submissions. We do not know the reasons for delay and whether such delay has been condoned. The submissions ought not to be accepted for an additional reason that such a practice is against the principles of pleadings. In short, our defense is disclosed to them prior to their filing their written submissions. This is against all settled principles of pleadings. The above objection was brought to the notice of the Authority vide our mail dated 21.12.2011. We await a response to the same. In the event the authority for sufficient cause has accepted such delayed written submissions of associations, producers and exporters represented by Lakshmi Kumaran & Sridharan, we seek liberty to file additional rejoinder submissions as serious prejudice has been caused to the interest of domestic industry and also by grant of limited time to respond.
- At the outset, domestic industry reiterates and relies on all of our previous submissions filed with the Authority. The said submissions have not been repeated herein for the sake of brevity. Any fact or averment in the written submissions of interested parties mentioned above, which is not specifically admitted hereinafter may be treated as specifically denied.
- The detailed rejoinder submissions are as under :-

On Written submission of M/s LG Chem Ltd, Korea RP

- Contents of written submission of M/s Chem Ltd, Korea RP are a matter of fact. It is pertinent to note that no submissions or objections have been filed or reiterated. In view thereof, it may kindly be assumed that the exporter has admitted dumping, injury and causal link and has no objection to imposition of duty. Accordingly, the written submissions need no rejoinder from our side.
- Without prejudice to the above, we also wish to point out that the written submission filed by this party does not give any paragraph numbers contrary to specific instructions contained in Trade Notice 1/2007 dated 22.10.2007 and therefore should not be taken on record. Without prejudice, you would kindly appreciate that in the absence of serially numbered paragraphs, it is virtually impossible for any interested party to offer its comments in terms of para 3(i) of the said Trade Notice. It is respectfully submitted that we are bringing this issue to your kind attention only because the requirements of Trade Notice are being flouted almost as a matter of right and practice. We have pointed out the difficulties being faced by other parties to give para-wise rejoinder in the past too but the practice seems to be continuing with

impunity. Non-compliance of such procedure, we were informed by DGAD would result in rejection of submissions.

On Written submission of M/s Formosa Plastics, Chinese Taipei

- Content of paragraph 7 cannot be responded as it has been stated that they reiterate all the facts, contentions, averments and statements presented in previous submissions filed before the Designated Authority and has requested the Designated Authority to treat them by a deeming fiction as part of their written submissions. The exporter may be called upon to list such submissions by reference to the date of such submissions together with the dates on which they were filed. If non-confidential version of such documents were not filed along with confidential version, the same cannot be taken into consideration, as they would be contrary to requirements of Rule 7. Without prejudice to the above, the submissions made are not accepted for want of knowledge. We request the authority to provide index to the public file so that we can cross check if they are available on record. In any case, we request that the Designated Authority to provide a copy of all submissions made by all interested parties together with data/information or evidence.
- Contents of paragraph 8 are wrong and denied. Detailed submissions have been placed on record to show that the exporter has not cooperated fully and his data and information is required to be rejected.

On Written submission of M/s Kaneka Corporation, Japan

- The exporter has not numbered first two paragraphs of the written submissions and therefore contrary to specific instructions contained in Trade Notice 1/2007 dated 22.10.2007. Content of these un-numbered paragraphs cannot be responded as it has been stated that they reiterate all the facts, contentions, averments and statements presented in previous submissions filed before the Designated Authority and has requested the Designated Authority to treat them as having been incorporated in the written submissions. The exporter may be called upon to list such submissions by reference to the date of such submissions together with the dates on which they were filed. If non-confidential version of such documents were not filed along with confidential version, the same cannot be taken into consideration, as they would be contrary to requirements of Rule 7. Without prejudice to the above, the submissions made are not accepted for want of knowledge.
- Contents of Para 1 to 6 are wrong and denied. It has been admitted even in the present written submissions that the exporter withheld information from the Designated Authority and did not file full information strictly in terms of the requirements of exporter's questionnaire notified by the Designated Authority. It is humbly submitted that the Authority has rationally applied the provision of rule 6(8) while denying the individual dumping margin determination to M/s Kaneka Corporation (hereinafter referred to as exporter). On a combined reading of Para 1 & 2 it is amply clear that the exporter has not submitted the transaction wise information relating to the domestic sales and cost of production. In such a scenario Supreme Court decision in DA v/s

Haldor Topsoe A/S. 2000 (120) E.L.T. 11(SC) will apply. The relevant excerpts of this decision are as under :-

*“It is to be noticed that the statute has given much wider power to the Investigating Authority than what is understood by the Tribunal which is evident from the language of Section 9A(1)(c)(i) of the Tariff Act and Rule 6(8) of the Rules. As noticed hereinabove, Rule 6(8) of the Rules specifically empowers the Authority to record its findings on the basis of the facts available to it in cases where an interested party refuses access to or otherwise does not provide the necessary information to it.”*

- Therefore the authority has rightly taken the decision of not to determine the individual dumping margin for said exporter. In fact the data and information of this exporter ought to have been rejected as they did not fully cooperate in the present investigation and consciously withheld information from the authority.
- Without prejudice to the above, we wish to point out the reference to report of panel in Argentine-Ceramic Tiles is out of context and misleading. The Report relates to and is in the context of sampling while the present case there was no sampling from Japan. The reference to report of panel in Farmed Salmon is also out of context and misleading as stated above. The ratio can apply for each entity who supplies full information in terms of the notified exporter questionnaire. Further, there is no obligation for any authority to grant individual dumping margin when an exporter withholds information and fails to cooperate in the investigation.
- The exporter has also pointed out that if the treatment given to them was legal, then the treatment given to other exporters is illegal. We support such submission of the exporter. Similar treatment ought to have been granted to other such similarly placed exporters.
- Contents of Para 7 to 9 are wrong and hence denied. In this respect it is pertinent to note that the Product under Investigation is Poly Vinyl Chloride (PVC) – Suspension Grade falling under Customs Classification 3904.2110. The above classification covers all grades of PVC resin (suspension grade) irrespective of any K- Value. In India, the industry produces PVC resin (suspension grade) of K-Value ranging between 50-90. The assertion that Indian producers cannot control the parameters needed for production of High K value and low K value PVC Resin is totally incorrect and false.
- In light of the above, it is submitted that there is no justification in the submission of Kaneka Corporation, Japan for further delineating the product scope of the Product Concerned on the basis of the K-Value of PVC resin. Accordingly, Authority needs to confirm its earlier findings on product under consideration. Reference to other cases is misplaced as the same were recorded in the context of domestic industry not been in a position to supply identical or similar goods which were technically or commercially substitutable. It is undisputed that the products are like article in terms of Rule 2(d).
- Contents of Para 10 are partially wrong and denied. The exporter has given up all its arguments on all other aspects of the investigation. It is denied that that the injury

margin is de-minimus. The submissions made above may be treated as rejoinder to conclusions of the exporter.

- Contents of paragraph 11 are wrong and ought not to be accepted and must be rejected in view of above submissions.

On Written submission of M/s Taiyo Vinyl Corporation (herein after referred to as TVC), Japan & China Chlor-Alkali Industry Association, China, Xinjiang Shihezi Zhongfa Chemical Co. Ltd. China, Yichang Yihua Pacific Cogen Ltd. China, Shandong Ocean Chemical Import and Export Co Ltd, Shandong Ocean Chemical Chlor-Alkali Resin Co Ltd, Qingdao Haijing Chemical Group Co Ltd (herein after referred to as parties from China)

- Without prejudice to the submissions made above for rejection of their response for late submission, the domestic industry is filing its rejoinder within the short time given to us.
- Contents of Para 1 & 2 of written submissions of TVC and parties from China are matter of fact. Accordingly needs no rejoinder from our side.
- Contents of Para 3 to 12 of TVC and parties from China are wrong and denied. In this regard it is respectfully submitted that RIL was only a supporting company but not a participating company or domestic industry as defined. Therefore, seeking information from M/s RIL was unwarranted. Further, Supreme Court never held in RIL case that the term “domestic industry” has to be interpreted in any manner different from the definition provided in Rule 2(b). In any case, no prejudice has been claimed to be caused to such parties. Any additional information to reach appropriate conclusions cannot be held to be in violation of law so far as interested parties are concerned. This is without prejudice to objections of domestic industry as it resulted in grave prejudice to the interest of the domestic industry.
- While making submissions under Rule 6(7) read with Article 6.1.2, TVC and parties from China have ignored specific language of the provisions. The distinction between “made available” and the word “provide” has been completely brushed aside. It is undisputed that the Designated Authority maintained a public file in the investigations and same was open for inspection for interested parties. In such a situation it cannot be said that the information was not made available as the onus of accessing such information was on the parties concerned. It is our humble submission that domestic Industry has submitted the information which the Authority has asked for and the same was available in public file. In the context of using the information submitted by RIL we respectfully request the Authority not to consider the data of RIL while determining injury to the domestic industry, as it is not domestic industry as defined under Rule 2(b). Information of RIL was not necessary for reaching determinations under Rule 11. In view of the above, no ground has been made out for termination of investigations as proposed by TVC and parties from China.
- The Application of Rule 6(8) is only in the context of party seeking a special benefit under the Act or the Rules. Without prejudice, RIL never participated in the

proceedings as an interested party or as domestic industry. Assuming, that RIL did not provide information sought from them, even then such a situation cannot lead to an absurd conclusion that the defined domestic industry would get itself disentitled for the relief for which the whole investigation was initiated and that too after Designated Authority reached a conclusion that there was dumping, injury and causal link. While raising such objections, TVC and parties from China have completely given a go by to the language “the Designated Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances” To that extent, it is evident that Designated Authority can still make recommendations as it deems fit under circumstances when a party does not provide necessary information. Rule 6(8) does not mandate that in such circumstances, the investigations are required to be terminated. In view of the above, the submissions made are unsubstantiated, and totally contrary to plain language employed in Rule 6(8).

- We are unable to appreciate the submission of TVC and parties from China calling upon Designated Authority to treat domestic industry as non-cooperative in view of the fact that RIL did not provide information. As clarified above, RIL was not domestic industry in the present investigations. In any case, in several past cases, once the applicant is in a position to establish its standing and qualified itself to be domestic industry under Rule 2(b), no further information is sought from rest of the producers in India. The assumption, presumptions, conjectures, and surmises cannot confer on RIL the status of domestic industry as defined.
- Contents of Para 13 to 17 of TVC are wrong and hence denied. The Designated Authority could not have granted individual treatment to such exporters as they did not file response of other related entities who exported the goods or third parties who exported to goods to India. In the absence of full chain, no response could have been accepted by the Designated Authority in terms of its past and recent orders. Without full verifiable information on price to India, the information ought to have been rejected.
- Contents of Para 13 & 14 of parties from China are excerpts of Final Findings and hence need no rejoinder.
- Contents of Para 15 to 17 written submissions of parties from China are wrong and denied. In this respect it is respectfully submitted that the Authority has rightly taken into account the role of state ownership while considering the MET claim of the exporter’s and has rationally applied the rules of anti-dumping while rejecting the MET claim of exporter’s. Moreover, it is clearly evidenced from the fact of state ownership that the prices including cost of raw material, technology etc. does not reflect the market values.
- Contents of Para 16 of written submissions of parties from China are misplaced. It is amply clear from the final findings that Authority has taken into account various factors apart from only concentrating on the state shareholding criteria while arriving at the decision to reject the MET claim of the exporter’s like management control, raw material procurement source which is a state owned entity etc. Accordingly,

authority may reconfirm its decision reached in its earlier Final Findings so far as it relates to MET claim of this exporter.

- Contents of Para 18 & 19 of written submissions of parties from China are wrong and denied. We would like to submit that the objection raised in the above Para's are the prerogative of the authority and hence need no response from domestic industry
- Contents of Para 18 of TVC and Para 20 of parties from China are misplaced. In any case, domestic industry is not privy to such information and is therefore unable to file any comments
- Contents of Para 19 of TVC and Para 21 of written submissions of parties from China are only the excerpts of paragraph (iii) of annexure II. The submissions are made without understanding the true meaning and scope of the provision. Accordingly, need no comment.
- Contents of Para 20 & 21 of TVC and Para 22 & 23 of written submissions of parties from China are wrong and denied. Authority has rightly considered the dumping margin for the country as above de-minimus considering the intensified dumping margin of non-cooperating exporters.
- Contents of Para 22 of TVC and Para 24 of written submissions of parties from China are misplaced. Accordingly, it does not need any comment on our behalf.
- Contents of Para 23 to 26 of TVC and Para 25 to 28 of written submissions of parties from China are wrong and denied. In this regard it is submitted that domestic industry has not been able to muster the capacity utilization which it had achieved in the base year. Moreover, due to the existence of the dumping the domestic players are not able to increase their production capacity keeping in view the intensified dumping from the subject countries.
- Contents of Para 27 of TVC and Para 29 of written submissions of parties from China are wrong and denied. Price undercutting is not negative as evidenced from the Para 284 of final findings. Authority has prescribed a range for price undercutting in Para 284. Accordingly, it is not correct to say that price undercutting of all countries is negative. The impact would be much more if correct determination of NIP is done as prayed for.
- Contents of Para 28 of TVC and Para 30 of written submissions of parties from China are wrong and denied. Authority has prescribed a range for price underselling in Para 284. Accordingly, it is not correct to say that price underselling of all countries is negative. The impact would be much more if correct determination of NIP is done as prayed for.
- Contents of Para 29 of TVC and Para 31 of written submissions of parties from China are wrong and denied. The information related to Price depression and price suppression is confidential in nature. Disclosure such information even in indexed form will be detrimental to the interest of the domestic industry.

- Contents of Para 30 of TVC and Para 32 of written submissions of parties from China are the excerpts of Para 317 & 318 of the final finding. Hence, it needs no rejoinder from domestic industry.
- Contents of Para 31 & 32 of TVC and Para 33 & 34 of written submissions of parties from China are wrong and denied. Domestic industry has provided all the necessary information and the same are on record. It is evident that the extracted conclusions reached by the Designated Authority in its Final Findings were in terms of requirements of paragraph vii) of Annexure-I. In view thereof, the same are in terms of law. Further, the provision does not make it mandatory that all the factors have to be positive to reach a determination of threat of injury.
- We humbly request to provide us with a copy of rejoinder submissions filed for and on behalf of exporters in the interest of justice and fair play. We would also request the authority not to take into consideration any response of exporters for which no non-confidential version has been filed fully compliant with Rule 7.

#### **Post-Disclosure submissions made by interested parties**

16. The Domestic Industry, in brief, has stated the following:

- The authority erred in determination of dumping margin of non-cooperating exporters from the subject countries. It has been contended that the authority could not have taken the lowest export price of the cooperative exporter but ought to have taken the same from the data available to him for all exports made by subject countries.
- None of the interested parties asked for fresh public hearing.
- Comments on initiation were not filed within the prescribed time by some of the interested parties. Most of the importers have failed to file importers questionnaire response and therefore, the importers/user industries cannot be considered as the interested parties as they have failed to cooperate with the authority and have failed to file necessary evidence requested by the Authority. Under such circumstances, such interested parties cannot be considered as cooperative interested parties for the purpose of these investigations.
- Exporters have not submitted meaningful summary of confidential version and claimed excessive confidentiality.
- There has been deliberate suppression of relevant information by the Exporters.
- Excise duty and CVD have not been included in NIP and Landed value.
- Aggregate Country Level Calculations ought not to have been kept as confidential. Further, it appears that the authority has taken into account the information from Harriman Chemsult Ltd., London for Asia Region for calculation of normal value for China. It has been contended that actual prevailing international prices in the form of import prices in India were available to the authority and must form the basis to reach such determinations.

- Grounds for not accepting the order should have been informed.
- Return of Meagre 2.64% on Cost is not justified.
- Seeking Information from M/s RIL was unwarranted.

17. M/s Kaneka Corporation, in brief, has stated the following:

- It has reiterated that high and low K value of PVC suspension grade should be excluded from the product scope and individual dumping margin should be granted to them.
18. M/s. Formosa Plastics Corporation, Chinese Taipei has sought confirmation of the Authority's determination of nil duty for them.
19. M/s Taiyo Vinyl Corporation, Japan has contended that its dumping margin should be recomputed based on the data filed.

#### **Examination by the Authority**

20. The Authority has examined the written submissions, rejoinders thereof and as well as the post-disclosure submissions made by the interested parties and notes that the interested parties have essentially reiterated their submissions made earlier. The Authority has examined these submissions in the backdrop of the Final findings already issued on the subject.
21. Regarding the contention that interested parties be informed the grounds on which the Designated Authority has not accepted the order of the Appellate Tribunal; the Authority notes that the post-decisional hearing has been held in pursuance of the Hon'ble Tribunal's order dated 11<sup>th</sup> August 2011 and any other action that may be considered appropriate by the Authority need not be disclosed to the interested parties at the present juncture. In any case, these grounds would be known to them as per the applicable Appellate procedures in force.
22. As regards the contention that individual dumping margin should have been determined in respect of M/s Kaneka's exports to India; the Authority notes that each exporter/producer is obligated to submit complete information /data as sought vide the exporter's questionnaire and in case any exporter chooses to deliberately withhold information/data, then such exporters' information/data is liable to be disregarded in terms of Rule 6 (8) of the AD Rules. It is possible that M/s Kaneka's Normal value based on its information/data would have been significantly higher than the constructed Normal value determined by the Authority. Hence, the Authority considers that it has rightly rejected the selective data submitted by M/s Kaneka in the instant matter. The Authority further notes that the exporter did not respond to any of the queries of the Authority after filing the questionnaire response and thus did not cooperate with the Authority. Therefore, the Authority was constrained to treat the exporter as non-cooperative and not grant individual dumping margin in terms of Rule 6(8) of the AD Rules.

23. As regards the determination of dumping margins of the concerned exporters/producers; the Authority notes that no new fact has been submitted by any interested party that requires modifying the final findings issued by the Authority in the instant matter and hence the Authority confirms the same. The Authority thus holds that dumping is established against all subject countries except three exporters from Korea and Taiwan against whom dumping margins have been found to be de-minimis.
24. As regards the contention that High and Low K Value suspension resin be excluded; the Authority notes Rule 2(d) of the AD Rules provide that “like article” means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such an article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation. It is further noted that the subject goods has several grades and sub-types, these have similar physical and chemical characteristics and end-uses; and the specifications in terms of K values and other parameters are controlled by the manufacturers to produce these grades. The Authority notes that no material evidence has been placed on record by any interested party establishing that these different grades are not like articles to each other. Therefore, the arguments of the interested parties seeking exclusion on unsubstantiated claims are not tenable. The Authority therefore holds that all grades of PVC are treated as like articles and covered under product under consideration except the speciality types as already exempted in the Final findings of the Authority dated 26.12.2007.
25. As regards the contention that Authority should have excluded at least the quantities exported by the co-operating exporters from Korea as the dumping margin in respect of those goods have been found to be less than de-minimis and that the entire injury analysis is flawed and therefore, injury may be examined de-novo after excluding the imports from Korea; the Authority notes that as per AD rules, in cases where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the Authority will cumulatively assess the effect of such imports, when it determines that (a) the margin of dumping established in relation to the imports from each country is more than two percent expressed as percentage of export price and the volume of the imports from each country is three percent of the import of like article or where the export of individual countries is less than three per cent, the imports collectively accounts for more than seven percent of the import of like article and (b) cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles. The Authority further holds that there is no merit in the contention of the exporter to exclude the dumped imports having de-minimis dumping margin for the purpose of analysing volume effect of dumped imports as it is settled principle that the reference to the dumped imports in the AD Rules is in the context of the product under consideration, not in the context of specific transactions or specific sources.
26. As regards the contention that the Authority cannot consider the information provided by the supporter of the petition seeking initiation of the AD investigation; the Authority notes that the contention is not tenable in terms of the AD Rules. In fact, the Authority is obliged to undertake injury analysis that shall,

inter alia, involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products. To this end, the Authority seeks data from the domestic producers and on its receipt, considers the same as per the AD Rules.

27. As regards the contention that the duty determined for TVC is erroneous and in violation of Rule 4(d); the Authority notes that no additional evidence has been adduced to substantiate the claim; hence, the Authority is constrained to examine the issue afresh in the absence of relevant documents.
28. As far as the issue of providing return at 22% on capital employed, the Authority notes that this rate of return is provided as per the well established practice followed by the Authority and hence no change in this practice is required to be undertaken at the present juncture.
29. As regards the contention relating to capacities; the Authority notes that in its earlier findings it had held that the domestic industry had additional capacity to produce 100000 MT of the subject goods. It is further noted that the domestic industry had been consistently achieving more than 100% capacity utilisation during the injury period, if they were having market for the product at reasonable price. The Authority therefore holds that the domestic industry could have produced additional production of 100000 MT but for the presence of the dumped imports.
30. As indicated in para 284 of the final findings dated 26.12.2007, while the cost of sales went up by 16% in POI as compared to the base year, the sales realization increased only by 7% in the corresponding period. The landed value also increased by only 6%. The above clearly indicates that the decline in the landed value of imports forced the DI to keep its prices suppressed during POI in spite of increase in the cost of sales.
31. Based on the data on production, sales, selling price, etc. provided by the cooperative exporters and after due verification of the same, the Authority has come to the conclusion that there is threat of material injury.
32. As regards the injury analysis; the Authority notes that no new fact has been submitted by any interested party that requires modifying the final findings issued by the Authority in the instant matter and hence the Authority confirms the same. The Authority holds that in spite of improvement in several parameters of injury determination during the injury period, the performance of the domestic industry has deteriorated in terms of profitability and return on investment in spite of healthy demand for the product under consideration.

**Conclusions and Recommendations:**

33. Having given opportunity in terms of the orders of Hon'ble CESTAT to the interested parties to make oral as well as written submissions and the rejoinders thereof. After having examined the submissions of the interested parties and after a careful perusal of the Final findings dated 26<sup>th</sup> December, 2007 and the Corrigenda thereof; the Authority concludes that no modification in the said final findings are warranted and therefore reaffirms its earlier final findings dated 26<sup>th</sup> December, 2007 and the Corrigenda thereof and confirms the recommendations made thereunder.

*(Vijaylaxmi Joshi)*  
Designated Authority

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