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No.14/05/2015-DGAD

Government of India

Department of Commerce

Ministry of Commerce & Industry

(Directorate General of Anti-Dumping & Allied Duties)

4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi -110001

Dated the 27th April 2016

INITIATION NOTIFICATION

Subject: Anti-dumping investigation concerning imports of ‘Amoxycillin’, originating in or exported from China PR.

No.14/06/2015-DGAD: M/s Aurobindo Pharma Limited (hereinafter referred to as the applicant/ domestic industry) have filed an application 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) for initiation of anti-dumping investigation and imposition of anti dumping duty concerning imports of Amoxycillin (hereinafter also referred to as the subject goods), originating in or exported from China PR (hereinafter also referred to as the subject country).

2. And whereas, the Authority prima facie finds that sufficient evidence of dumping of the subject goods, originating in or exported from the subject countries, ‘injury’ to the domestic industry and causal link between the alleged dumping and ‘injury’ exist to justify initiation of an anti-dumping investigation; the Authority hereby initiates an investigation into the alleged dumping, and consequent injury to the domestic industry in terms of Rule 5 of the Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied, would be adequate to remove the ‘injury’ to the domestic industry.

Domestic Industry & Standing

3. The Application has been filed by M/s Aurobindo Pharma Limited as the domestic industry.

4. As per the evidence available on record, the production of the applicant company constitutes “a major proportion” of the domestic production. The Authority, therefore, determines that the applicant company constitutes eligible domestic industry within the meaning of Rule 2 (b) of the Anti Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules supra.

Product under consideration

5. The product under consideration in the investigation is “Amoxicillin”.

6. The product under consideration is also known as Amoxicillin Trihydrate. Amoxicillin Trihydrate is a semi synthetic antibiotic, an analog of ampicillin, with a broad spectrum of bactericidal activity against many Gram-positive and Gram-negative microorganisms.

7. Amoxicillin is used to reduce the development of drug-resistant bacteria. To maintain the effectiveness of Amoxicillin and other antibacterial drugs, Amoxicillin should be used only to treat infections that are proven or strongly suspected to be caused by bacteria.

8. Amoxicillin being an organic chemical is categorized under Chapter 29 of the Customs Tariff Act under subheading 29411030. The Customs classification is, however, indicative only and in no way binding on the scope of the proposed investigation and proposed measures.

Like Article

9. The applicant has claimed that there is no known difference between the subject goods exported from subject countries and that produced by the domestic industry. As submitted by the applicant, the product under consideration produced by the domestic industry and imported from 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 can use and are using the two interchangeably.

The applicants have further claimed that 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 Authority treats the subject goods produced by the applicant in India as 'Like Article' to the subject goods being imported from the subject country.

Countries involved

10. The present investigation is in respect of alleged dumping of the product under consideration from China PR.

Normal Value

11. The Applicant has claimed that China PR should be treated as a non-market economy country and its normal value be determined in accordance with Para 7 and 8 of Annexure I of the Rules. The applicant has claimed normal value for China PR on the basis of cost of production in India, duly adjusted. In terms of Para 8 in Annexure 1 to the Rules it is presumed that the producers of the subject goods in China PR are operating under non market economy conditions. In view of the above non-market economy presumption and subject to rebuttal of the same by the responding exporters from China PR, normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules.

Export Price

12. The export price has been claimed by the applicant as the weighted average import price from subject country based on the transaction-wise import data obtained from the DGCI&S. Price adjustments have been made on account of ocean freight, marine insurance, commission, inland freight expenses, port expenses and VAT to arrive at the net export price.

Dumping Margin

13. The normal value has been compared with the export price at ex-factory level. There is sufficient prima facie evidence that the normal value of the subject goods in the subject country is higher than the ex-factory export price, indicating, that the subject goods are being dumped into the Indian market by the exporters from the subject country. The dumping margin is estimated to be above de minimis.

Injury and Causal Link

14. Information furnished by the applicant has been considered for assessment of injury to the domestic industry. The applicant has 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, price undercutting, price underselling and consequent significant adverse impact in terms of decline in production, sales, market share, inventories. There is sufficient prima facie evidence of the ‘material injury’ being suffered by the domestic industry caused by dumped imports from subject country to justify initiation of an antidumping investigation.

15. The applicant has claimed that imports have spurted from China PR. The Applicant has therefore, claimed that the imports are threatening material injury to the domestic industry. The Applicant has submitted that there is significant increase in imports, decline in import price, significant surplus capacity and high export orientation of the producers in subject country as grounds for claiming threat of material injury to the domestic industry from subject imports.

Period of Investigation (POI)

16. The Period of Investigation (POI) proposed by the applicant is from 1st October 2014 to 30th September 2015 and the injury investigation period is for the periods, Apr’ 12-Mar’ 13, Apr’ 13-Mar’ 14, Apr’ 14-Mar’ 15 and the Period of Investigation. However, for enabling the Authority to make required analysis on the basis of more updated data, the Authority hereby determines the POI as 1st October 2014 to 31st December 2015 (15 Months). The injury investigation period will however, cover the periods 2012-13, 2013-14, 2014-15 and POI.

Submission of information

17. The known exporters in the subject country, the Government of the subject countries through their embassy in India, the importers and users in India known to be concerned with the product are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Authority at the following address:

The Designated Authority,
Directorate General of Anti-Dumping & Allied Duties,
Ministry of Commerce & Industry, Department of Commerce
4th Floor, Jeevan Tara Building, 5 Parliament Street,
New Delhi -110001.

18. Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within the time limit set out below.

Time limit

19. Any information relating to the present investigation and any request for hearing should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 Days) from the date of publication of this Notification. 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 Anti-dumping Rules.

20. 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 and offer their comments to the domestic industry's application regarding the need to continue or otherwise the Antidumping measures within 40 days from the date of initiation of this investigation.

Submission of Information on Non-Confidential basis

21. In case confidentiality is claimed on any part of the questionnaire's response/submissions, the same must be submitted in two separate sets (a) marked as Confidential (with title, index, number of pages, etc.) and (b) other set marked as Non Confidential (with title, index, number of pages, etc.). All the information supplied must be clearly marked as either "confidential" or "non-confidential" at the top of each page.

22. Information supplied without any confidential marking shall be treated as non-confidential and the Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Two (2) copies of the confidential version and five (05) copies of the non confidential version must be submitted by all the interested parties.

23. For information claimed as confidential; 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 and/or why summarization of such information is not possible.

24. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out /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, parties submitting the confidential information may indicate that such information is not susceptible to summarization; a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.

25. 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 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.

26. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim may not be taken on record by the Authority. 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

27. In terms of rule 6(7) any interested party may inspect the public file containing non-confidential versions of the evidence submitted by other interested parties.

Non-cooperation

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

(A.K. Bhalla)

Additional Secretary & Designated Authority

