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F NO15/30/2013-DGAD

Government of India

Ministry of Commerce & Industry

Department of Commerce

(Directorate General of Anti Dumping & Allied Duties)

Dated 10th March, 2014

Initiation Notification

(Sunset Review)

Subject: Initiation of Sunset Review of Anti-Dumping duty concerning imports of Flax Fabrics origination in or exported from China and Hong Kong.

1. F NO15/30/2013-DGAD Having regard to the Customs Tariff Act, 1975 as amended in 1995 (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the Rules), the Designated Authority (hereinafter referred to as the Authority) recommended imposition of Anti Dumping Duty on imports of Flax Fabrics from China and Hong Kong (hereinafter referred to as the subject countries). The final findings notification of the Authority was published vide Notification No. 14/08/2008-DGAD dated the 1st October, 2009. On the basis of the findings, anti dumping duties on the subject goods imported from the subject countries were imposed by the Department of Revenue vide Notification No. 142/2009-Customs dated 21st December, 2009.

2. WHEREAS, M/s Jaya Shree Textiles (A unit of Aditya Birla Nuvo Ltd.) (hereinafter referred to as the petitioner), have filed a duly substantiated application before the Authority, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from the subject countries and consequent injury to the domestic industry and have requested for review, extension and modification of present form of the anti-dumping duties imposed on the imports of the subject goods, originating in or exported from the subject countries.

Domestic Industry & Standing

3. The petition has been filed by M/s Jaya Shree Textiles, a unit of Aditya Birla Nuvo Ltd. There are a number of other producers of the product under consideration in India. Namely M. Mahendrakumar and Company, Donear Industries Limited, Muniraj Synthetics India Private Limited, Nirvan Silk Mills Private Limited, Balu Fabrics, Darshan Creation Private Limited, Mahindraa Textile, Master Linens, Govardhan Overseas Private Limited, V.P.Tex

Private Limited, Vasanthi Fabrics, VSM Weaves India Limited, and VTM Limited who have supported the petition. The petitioner has stated that M/s Jaya Shree Textiles and its group companies M/s Madura Fashion & Lifestyle and Madura Garments Exports Ltd has imported small quantities from China. Imports made by the M/s Jaya Shree Textiles along with its group companies M/s Madura Fashion & Lifestyle and Madura Garments Exports constitute approx 3.31% of petitioner's production, 1% of Total Indian production, 4.93% of total imports from subject countries and 0.85% of demand in India during the period of investigation. Considering low volume of imports, the petitioner has been considered as eligible domestic industry within the meaning of the Rules.

4. The Authority after examining the information on record has determined that the petitioner company constitutes domestic Industry within the meaning of the Rule 2(b) and the petition satisfies the criteria of standing in terms of Rule 5 of the Rules supra.

Product under Consideration

5. The product under consideration is Woven Fabric (having more than 50% Flax content), also referred to (subject goods hereinafter) originating in or exported from China PR and Hong Kong. "Flax" and "Linen" are synonyms and the word flax is also known as Linen and can be used to produce yarn and fabric made from flax fibres. It is often used as a generic term to describe a class of woven bed, bathtub, table and kitchen textiles because traditionally flax was widely used for towels, sheets etc. In common parlance subject goods are also referred as Flax fabric.

6. This product is classified under Customs Tariff Chapter 53 at sub-heading 53.09. The customs classification is indicative only and not binding on the scope of investigation.

7. Since the current investigation is a Sunset Review investigation into anti-dumping duties currently in force, the scope of the products under consideration is the same as that in the original investigation.

Like Articles

8. The petitioner has claimed that the product produced by them is a like article to the product imported from the subject countries in terms of physical & technical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing, and tariff classification of the goods. The two are technically and commercially substitutable, and consumers use the two interchangeably. The subject goods produced by the petitioner is being treated as 'like article' to the subject goods being imported from the subject countries for the purpose of the present review investigation.

Subject Countries

9. The country involved in this review investigation is China PR and Hong Kong

Normal value

10. The petitioner has claimed that China should be treated as a non-market economy country and the normal value should be determined in terms of Annexure I (7) of the AD Rules, which provides for determination of normal value in a non-market economy. Petitioner has claimed that normal value could not be determined on the basis of price or costs in third countries for the reason that no information is publicly available in this regard. Petitioner has determined Normal Value in China on the basis of cost of production in India duly adjusted. In respect of Hong Kong Petitioners have submitted that efforts were made to get evidence of price of product concerned in the domestic market of Hong Kong. Efforts were also made to get any evidence of price from published sources. The petitioner has, however, not been able to get any evidence of transaction price in the domestic market of Hong Kong. In view of the same, the normal value has been constructed for all exporters/producers from Hong Kong. on the basis of cost of production in India, duly adjusted. The Authority has determined the normal value of subject goods in subject countries on the basis of cost of production in India, duly adjusted

Export Price

11. The export price has been determined from subject countries based on the import data provided by the DGCI&S. Price adjustments have been made on account of ocean freight, marine insurance, port expenses, inland freight, bank charges and commission to arrive at the net export price.

Dumping Margin

12. The normal value of subject goods in the subject countries are significantly higher than the net export prices, *prima-facie*, indicating that the subject goods originating in or exported from the subject countries continue to be dumped, to justify initiation of a review investigation.

Injury and Causal Link

13. Information of the petitioner has been considered for assessment of injury to the domestic industry. The applicants have furnished evidence regarding the injury having taken place as a result of the alleged dumping in the form of significant volume of dumped imports, price undercutting, price suppression, price underselling and consequent significant adverse impact in terms of profits, return on capital employed, and cash flow to the domestic industry. There is sufficient *prima facie* evidence of the continued being suffered by the domestic industry caused by dumped imports from subject countries to justify initiation of a review investigation

Initiation of Sunset Review of Anti Dumping Duty

14. In view of the duly substantiated application filed and in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority hereby initiates a sunset review investigation to review the need for continued imposition of anti dumping duties in force in respect of the subject goods, originating in or exported from the subject countries and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry.

Period of Investigation (POI)

15. The Period of Investigation for the purpose of the present review investigation is 1st October, 2012 to 30th September 2013 (12 Months). The injury investigation period has however, been considered as the period from 1st April 2010 to the end of the POI, i.e., 2010-11, 2011-12, 2012-13 and POI.

Procedure

16. The review covers all aspects of Notification No. 14/08/2008-DGAD dated the 1st October, 2009 (final findings of the original investigation).

17. The provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 of the Rules supra shall be mutatis mutandis applicable in this review.

Submission of Information

18. The known exporters in the subject countries, the government of the subject country(ies) through its 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:

Government of India
Ministry of Commerce and Industry
Directorate General of Anti-Dumping and Allied Duties
Department of Commerce
Room No.240 Udyog Bhawan,
New Delhi.

19. 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:

20. Any information relating to the present review 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 AD Rules.

21. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire's responses and offer their comments to the domestic industry's application regarding the need to continue or otherwise the AD measures within 40 days from the date of initiation of this review investigation.

Submission of information on confidential basis.

22. 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.

23. Information supplied without any mark 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 each of the confidential version and the non-confidential version must be submitted.

24. 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.

25. 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, party submitting the confidential information may indicate that such information is not susceptible of summary; a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

26. 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.

27. 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

28. 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

29. 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 record its findings on the basis of the facts available to it and make such recommendations to the Central Governments as deemed fit.

(J S Deepak)
Designated Authority