

Date: 18th Jue 2024

Dear all,

This pertains to the proposed amendments in the Customs Tariff Act, 1975 (Act), Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (AD Rules) and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995 (CVD Rules).

All stakeholders are requested to provide their comments on the proposed amendments to the Custom Tariff Act, CVD and AD Rules, enclosed as Annexure I and Annexure II, latest by 25.06.2024. The comments may be sent to the email ids: satishk@nic.in, dd14-dgtr@gov.in, policy-dgtr@gov.in.

(Prakash Kamble)
Deputy DGFT
DGTR

Proposed Amendments in the Customs Tariff Act, 1975 (Customs Tariff Act) Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (AD Rules)

For Anti-absorption of Anti-dumping duties	
Existing Provision	Proposed Changes
<p>Section 9 A (1B) of Customs Tariff Act</p> <p>Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that absorption of anti-dumping duty imposed under sub-section (1) has taken place whereby the anti-dumping duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.</p> <p>Explanation. - For the purposes of this sub-section, "absorption of anti-dumping duty" is said to have taken place, -</p> <p>(a) if there is a decrease in the export price of an article without any commensurate change in the cost of production of such article or export price of such article to countries other than India or resale price in India of such article imported from the exporting country or territory; or</p> <p>(b) under such other circumstances as may be provided by rules.</p>	<p>Section 9 A (1B)</p> <p>Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that absorption of anti-dumping duty imposed under sub-section (1) has taken place, <u>under such circumstances as may be provided under the rules</u>, whereby the anti-dumping duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.</p> <p>Explanation. – <u>Deleted</u></p>
<p>AD Rules</p> <p>Rule 29. Anti-absorption review.</p> <p>1) An anti-dumping duty imposed under section 9A of the Act may be considered to be absorbed when export prices of an article from the exporting country or countries decrease post imposition of the anti-dumping duty without any commensurate change in cost of production</p>	<p>Rule 29: Anti-absorption review.</p> <p>(1) An anti-dumping duty imposed under Section 9A of the Act may be considered to be absorbed when export prices of an article from the exporting country or countries decrease post imposition of the anti-dumping duty without any commensurate change in cost of production of such article or export prices of such article to countries other than India or resale price of such article in India</p>

<p>of such article or export prices of such article to countries other than India or resale price of such article in India imported from the exporting country or countries.</p>	<p>imported from the exporting country or countries:</p> <p><u>(a) there is a decrease in the export price of an article imported in India, without any commensurate change in the cost of production of such article</u></p> <p style="text-align: center;"><u>Or</u></p> <p><u>(b) there is insufficient movement in the resale price or subsequent selling price of such article imported from the exporting country or territory into India.</u></p> <p><u>Provided that such absorption occurred after imposition of anti dumping duties.</u></p>
<p>Other amendments in the Customs Tariff (Identification, assessment and collection of anti-dumping duty on dumped article and for the determination of injury) Rules, 1995 (AD Rules)</p>	
<p>Existing Provision</p>	<p>Proposed Changes</p>
<p>AD Rules Annexure-I: Principles governing the determination of normal value, export price and margin of dumping.</p> <p>paragraph 6(iv) of Annexure-I of AD Rules.</p> <p>Subject to the provisions governing comparison in this paragraph, the existence of margin of dumping during the investigation phase shall normally be established on the basis of a comparison of a weighted average normal value and export prices on a transaction-to-transaction basis. A normal value established on a weighted average basis may be compared to prices of individual export transactions if it is found that a pattern of export prices which differ significantly among different purchasers, regions or time periods, and if an explanation is provided as to why such differences cannot be taken into account appropriately by the use of a weighted average-to-weighted average or transaction-to-transaction comparison.</p>	<p>Subject to the provisions governing comparison in this paragraph, the existence of margin of dumping during the investigation phase shall normally be established on the basis of a comparison of a weighted average normal value <u>with a weighted average of prices of all comparable export transactions or by a comparison of normal value</u> and export prices on a transaction-to-transaction basis. A normal value established on a weighted average basis may be compared to prices of individual export transactions if it is found that a pattern of export prices which differ significantly among different purchasers, regions or time periods, and if an explanation is provided as to why such differences cannot be taken into account appropriately by the use of a weighted average-to-weighted average or transaction-to-transaction comparison.</p>

<p>AD Rules</p> <p>Rule 23. Review.</p> <p>(2) Any review initiated under [sub-rule (1A) or (1B)] shall be concluded within a period not exceeding twelve months from the date of initiation of such review:</p> <p>[Provided that notwithstanding anything contained in rule 17, such review shall be completed at least three months prior to expiry of the anti-dumping duty under review.]</p> <p>[(3) Subject to sub-rule (2), the provisions of rules 6,7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 shall apply <i>mutatis mutandis</i> in the case of review.]</p>	<p>(2) Any review initiated under [sub-rule (1A) or (1B)] shall <u>normally</u> be concluded within a period not exceeding twelve months from the date of initiation of such review.</p> <p>[Provided that notwithstanding anything contained in rule 17, such review shall be completed at least three months prior to expiry of the anti-dumping duty under review.]</p> <p>[(3) Subject to sub-rule (2), the provisions of rules 6,7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 shall apply <i>mutatis mutandis</i> in the case of review.]</p>

Proposed Amendments in the Customs Tariff Act, 1975 (Customs Tariff Act) and the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995 (CVD Rules)

Existing Provision	Proposed Changes
<p>Customs Tariff Act</p> <p>Section 9 (1B)</p> <p>[Where the Central Government, on such inquiry as it considers necessary, is of the opinion that absorption of countervailing duty imposed under sub-section has taken place whereby the countervailing duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.</p> <p>Explanation. - For the purposes of this sub-section, “absorption of countervailing duty” is said to have taken place, -</p> <p>a) if there is a decrease in the export price of an article without any commensurate change in the resale price in India of such article imported from the exporting country or territory; or</p> <p>b) under such other circumstances as may be provided by rules.]</p>	<p>Customs Tariff Act, 1975 Section 9 (1B)</p> <p>Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that absorption of countervailing duty imposed under sub-section <u>(1)</u> has taken place, <u>under such circumstances as may be provided under the rules</u>, whereby the countervailing duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify</p> <p>Explanation. — <u>deleted</u></p>
<p>CVD Rules</p> <p>Rule 29 of CVD Rules</p> <p>Anti-absorption review. – (1) A countervailing duty imposed under section 9 of the Act may be considered to be absorbed where export prices of an article from the exporting country or countries decrease post imposition of the countervailing duty without any significant change in resale price of such article in India imported from the exporting country or countries.</p>	<p>Rule 29: Anti-absorption review.</p> <p>(1) Countervailing duty imposed under Section 9 of the Act may be considered to be absorbed where export prices of an article from the exporting country or countries decrease post imposition of the countervailing duty without any significant change in resale price of such article in India imported from the exporting country or countries. <u>when:</u></p> <p><u>(a) there is a decrease in the export price of an article imported in India, without any commensurate change in the cost of production of such article</u></p>

	<p style="text-align: center;">Or</p> <p style="color: red;">(b) there is insufficient movement in the resale price or subsequent selling price of such article imported from the exporting country or territory into India.</p> <p style="color: red;">Provided that such absorption occurred after imposition of countervailing duties.</p>
<p>Other amendments to the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995. (CVD Rules)</p>	
<p>Existing Provision</p> <p>CVD Rules</p> <p>Rule 24. Review.</p> <p>(3) Any definitive countervailing duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition. The designated authority may upon coming to a conclusion, on a review initiated before that period either on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said countervailing duty is likely to lead to continuation or recurrence of subsidisation and injury to the domestic industry, make recommendation for extending the period of such imposition in accordance with provisions of section 9 of the Act.</p> <p>(4) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding twelve months from the date of initiation of such review.</p> <p>[Provided that notwithstanding anything contained in rule 19, such review shall be completed at least three months prior to expiry of the countervailing duty under review.]</p>	<p>Proposed Changes</p> <p>(3) Any definitive countervailing duty levied under the Act shall be effective for a period not exceeding five years from the date of its imposition. The designated authority may upon coming to a conclusion, on a review initiated before that period either on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to the expiry of that period, that the expiry of the said countervailing duty is likely to lead to continuation or recurrence of subsidisation and injury to the domestic industry, make recommendation for extending the period of such imposition in accordance with provisions of section 9 of the Act</p> <p>(4) Any review initiated under sub-rule (1) shall <u>normally</u> be concluded within a period not exceeding twelve months from the date of initiation of such review.</p> <p>[Provided that notwithstanding anything contained in rule 19, such review shall be completed at least three months prior to expiry of the countervailing duty under review.]</p> <p>[(5) Subject to sub-rule (4), the provisions of rules 7, 8, 9, 10, 11, 12, 13, 18, 19, 20, 21 and 22 shall apply <i>mutatis</i></p>

<p>[(5) Subject to sub-rule (4), the provisions of rules 7, 8, 9, 10, 11, 12, 13, 18, 19, 20, 21 and 22 shall apply mutatis mutandis in case of review.]</p>	<p><i>mutandis in case of review.]</i></p>
<p>No existing provision for New Shipper Review of countervailing duties in CVD Rules</p>	<p>Rule 23A.</p> <p>Subsidy margin for exporters not originally investigated - (1) If a product is subject to countervailing duties, the designated authority shall carry out a periodical review for the purpose of determining individual subsidy margins for any exporters or producers in the exporting country in question who have not exported the product to India during the period of investigation, provided that these exporters or producers show that they are not related to any of the exporters or producers in the exporting country who are subject to the countervailing duties on the product.</p> <p>(2) The Central Government shall not levy countervailing duties under sub-section (1) of section 9 of the Act on imports from such exporters or producers during the period of review as referred to in sub-rule (1) of this rule:</p> <p>Provided that the Central Government may resort to provisional assessment and may ask a guarantee from the importer if the designated authority so recommends, and if such a review results in a determination of subsidy in respect of such products or exporters, it may levy duty in such cases retrospectively from the date of the initiation of the review.</p> <p>(3) The countervailing duty already imposed for co-operative un-sampled exporters or producers may also be extended to such exporters or producers who were not originally investigated.</p>