

**To be published in Part-I Section-I of the Gazette of India Extraordinary**

**F. No. 07/3/2024-DGTR**

**Government of India**

**Ministry of Commerce & Industry  
(Directorate General of Trade Remedies)**

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

**Dated: 26.03.2025**

**FINAL FINDINGS**

**Case No. AD (MTR)-01/2024**

**Subject: Final Findings of Mid Term Review of anti-dumping duty imposed on the imports of "Aluminium Foil below 80 Microns" originating in or exported from Thailand**

**F. No. 7/3/2024-DGTR:** Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also 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, as amended from time to time (hereinafter also referred to as "the Rules") thereof.

**A. BACKGROUND OF THE CASE**

1. The Designated Authority (hereinafter also referred to as the "Authority") received an application, on behalf of M/s Hindalco Industries Ltd., M/s Shyam Sel and Power Ltd., M/s Shree Venkateshwara Electrocast Pvt. Ltd., M/s Raviraj Foils Ltd., M/s GLS Foils Products Pvt. Ltd., and M/s LSKB Aluminium Foils Pvt. Ltd. (hereinafter also referred to as the "Applicants" or the "domestic industry") requesting initiation of a mid-term review investigation of anti-dumping duty imposed on imports of Aluminium Foil below 80 microns (hereinafter also referred to as the "subject goods" or the "product under consideration") to examine the need to re-evaluate and enhance the antidumping duty levied against imports of the subject goods originating in or exported from Thailand (hereinafter also referred to as the "subject country").
2. An anti-dumping investigation with respect to Aluminium Foil below 80 micron originating in or exported from China PR, Malaysia, Thailand, and Indonesia was initiated on 20th June 2020 to examine the nature and extent of dumping and its injurious effect on the domestic industry. The Authority vide its Final Findings No. 6/21/2020-DGTR, dated 18th June 2021 recommended imposition of definitive anti-dumping duties, which were given effect vide Customs Notification No. 51/2021-Customs (ADD), dated 16th September 2021 for a period of five years.
3. The present mid-term review was initiated in accordance with Section 9A of the Act, read with Rule 23(1A) of the Rules. The Authority is required to review, based on a duly substantiated

request made for or on behalf of any interested parties, as to whether the change in circumstances warrant the modification of the existing anti-dumping duty.

4. In view of the duly substantiated application with *prima facie* evidence and in accordance with Section 9A of the Act, read with Rule 23 of the Rules, the Authority initiated a mid-term review investigation vide Notification No. 7/3/2024-DGTR dated 29th March 2024.

## **B. PROCEDURE**

5. The procedure described below has been followed with regard to the subject investigation:
  - a. The Authority vide Notification No. 7/3/2024-DGTR dated 29th March 2024, published a public notice in the Gazette of India, Extraordinary, initiating a mid-term review investigation concerning anti-dumping duty imposed on the imports of the subject goods from the subject country.
  - b. The Authority sent a copy of the public notice to the Embassy of Thailand in India, known producers and exporters from the subject country, known importers, importer/user associations and other interested parties, to inform them of the initiation of the subject investigation in accordance with Rule 6(2) of the Rules.
  - c. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters, and to the Government of Thailand, through its Embassy and to other interested parties who made a request in writing in accordance with Rule 6(3) of the Rules.
  - d. The Authority forwarded a copy of the public notice initiating the mid-term review investigation to the known producers / exporters in the subject country, and other interested parties and provided them an opportunity to file a response to the questionnaire in the form and manner prescribed within time limit (including the extended time limit), as prescribed in the initiation notification, and make their views known in writing in accordance with the Rule 6(4) of the Rules.
  - e. The Authority forwarded copies of the notification and non-confidential version of the petition to the known producers/ exporters.
  - f. The Government of Thailand, through its Embassy in India was also requested to advise the exporters/producers from its country to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the known producers/exporters was also sent to the Embassy of Thailand along with the details of the known producers/exporters from Thailand in accordance with the Rule 6(5) of the Rules.
  - g. In response to the above notification, the following producers/exporters from the subject country have filed response to the exporters' questionnaire:
    - i. Thai Ding Li New Materials Co. Limited, Rayong, Thailand
    - ii. Dingsheng New Materials Co. Limited, Rayong, Thailand
    - iii. Loften (Thailand) Co., Ltd.

- h. The Authority forwarded a copy of the notification and questionnaires to the following known importers and users of the subject goods in India calling for necessary information in accordance with Rule 6(4) of the Rules.
- i. Caprihans India Ltd.
  - ii. Asawa Insulations Pvt Ltd
  - iii. Eminent Trade and Export Pvt. Ltd.
  - iv. Dalfo Flexicap Pvt. Ltd.
  - v. Dalfo Flexicap Pvt. Ltd.
  - vi. Silver Foils Pvt. Ltd.
  - vii. Rockdude Impex Pvt. Ltd
  - viii. Nagreeka Indcon Products (P) Ltd.
  - ix. Suvjay Industries India LLP
  - x. Ram Kishore Nagarmal Marketing Pvt. Ltd.
  - xi. Jil Pack
- i. The period of investigation (POI) for the purpose of the present investigation is 1<sup>st</sup> October 2022 – 30<sup>th</sup> September 2023 (12 months).
- j. Transaction-wise import data for the period of investigation and the preceding three years was procured from the Directorate General of Commercial Intelligence and Statistics (DGCI&S) and DG, Systems. The Authority has relied upon the data of DG Systems for calculating the volume and value of imports of the subject goods in India and for comparison and reconciliation with the responses filed by the exporters.
- k. Further information was sought from the Applicants and responding exporters/importers to the extent deemed necessary.
- l. All the interested parties were requested to e-mail non-confidential versions of their submissions/responses/comments filed by them to all the other interested parties.
- m. The non-injurious price (hereinafter referred to as "NIP") has been determined based on the optimum cost of production and reasonable profits of the subject goods in India, having regard to the information furnished by the domestic industry in accordance with Generally Accepted Accounting Principles (GAAP) and Annexure III to the antidumping Rules. Such non-injurious price has been worked out so as to ascertain whether the anti-dumping duty lower than the dumping margin would be sufficient to remove injury to the domestic industry.
- n. In accordance with Rule 6(6) of the Rules, the Authority provided an opportunity to the interested parties to present their views orally in a public hearing held on 9th October 2024. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally on 16<sup>th</sup> October 2024, followed by rejoinder submissions, if any, on 23<sup>rd</sup> October 2024. The parties shared their non-confidential submissions with other interested parties and were advised to offer their rebuttals.
- o. The submissions made by the interested parties, arguments raised, and information provided by various interested parties during investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been considered in this notification.

- p. The Authority, during the investigation, satisfied itself as to the accuracy of the information supplied by the interested parties, which forms the basis of this notification, to the extent possible, and verified the data/ documents submitted by the domestic industry to the extent considered relevant and possible.
- q. The information provided by the interested parties on a confidential basis was examined with regard to sufficiency of the confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims, wherever warranted, and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information filed on confidential basis.
- r. Wherever an interested party has refused access to or has otherwise not provided necessary information during investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded this disclosure statement based on the facts available in accordance with the Rule 6(8) of the Rules.
- s. A disclosure statement containing the essential facts in this investigation which have formed the basis of the final findings was issued to the interested parties on 20<sup>th</sup> March 2025 and the interested parties were allowed time up to 5 PM on 25<sup>th</sup> March 2025 to comment on the same. The comments on disclosure statements received from the interested parties have been considered, to the extent found relevant, in this final finding notification.
- t. ‘\*\*\*’ in these final findings represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
- u. The exchange rate adopted by the Authority for the subject investigation is 1 USD = 83.21

### **C. PRODUCT UNDER CONSIDERATION AND LIKE ARTICLE**

6. The product under consideration in the original investigation was:

*“18. Aluminium Foil whether or not printed or backed with paper, paper board, plastics or similar packing materials of a thickness of 80 micron and below (with permissible tolerances)” excluding the following:*

- i. Aluminium foil of thickness ranging from 5.5 micron to 80 micron originating in China.*
- ii. Alu-Alu Laminate*
- iii. Ultra-Light Gauge Converted*
- iv. Aluminium Foil Composite*
- v. Aluminium foil for capacitors width below 500 mm*
- vi. Etched or formed Aluminium Foils*
- vii. Aluminium composite panel*
- viii. Clad with compatible non clad Aluminium Foil*
- ix. Aluminium Foil for beer bottle*
- x. Aluminium- Manganese- Silicon based and,/ or clad Aluminium- Manganese-Silicon based alloys, whether clad or unclad*
- xi. Adhesive tapes*
- xii. Colour coated aluminium foil*

19. After considering the information on record, the Authority holds that there is no known difference in product under consideration exported from subject country and the product produced by the Indian industry. The subject product produced by the domestic industry are comparable to the Product under consideration in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably. The Authority holds that the subject product produced by the applicant domestic industry is like article to the Product under consideration, in accordance with the AD Rules.”

### **C.1. Views of the domestic industry**

7. The following are the submissions made by the domestic industry with regard to product under consideration and like article:
- i. The subject good in the present investigation is “Aluminium foil below 80 microns”.
  - ii. The product under consideration remains the same as defined in the original investigation.

### **C.2. Views of the other interested parties**

8. The following are the submissions made by the other interested parties with regard to product under consideration and like article:
- i. Polyurethane Coted Aluminium Foil-either one side or both side, irrespective of colour, shape or coating should be excluded as no Indian producer is supplying the same.

### **C.3. Examination by the Authority**

9. The product under consideration as held in the final findings of the original investigation, is as below:

*“7. The product under consideration as noted in the initiation notification is “Aluminium Foil whether or not printed or backed with paper, paper board, plastics or similar packaging materials of a thickness of 80 microns and below (with permissible tolerances)” excluding the following:*

- i. Aluminium foil of thickness ranging from 5.5 micron to 80 micron originating in China.*
- ii. Alu Alu Laminate- Alu Alu Laminate of 40-50 mic in AA8079 & AA8021, is a multi-layered opaque laminate where Aluminium foil and is backed with plastic film on both side with adhesives; for use in packing capsules/tablets.*
- iii. Ultra-Light Gauge Converted- Ultra Light Gauge Converted is an Aluminium foil having thickness of 5.5 6 mic to 7 mic which and is backed with kraft paper*

- & scrim, or glass cloth, whether plain or printed for use in insulation, spices packing, thermal fluid lines covering and tea bags application.*
- iv. *Aluminium Foil Composite- Aluminium foil laminated with or backed with Kraft paper and glass scrim or glass cloth with or without poly ethylene, whether printed or not printed. Aluminium foil laminated with or backed with Kraft paper however is within the scope of the product under consideration and proposed measures.*
  - v. *Aluminium foil for capacitors width below 500 mm- Aluminium foil for capacitors is an Aluminium foil of 5-micron gauge with width below 500 mm 99.35% purity, for use in electrical equipment such as radios, televisions, telephones, computers, microwave ovens, electrical welders, magnetos, electronic testing equipment, copy machines, air conditioners, automobiles, fluorescent lights, mercury vapour street lamps, power transmission equipment, electric motors, control units, and similar articles.*
  - vi. *Etched or formed Aluminium Foils- Etched or formed Aluminium Foils is Aluminium Foil meant to be used in the manufacture of Electrolytic Capacitor.*
  - vii. *Aluminium composite panel- Aluminium composite panel is a non-aluminium core (often PE) bonded between two thin layers of aluminium, for use in façade cladding and signage.*
  - viii. *Clad with compatible non clad Aluminium Foil- Clad with compatible non clad Aluminium Foil is a corrosion-resistant Aluminium sheet formed from Aluminium surface layers metallurgically bonded to high-strength Aluminium alloy core material for use in engine cooling and air conditioner systems in automotive industry; such as radiator, condenser, evaporator, intercooler, oil cooler and heater.*
  - ix. *Aluminium Foil for beer bottle- Aluminium Foil of 10.5 micron with rough surface and perforated whether printed or not; to be used in beer bottle.*
  - x. *Aluminium- Manganese- Silicon based and/or clad Aluminium- Manganese- Silicon based alloys, whether clad or unclad- with post brazing yield strength greater than 35 MPA, falling under tariff heading 7607 for use in heat exchangers including radiators, charge air coolers, condensers, oil coolers, heater cores, evaporators, heat ventilation and air conditioning (HVAC) systems and parts thereof.*

*15. The Authority considered the exclusion requests of the interested parties. The opposing interested parties have requested for the following exclusions and the Authority has examined all the exclusion request hereinunder:*

- i. Battery Foil*
- ii. Aluminium Foil below 5.5 micron*
- iii. House foil and SRC foil*
- iv. Adhesive tapes*
- v. Color coated Aluminium foil*

i. *Battery foils- As regards exclusion of battery foil, it is noted that the interested parties have claimed that battery foil is a specialised kind of foil and the domestic industry is unable to manufacture battery foil in the desired specification. However, the domestic industry has submitted documentary evidence to show production and sale of battery foil. Hindalco has submitted that its Battery foil has been tested & qualified against highest standards of foil performance. Hindalco is manufacturing Aluminium battery foils in India and actively partnering LiB manufacturing revolution for EVs/various other applications.*

*A producer/exporter which has not exported the subject goods to India during the POI has sought exclusion of battery foils for Lithium-Ion batteries used in manufacturing of batteries for electric vehicles. The producer agrees that presently there is no production of electric vehicle batteries in India. Consequently, there was no demand for such battery foils in India during POI. The domestic industry has submitted invoices of their sales of such battery foils to BHEL which utilised in space applications having a higher technical threshold. This establishes the capability of the domestic industry to manufacture the product in case of demand. Therefore, the Authority does not to exclude such a product from the scope of PUC.*

ii. *Aluminium foil below 5.5 micron- As regards the exclusion of Aluminium foil below 5.5 microns, it is seen that Jindal India had started manufacturing Aluminium foil below 5.5 micron since 2019 and they sold their first commercial quantity in December 2019. Jindal has also submitted various invoices indicating the total commercial quantity sold during the period of investigation. As regards the fact that Hindalco and Raviraj are not producing ULG below 5.5 micron, it is seen that it is not necessary that each and every constituents of the domestic industry should produce and supply each and every type of product. In fact, in a situation where a large number of producers are producing and selling a product which has large number of product types, it is quite natural that every producer tends to focus on some product types and none of the producers could wish to produce entirety of the product range. Thus, where the domestic industry is already manufacturing a type of subject goods, that cannot be excluded from the scope of product under investigation. Accordingly, the request for exclusion of Aluminium foil below 5.5 micron cannot be accepted.*

iii. *SRC and House foil- As regards exclusion of SRC and House foil, it is noted that the product types are imported into India and the domestic industry is producing and supplying the like article to these product type. In fact, SRC and house foil is being manufactured by all three petitioning companies and they have submitted invoices to substantiate the same. The other interested parties have not given any legal or factual basis for justifying exclusion of these two types of foil from the product scope. The opposing interested parties have contended that since the domestic industry is not producing these types in sufficient quantities and are not focussed on producing these types, it should be excluded from the product scope. It is seen that the opposing interested parties have not submitted any evidence on record to show that the domestic*

*industry is not capable of producing these types of subject goods and is not selling in the domestic market. It is seen that the domestic industry is capable of producing these types of aluminium foil and also supplying these types to the domestic market. Further, in any case, it is noted that this kind of product type is produced and supplied by more than one producer. In case possible demand supply gap does not justify exclusion of particular product type.*

*iv. Aluminium Foil Adhesive Tape- As regards exclusion of adhesive tapes, the domestic industry has contended that they are capable of producing this type but not producing the same at present. It is noted that since adhesive tapes are not being produced by the domestic industry at present and there was no production of the same in the POI as well, the same can be excluded from the product scope. Post the issuance of disclosure statement, certain interested party have requested that the adhesive tape be appropriately redefined. Accordingly, Adhesive tape is defined as “Adhesive tape is Aluminium foil (<80 mic) single side or both sides coated with adhesive for use as tape”.*

*V. Color coated aluminium foil- As regards exclusion of color coated aluminium foil, the same was excluded in the previous investigation on the ground that the domestic industry is not manufacturing the same. Since the fact remains same for the present investigation also, color coated aluminium foil to be excluded from the product scope. Color coated Aluminium foil is defined as “aluminium foil with either PE (polyester) coating of PVDF (fluorine Carbon), coating falling under CTH 7607”.*

*18. In view of the foregoing, para 7 and 15 the scope of product under consideration for the purpose of present investigation is as follows as read with para 7 and 15:*

*“Aluminium Foil whether or not printed or backed with paper, paper board, plastics or similar packing materials of a thickness of 80 micron and below (with permissible tolerances)” excluding the following:*

- i. Aluminium foil of thickness ranging from 5.5 micron to 80 micron originating in China.*
- ii. Alu Alu Laminate*
- iii. Ultra Light Gauge Converted*
- iv. Aluminium Foil Composite*
  - v. Aluminium foil for capacitors width below 500 mm*
  - vi. Etched or formed Aluminium Foils*
  - vii. Aluminium composite panel*
  - viii. Clad with compatible non clad Aluminium Foil*
  - ix. Aluminium Foil for beer bottle*
    - x. Aluminium- Manganese- Silicon based and/or clad Aluminium- Manganese- Silicon based alloys, whether clad or unclad*
    - xi. Adhesive tapes*
    - xii. Color coated aluminium foil”*

10. The finding issued by the Authority on 18<sup>th</sup> June 2021 vide Notification No. 6/21/2020-DGTR recommended anti-dumping duty on “aluminium foil 80 microns and below” with the exclusions as mentioned above. The duty was imposed vide customs notification no. 51/2021-Customs (ADD) dated 16<sup>th</sup> September 2021.
11. The Authority conducted a parallel investigation on imports of Aluminium Foil below 80 micron from China PR wherein duties have been recommended vide Notification No. 06/35/2023 dated 20<sup>th</sup> March 2025. The said investigation covers only China PR and in respect of such product as are not subjected to ADD at present, whereas the present review investigation concerns only Thailand.
12. The product under consideration is classified under subheading 7607 of the Customs Tariff Act. Imports of the subject goods are entering into India under the following codes 76071 190, 76072090, 76072010, 76071110, 76071999, 76071991, 76071995, 76071910, 76071994, 76071993 and 76071992. The customs classification is indicative and is not binding on the scope of the product under consideration.
13. The Authority had used PCNs in the previously conducted investigation and the same are being followed for the purpose of the present investigation.
14. It is noted that there are no significant differences in the article produced by the domestic industry and those exported from Thailand. The article produced by the domestic industry and that imported from Thailand are comparable in terms of physical and chemical characteristics, manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing, and tariff classification of the subject goods. The subject goods and the article manufactured by the domestic industry are technically and commercially substitutable. It is observed that the consumers of the PUC are using the subject goods and the article manufactured by the domestic industry interchangeably. Thus, for the purposes of the present investigation, the subject goods produced by the domestic industry are like article to the product being imported from Thailand.

#### **D. Domestic Industry and Standing**

##### **D.1. Views of the other interested parties**

15. No submissions have been made by the other interested parties with regard to domestic industry and its standing.

##### **D.2. Views of the domestic industry**

16. The Applicants have made the following submissions with regard to the domestic industry and its standing:

- i. The application has been filed by M/s. Hindalco Industries Ltd., Ms Shyam Sel & Power Ltd., M/s. Shree Venkateshwara Electrocast Pvt. Ltd., M/s. Ravi Raj Foils Ltd., M's. GLS Foils Product Pvt. Ltd., and M/s. LSKB Aluminium Foils Pvt. Ltd.
- ii. Other domestic producers namely, ESS DEE Aluminium Ltd., Sparsh Industries Pvt. Ltd., SRF Altech Ltd., and Trefoil Packaging Pvt. Ltd. have communicated their support to the application filed.
- iii. The Applicant companies have neither imported the subject goods from the subject country nor are they related to any importer in India or producer/exporter from the subject country.
- iv. The Applicants' production constitutes a 'major proportion' of the total Indian production and satisfies the requirements of Rule 2(b) and Rule 5(3) of the AD Rules.

### **D.3. Examination by the Authority**

17. Rule 2(b) of the Anti-Dumping Rules defines domestic industry as under:

*"(b) "domestic industry means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in such case the term 'domestic industry' may be construed as referring to the rest of the producers".*

18. The application has been filed by M/s Hindalco Industries Ltd., M/s Shyam Sel and Power Ltd., M/s Shree Venkateshwara Electrocast Pvt. Ltd., M/s Raviraj Foils Ltd., M/s GLS Foils Products Pvt. Ltd. and M/s LSKB Aluminium Foils Pvt. Ltd. It is noted that the applicants have neither imported the subject goods from the subject country nor are they related to any producers/exporters or importers of the subject goods from subject country. Therefore, the Authority holds that the applicants constitute eligible domestic industry within the meaning of Rule 2(b) of the Anti-Dumping Rules. It is further noted that the production by the applicants account for a major proportion in total Indian production. The application thus, satisfies the criteria of standing in terms of Rule 5(3) of the ADD Rules.

### **E. Scope of Mid Term Review and Changed Circumstances**

#### **E.1. Submissions made by other interested parties**

19. The following submissions have been made by the other interested parties with regard to the scope of present review:
- i. Initiation of the present review investigation is contrary to the provisions of Rule 23(1A) and is unnecessary. The MTR cannot be initiated for increasing ADD. The provisions of Rule 23(1A) state that MTR can be initiated only to review the need for continuation of duty.

- ii. The present investigation should be terminated without re-examination of quantum of ADD.
- iii. The Authority can only recommend complete or partial withdrawal of duty if it is evidenced that injury to the domestic industry is not likely to continue. There is no express provision enabling the Authority to initiate MTR for examining the need for increase in ADD.
- iv. Domestic industry should be aware that application for initiation of mid-term review cannot be filed by domestic industry under Rule 23(1A) for requesting increase in anti-dumping duty and therefore it requested initiation of anti-absorption review.
- v. The MTR is unnecessary as significant time has lapsed since the imposition of the original ADD. Considering the timelines, it will be short lived and only for a period of about 1 year. The original ADD is scheduled to expire in September 2026.
- vi. The domestic industry has also stated that the product profile of exports to India has changed in the present POI because of product types. It is not clear as to how this data has been obtained and even if correct, there is barely any change in the POI.
- vii. There is no positive information in the petition warranting the MTR under rule 23(1A). There is no evidence supporting the contentions that the Thai producers have not raised their export prices despite an increase in cost.

## **E.2. Submissions of the domestic industry**

20. The following submissions have been made by the domestic industry with regard to the scope of review:
- i. There is a need for re-evaluation of dumping margin and injury margin for exporters/producers in Thailand.
  - ii. There is shift in the product profile exported by the exporters between the previous investigation and the present investigation.
  - iii. There is an increase in costs of raw materials which is not reflected in export price.
  - iv. There is an increase in dumping margin due to change in normal value without proportionate change in export price.
  - v. The injury margin has also increased as a result of change in NIP.
  - vi. The changed circumstances warrant a review as there has been a change in the product profile. Imports of products having higher dumping margin and injury margin has increased – both in absolute terms as also in relation to total imports into India.
  - vii. There has been a change in the landed prices of imports. There has been an increase in the raw material prices and costs. The export price has also increased. When seen at the PCN level, export price has not increased in a commensurate manner as there has been an increase in the cost of production. The NIP has also increased due to increase in input costs. The same has also resulted in increased injury margins and dumping margins. Further, the imports have also increased significantly in the POI.
  - viii. The provisions of law clearly and plainly state that the DA can initiate the review upon request by any interested party. The respondent has resorted to a selective reading of only sub-rule (1A) of Rule 23, without having reference to its other provisions. The reading of the provisions clearly suggest that the authority is not restricted to withdrawing the

duty or revising it downwards. The Authority is empowered to enhance duties in a mid-term review.

- ix. The other interested parties have overlooked that the provision allows the Authority to initiate a review upon the request of any "interested party", which includes a producer of the like article in India as per Rule 2(c). Hence, the current application for a mid-term review by the domestic industry is maintainable.
- x. A plain reading of Rule 23(1A) does not suggest that the Authority is restricted to only withdrawing the duty or revising it downwards.
- xi. Rule 23(1A) mandates that the Authority must initiate a review upon request from any interested party who provides information substantiating the need. Additionally, it confirms that the Authority can remove the anti-dumping duty before the expiry of the five-year term if the mid-term review determines no further requirement for the levy.
- xii. The word "varied", which allows the Authority to revise the anti-dumping duty, is not limited to suggesting it can only be varied downward.
- xiii. The Domestic Industry asserts that Rule 23 should be read as a whole to understand the scope of sub-rule (1A), and that sub-rules (1) and (3) inform the application of sub-rule (1A).
- xiv. Rule 23(1) outlines the general principles for anti-dumping reviews, stating that anti-dumping duties remain in force as long as necessary to counteract injurious dumping. The phrase "to the extent necessary" acknowledges the Authority's power to re-evaluate the quantum of anti-dumping duties in review investigations under Rule 23(1A) and (1B). Rule 23(1) aligns with Article 11.1 of the Anti-Dumping Agreement.
- xv. In the Panel Report of US-DRAMS, the Panel observed that Article 11.1 contains a general necessity requirement, stating that anti-dumping duties remain in force only as long as necessary to counteract injurious dumping. Article 11.2 specifies the application of this rule, requiring authorities to review the need for the continued imposition of the duty.
- xvi. In EC-Tube or Pipe Fittings the Panel noted that Article 11.1 mandates that anti-dumping duties remain in force only if necessary to counteract injurious dumping. This general, unambiguous requirement forms the basis for the review procedures in Articles 11.2 and 11.3.
- xvii. The Panel in US-Shrimp II (Vietnam) reiterated that Articles 11.2 and 11.3 implement the general necessity requirement of Article 11.1, with Article 11.2 addressing the extent and duration of duties imposed on individual producers/exporters, while Article 11.3 pertains to the measure's imposition on imports from another Member as a whole.
- xviii. In Pakistan-BOPP Film (UAE), the Panel explained that Article 11.1 provides that anti-dumping duties remain in force only as long as necessary to counteract injurious dumping. Article 11.1 establishes an overarching principle operationalized in the procedures for changed circumstances and sunset reviews in the rest of Article 11.
- xix. Article 11.2 operationalizes the principles of Article 11.1, which mandate that anti-dumping duties remain only as long as necessary to counteract injurious dumping, and modifications of duties can occur during a review.
- xx. Rule 23(1A) is analogous to India's obligations under Article 11.2 and should be interpreted similarly. The Supreme Court in *Commissioner of Customs, Bangalore v.*

G.M. Exports emphasized that statutes aligned with treaty obligations should be construed broadly for uniform application across signatory nations.

- xxi. The application of Rule 23(1A) must align with Rule 23(1), as both authorize the levy of anti-dumping duty to counteract injurious dumping, with the duty varied as necessary, potentially resulting in a higher duty.
- xxii. Rule 23(3) applies the provisions of Rules 10 and 17 to a mid-term review under Rule 23(1A), allowing the Authority to recommend duties necessary to remove injury to the domestic industry, considering the principles in Annexure III.
- xxiii. In *Fairdeal Polychem*, the Delhi High Court held that by virtue of "mutatis mutandis" in Rule 23(3), Rule 17(1) applies to reviews with necessary changes, extending the six-month permissible extension.
- xxiv. Since Rule 17 provisions apply to the investigation, the Authority can determine export price, normal value, and margin of dumping, recommending necessary duties to counteract injurious dumping.
- xxv. The question of whether the Authority can enhance duties in a mid-term review has been addressed by CESTAT in *Graur & Weil v. The Designated Authority*, where it upheld the enhancement of duties following a mid-term review application by the domestic industry.
- xxvi. The respondent contends that Rule 23(1A) does not explicitly state that a domestic producer can apply for enhanced anti-dumping duty, unlike the EU Anti-dumping Rules.
- xxvii. The Domestic Industry argues that since Rule 23(1) and Rule 23(3) govern Rule 23(1A), no additional explicit statement is needed to confirm the power to enhance duties in a mid-term review.
- xxviii. In previous arguments, it was claimed that Rule 23 and Section 9A(5) do not permit the Authority to enhance duties during sunset review investigations, which allow for extension of duties if cessation would likely lead to continuation or recurrence of dumping and injury.
- xxix. Despite the absence of explicit language, CESTAT in *Thai Acrylic Fibres v. The Designated Authority* held that the Authority has incidental and ancillary powers to enhance duties to make them effective against dumping.
- xxx. Similar conclusions were reached in *Shanghai Fortune Chemicals Co. Ltd. v. The Designated Authority*, where CESTAT noted that the Designated Authority can recommend higher or lower anti-dumping duties during reviews to effectively counteract dumping.
- xxxi. It is wrongly contended that the Authority could not have initiated a mid-term review under Rule 23(1A) due to specific provisions for anti-absorption investigations.
- xxxii. The Domestic Industry argues that the provision of a separate anti-absorption investigation does not limit the Authority's power to initiate a mid-term review under Rule 23(1A), given the requirements are met and a substantiated application is filed.
- xxxiii. The Domestic Industry further argues that *Dingheng's* reliance on the *Rishirop Polymers* judgment is based on selective reading and asserts that the Supreme Court recognizes the Authority's duty to inquire into specific parameters.
- xxxiv. Past and current practices of the DGTR support the conduct of a mid-term review to modify and enhance duties, as evidenced by several final findings in various investigations.

- xxxv. Various cases illustrate the necessity to recommend modification and continuation of anti-dumping duties to counteract dumping and injury to the domestic industry.
- xxxvi. The Authority's decision to not initiate an anti-absorption review and instead initiate a mid-term review evidences that the authority determined mid-term review to be an apt action.
- xxxvii. The application filed fulfils both criteria required by the law of positive information and of reasonable period of time elapsing.
- xxxviii. Domestic industry obtained PCN wise data through market intelligence.
- xxxix. There has been a significant change in the product profile exported by the exporter after the imposition of duties.
  - xl. The extent of dumping and injury margins applicable in the original investigation was on the basis of different share of different PCNs. Import volume of high cost PCNs have increased in the present investigation. The change in product profile directly affects the weighted average dumping margin and injury margin, as the degree of dumping and injury is different in different PCNs.

### **E.3. Examination by the Authority**

21. The present investigation was initiated as per Rule 23(1 A), which, inter-alia, provides as follows:

*“(1A) The designated authority shall review the need for the continued imposition of any antidumping duty, where warranted, on its own initiative or upon request by any interested party who submits positive information substantiating the need for such review, and a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty and upon such review, the designated authority shall recommend to the Central Government for its withdrawal, where it comes to a conclusion that the injury to the domestic industry is not likely to continue or recur, if the said anti-dumping duty is removed or varied and is therefore no longer warranted.”*

22. The Authority notes that the present review has been initiated based on change in circumstances alleged by the domestic industry. The present investigation at the first instance has taken up examination of whether there has been change in circumstances which justify the enhancement of the quantum of anti-dumping duty. Only in case justifiable grounds are made, the case for redetermination of quantum of duties would arise. In their application, the domestic industry has alleged the following grounds for change in circumstances:

- a. There is significant shift in the product profile exported by the exporter to the Indian market.
- b. There is significant increase in raw material price and consequently costs, without proportionate increase in the export price.
- c. There is a significant change in Indian industry production profile.

**a. Change in product profile of foreign producers**

23. The table below shows the extent of change in product profile of imports. The Authority notes that the pattern of imports for various PCNs has undergone some change as compared to the original investigation. However 80% of exports, both in the original investigations and the POI of the MTR, are concentrated in three product types:- House Foil Bare, SRC Bare and ULG Bare. Thus while there is a change, the same cannot be said to be significant and structural in nature. It may be difficult to expect the exports or sales of different product types to mirror the shares as they prevailed during the period of investigation. As market forces are dynamic in nature, some changes are expected and need to be allowed. It is not forthcoming if there are factors of lasting nature which are driving the change in product mix. Considering the above, the Authority holds that the changes in product profile are neither significant nor proved to be of lasting nature.

Type of Foil	Imports Volume as per Original Investigation	Imports as per Present Investigation	Share	
	MT	MT	%	%
Alu Alu Stock Bare	83	1,860	0.50%	7.79%
House Foil Bare	3,900	5,364	23.31%	22.46%
LG Bare	1,401	2,525	8.37%	10.57%
LG Converted	18	25	0.11%	0.10%
MG Bare	617	409	3.69%	1.71%
MG Converted	1,184	8	7.08%	0.03%
SRC Bare	5,761	4,338	34.43%	18.17%
ULG Bare	3,767	9,352	22.52%	39.16%
House Foil Converted	-	0	0.00%	0.00%
<b>Grand Total</b>	<b>16,731</b>	<b>23,882</b>	<b>100.00%</b>	<b>100.00%</b>

**b. Significant increase in raw materials cost**

24. With regard to the submission that there has been a significant increase in raw material prices and costs, which should lead to an increase in export price, the Authority has analysed this data as applicable in the POI of the original investigation and the present POI. The table below shows such comparison.

Particulars (Weighted Average)	Unit	Original POI	Present POI	Increase
Raw Material Cost	Rs./MT	***	***	***
NIP	Rs	***	***	***

25. It is noted that from the above table that the weighted average raw material cost for the domestic industry has increased by Rs. \*\*\*and the Non injurious price as per Annexure-III of the Anti-Dumping Rules has increased by Rs.\*\*\*. Thus, the predominant reason for increase in cost of domestic industry can be attributed to change in the cost of raw material.

26. Further the variation with reference to the import price between the original POI and the MTR POI may be seen from the table below:-

Type of foil	Import Price Rs/MT		
	O.I	MTR	Change
Alu-Alu Stock Bare	2,15,506	3,25,854	1,10,348
Home Foil Bare	1,96,114	2,81,233	85,120
Light Gauge (LG) Bare	2,28,707	3,25,382	96,674
Medium Gauge (MG) Bare	1,95,838	3,56,246	1,60,408
Medium Gauge (MG) Converted	2,44,815	10,26,227	7,81,412
Semi Rigid Container (SRC) Bare	1,98,754	2,94,261	95,507
Ultra-Light Gauge Bare	2,27,301	3,61,066	1,33,765
Weighted average			1,10,946

27. As is evident from the table related to import price, the weighted average difference is Rs. \*\*\*/MT. From the comparison, it is evident that the increase in import price and the NIP are approximately the same. Thus the import prices and NIP have broadly moved in tandem. The material change in circumstances is not reflected in the inter-se changes between the NIP and the import price.

**c. Significant change in Indian industry production profile**

28. The Authority notes that the composition of production of Indian industry has some what changed in the MTR POI as compared to the POI of original investigation. The table below highlights the variation in the share of different product types being manufactured by the domestic industry. Particularly, the DI production share in Alu Alu bare stock and ultra-light gauge bare has increased. If this is compared with the import composition in table in para 24, the same trend is visible. The imports have also increased significantly in these two product types. Thus both the DI production and the imports are mirroring the trend in sales of different types of the products.

Type of foil	Total		Share	
	O.I.	MTR	O.I.	MTR
Alu-Alu Stock Bare	***	***	***	***
Home Foil Bare	***	***	***	***
Light Gauge (LG) Bare	***	***	***	***
Light Gauge (LG) Converted	***	***	***	***
Medium Gauge (MG) Bare	***	***	***	***
Medium Gauge (MG) Converted	***	***	***	***

Semi Rigid Container (SRC) Bare	***	***	***	***
Ultra-Light Gauge Bare	***	***	***	***
House Foil Converted	***	***	***	***
Cigarette Foil	***	***	***	***
Semi Rigid Container (SRC) Converted	***	***	***	***
Capacitor Foil	***	***	***	***
Total	***	***	***	***

29. The Authority holds that the applicant is required to establish a change in circumstances to such an extent that the basis on which the duty was imposed has altered so materially that the injury to the domestic industry is not likely to continue or recur if the anti-dumping duty in force is removed or varied. In light of submissions made by all the interested parties in the present investigation, and considering the facts established during the course of the present investigation on the basis of information and positive evidence on record, the Authority concludes that the grounds identified as change in circumstances do not exist.

## **F. Post Disclosure Comments**

### **F.1 Views of other interested parties**

30. The following comments were submitted by the other interested parties on the essential facts disclosed by the Authority:
- i. It is very evident that the applicants failed to bring on record any positive information to justify a review of existing anti-dumping duties on imports of subject goods from Thailand under Rule 23(1A) of the Rules. This must lead to the termination of the present investigation forthwith.
  - ii. Disclosure statement makes it very evident that the applicants could not demonstrate existence of any such ground to such degree to warrant a review of existing ADD.
  - iii. Para 23 of the disclosure shows that there has not been any substantial change in the product profile of exporters to India. Out of the 9 PCNs considered, there has been some increase in import of ULG Bare and Alu Alu Stock Bare. But such increases in two of the PCNs is not sufficient to say that there has been a change in the product profile itself so as to vitiate the effectiveness of the existing ADD.
  - iv. Import price and NIP have broadly moved in tandem. This observation disproves the contention that there is an increase in costs on account of raw materials which is not proportionately reflected in the increase in the export price. In any case, it has been contended by us that there has not been any increase in the raw material price during the POI.
  - v. It is evident that the increase in volume has been visible for ULG Bare and Alu Alu Stock Bare even for the domestic industry like imports, showing that there has been an increase in demand for these product types which must be considered as a natural evolution in the consumption of these products and not any outcome of any product shift contemplated as alleged.

- vi. The basic premise of the present MTR is unfounded, reassessment of dumping and injury margin is not essential in this review and the disclosure is apt in not conducting any fresh assessment of dumping and injury margin
- vii. Facts as disclosed suggest that it is fair and just to conclude that the grounds identified as change in circumstances do not exist.
- viii. Respondent agrees with the observations of the Authority and requests Authority to confirm such observations and consequently terminate the present investigation.

## **F.2 Views of the Domestic Industry**

31. The following comments have been submitted by the domestic industry on the essential facts disclosed by the Authority:

- i. Increase in raw material price, led to increase in cost for DI, thereby increasing non-injurious price (NIP). Rise in NIP is much higher than export price (EP) and submissions have been made in this regard.
- ii. The Authority found that increase in NIP and import price is approximately same, leading to concluding that there is no material change in circumstances. Applicant disputes this and has made further submissions.
- iii. Authority noted that composition of production of Indian Industry has changed, with DI's production of Alu Alu bare stock and ultra-light gauge bare increasing. Import for said product has also increased.
- iv. Applicant has provided DM and IM determined by DI based on market intelligence, including NIP and CNV. Comparing DM and IM with existing ADD clearly shows substantial increase in respective margins. Thus, change in circumstances is evident and disputes the observation that NIP and EP rose on similar level. Had it been the case, such substantial increase in DM and IM would not have happened.
- v. The increase in weighted average NIP is \*\*\*Rs./MT whereas the increase in weighted average import price is \*\*\*Rs./MT.
- vi. Despite decline in EP or increase in EP being disproportionately lower than increase in cost, if Authority continues with its proposed conclusion, it would disregard 'changed circumstances' and render the law infructuous.
- vii. Despite the factors in the present case meriting action as per the parameters identified for changes circumstance in the Application proforma, the proposed conclusion has not taken them into consideration.
- viii. There has been a patent change in Industry profile. During original investigation, it was made up of 16 producers, the number of producers has nearly doubled with change in product profile.
- ix. It would be seen that even when four products constitute about \*\*\*% of the total market, the composition within four products have very materially changed. Whereas Medium Gauge products were majority before, Ultra-Light Gauge products are majority at present.
- x. There has been a significant demand in ultra-light gauge with LSKB, GLS, SSPL and SVEL setting up plants majorly focusing on production of same.

- xi. There has been significant increase in cost of sales of DI in POI. However, import price has not increased proportionately.
- xii. The Authority had accepted the application on the prima facie ground of changed circumstances. No opportunity was given to DI to clarify or substantiate facts during the course of investigation.
- xiii. Rate in increase in imports from Thailand; decline in import price of Thai imports; circumvention by third countries all substantiate the lasting nature of changes.
- xiv. Analysis of filed EQRs additionally substantiate that they are export oriented with surplus capacities and is likely to increase their exports.
- xv. Imports increased from Thailand till POI wherein it declined. This is due to cessation of duties on China PR. DI has the capacity to meet Indian demand entirely.
- xvi. PCN wise import prices have been significantly below the selling prices of the domestic industry. Selling price declined in the POI while the cost of sales increased. Thus, there is significant depression.
- xvii. The NIP determined by the Designated Authority is low and will not adequately remedy illegal dumping.
- xviii. Normation in raw materials, utilities and capacity utilisation is unjustified since subject goods involves various PCNs, each requiring distinct raw material consumption, utility usage, and capacity utilization based on its product thickness.
- xix. Not considering utility costs of GLS, reported on actual basis, and instead using Ravi Raj Unit II's consumption factors for calculation of utility costs is not only inconsistent with the Rules but have also led to lower utility cost than any other domestic producer.
- xx. The Authority have erroneously included changes in WIP while normating raw material costs although WIP has fluctuated between positive and negative figures during injury period, with the latter still being included for normation.
- xxi. The Authority has unfairly disallowed indirect selling and distribution expenses, including marketing expenses and Branch/head office expenses. This is not as per the rules and have never been disallowed before.
- xxii. The cost of production for Raviraj has been erroneously normated by considering past capacity utilisation although decline in capacity utilisation is due to corresponding product and its needs. Decline in capacity utilization is not inefficient utilisation of production capacity.

### **F.3 Examination by the Authority**

- 32. The Authority has examined the post disclosure comments made by the interested parties. It is noted that the comments which are reiterations and have already been suitably examined and adequately addressed in the relevant paras of the final findings, are not being repeated in the post-disclosure examination by the Authority for the sake of brevity.
- 33. With reference to comments made by the domestic industry, the Authority notes that as examined in earlier section on comparison between NIP and Import price, it is clear that increase in quantum of NIP and Import price, for the MTR POI vis-à-vis original investigation POI, it is similar and there is no significant difference. Further certain dynamism reflected in product mix

of both imports and sales does not warrant a review. With reference to the grounds related to normation and determination of NIP, it is noted that the same is in the line with the rules and consistent practice of the Authority.

34. After having examined the post disclosure comments made by the interested parties, the Authority reiterates the Applicants were required to establish a change in circumstances to such an extent that the basis on which the duty was imposed has altered so materially that the injury to the domestic industry is not likely to continue or recur if the anti-dumping duty in force is removed or varied. In light of submissions made by all the interested parties in the present investigation, and considering the facts established during the course of the present investigation on the basis of information and positive evidence on record, the Authority determines that the grounds identified as change in circumstances do not exist.

### **G. Conclusion and Recommendation**

35. Based on the submissions made, information provided, and facts available before the Authority as recorded above and on the basis of the above analysis of changed circumstances, the Authority concludes the following:
- i. The product scope and the PCN methodology considered in the present investigation remains the same as defined in the original investigation.
  - ii. The subject goods do not have a dedicated code at 8-digit level and is being imported under various HSN codes which are covered within the scope of this findings.
  - iii. The applicants constitute domestic industry under Rule 2(b) of the Rules and the application satisfied the criteria of standing in terms of Rule 5(3) of the Rules.
  - iv. The scope of the present investigation is governed by provisions Rule 23(1 A).
  - v. Changed circumstances have not been established by the domestic industry.
36. The Authority notes that the Mid-Term Review investigation was initiated and notified to all interested parties and adequate opportunity was given to the domestic industry, exporters, importers and other interested parties to provide positive information on the aspect of product under consideration, change in circumstances and need for re-quantification of margins. Having initiated and conducted the investigation in terms of the provisions laid down under the Anti-Dumping Rules, the Authority is of the view that there is no need for re-quantification of anti-dumping duty applicable to producers in Thailand.
37. In view of the foregoing, the Authority considers it appropriate to recommend that the anti-dumping duty as imposed vide Notification No. No. 51/2021-Customs (ADD), dated 16th September 2021 would continue.

## H. FURTHER PROCEDURE

38. An appeal against the determination of the Designated Authority in these final findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act/Rules.



**(Darpan Jain)**  
**Designated Authority**