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**F. No. 6/56/2020-DGTR
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi-110001**

Dated 9th November 2022

**NOTIFICATION
TERMINATION
Case No. (O.I.) 48/2020**

Subject: Termination of Anti-Dumping Investigation concerning imports of Solar Cells whether or not assembled into Modules or Panels originating in or exported from China PR, Thailand and Vietnam.

A. Introduction

1. Having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred 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 as the 'Rules'), thereof, M/s Indian Solar Manufacturers Association (hereinafter also referred to as 'ISMA' or the 'applicant'), on behalf of (i) M/s Mundra Solar PV Limited (SEZ unit); (ii) M/s Jupiter Solar Power Limited (DTA unit) and (iii) M/s Jupiter International Limited (DTA unit) filed an application before the Designated Authority (hereinafter also referred to as the 'Authority') for initiation of anti-dumping investigation and imposition of anti-dumping duties on the imports of Solar Cells whether or not assembled into Modules or Panels originating in or exported from China PR, Thailand and Vietnam (hereinafter referred as 'subject countries').
2. The Authority, based on prima facie evidence of dumping of subject goods from the subject countries, injury to the domestic industry and causal link between the dumping and injury submitted by the applicant, initiated an anti-dumping investigation into the alleged dumping, and consequential injury to the domestic industry in terms of Rule 5 of the Rules.
3. The Authority accordingly issued a public notice vide notification no. 6/56/2020-DGTR dated 15th May, 2021 published in the Gazette of India, initiating an anti-dumping investigation concerning imports of the subject goods, originating in or exported from China PR, Thailand and Vietnam.

B. Procedure

4. The Authority notified the Embassies of subject countries in India about the receipt of the present anti-dumping application before proceeding to initiate the investigation in accordance with Rule 5(5) of the Rules.
5. The Authority post-initiation sent copies of the initiation notification to the Embassies of the subject countries in India, known producers/exporters from the subject countries, known importers/users and the domestic industry as per the addresses made available by the applicant and requested them to make their views known in writing within 30 days of the initiation notification as per Rule 6(2) of the Rules.
6. The Authority provided a copy of the non-confidential version of the application to the known producers/exporters and to the Embassies of the subject countries in India in accordance with Rule 6(3) of the Rules.
7. The Embassies of the subject countries in India were also requested to advise the exporters/producers from its countries to respond to the questionnaire within the prescribed time limit. A copy of the letter and questionnaire sent to the producers/exporters was also sent to them along with the names and addresses of the known producers/exporters from the subject countries.
8. In response to the initiation notification and intimation, exporters/ producers from the subject countries and importers/ users responded to the Authority by filing the exporter questionnaire responses and the legal submissions.
9. A list of all the interested parties was uploaded on the DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file was not accessible physically due to the ongoing global pandemic.
10. The Authority held an oral hearing on 17th November, 2021 to provide an opportunity to the interested parties to present relevant information orally in accordance with the Rule 6(6).
11. The withdrawal application filed by the domestic industry was circulated to all interested parties.

C. Litigation

12. The aforesaid initiation notification has been challenged before the Hon'ble Delhi High Court through a Writ Petition (W.P.(C) 5882/2021) filed by Solar Power Developers Association (SPDA) alleging issues like absence of injury to the domestic industry, insufficient standing of the petitioner, no consideration of interest of the other user industry, poorly defined scope of product under consideration & like article. The High Court of Delhi through its order dated 04.06.2021 granted specific relief to the petitioner (SPDA) that the time limit for filing the response before DGTR shall stand extended to a date beyond the next date of hearing i.e 19.07.2021.

13. The SLP (C) 12057/2021 was filed by the DGTR in the Hon'ble Supreme Court against the High Court Order dated 04.06.2021 in the above petition (W.P.(C) 5882/2021) which was dismissed by the Hon'ble Supreme Court through its order dated 09.08.2021.
14. After the oral hearing, some of the exporters/producers approached the High Court of Delhi praying for acceptance of their questionnaire responses filed beyond the time stipulated by the Authority. In last hearing on 19.04.2022 on acceptance of belated responses, the Hon'ble High Court passed its judgement upholding DGTR's stand that "the High Court Order dated 4.6.2021 is an order *in personam* as the relief had been extended by the court to enable petitioners therein (importers) to place information before the Designated Authority and not the petitioners herein (exporters)." However, Hon'ble Court also directed that "the responses filed by the petitioners between 25 June, 2021 and 31 July 2021 to be taken on record subject to the payment of costs of Rs.1,00,000/- by each of the petitioners to Armed Forces Battle Casualties Welfare Fund".

D. Request received from the Domestic Industry

15. The applicant through a letter/an email dated 14th July 2022, withdrew the application filed in the subject matter stating that:

"ISMA submits that post initiation, Government of India has introduced a basic customs duty of 25% and 40% on tariff headings 8541.40.11 and 8541.40.12 respectively with effect from 1st April 2022. The said levy covering the entire scope of the product under investigation has alleviated the price pressure being suffered by the domestic industry due to dumping from the subject countries to a considerable extent, though not fully."

E. Comments on the withdrawal application of the domestic industry

16. The abovementioned withdrawal application filed by the domestic industry was circulated to the other interested parties. Most of the interested parties supported the domestic industry's withdrawal application and requested for termination of the investigation. A few interested parties while requesting for termination of the investigation also requested that the Authority should carry out the examination in principle to verify the claims of dumping and injury.

F. Examination by the Authority

17. The request made by the domestic industry, vide its letter dated 14.07.2022 has been examined. The Authority notes that Rule 14(a) of the Anti-dumping Rules, 1995 reads as under:

"Termination of investigation. - The designated authority shall, by issue of a public notice, terminate an investigation immediately if—

(a) it receives a request in writing for doing so from or on behalf of the domestic industry affected, at whose instance the investigation was initiated;"

18. It is noted that Rule 14 of the Anti-dumping Rules, 1995 provides for termination of an anti-dumping investigation in certain situations which includes a situation wherein the application is withdrawn by the affected domestic industry, at whose instance the investigation was

initiated. Rule 14(a) of the Anti-dumping Rules, 1995 provides that the Authority shall, by issue of a public notice, terminate an investigation if it receives a request in writing for doing so from or on behalf of the domestic industry affected, at whose instance the investigation was initiated.

19. The present investigation was initiated based on an application filed by ISMA, considering the domestic industry as DTA units i.e., M/s Jupiter Solar Power Limited and M/s Jupiter International Limited. The Authority notes that Rule 14(a) of the Anti-dumping Rules, 1995 requires the Authority to terminate the investigation, once the domestic industry, at whose instance the investigation was initiated files a written request for termination of the investigation.
20. With regards to the litigation, the Authority notes that the Hon'ble High Court vide its order dated 05.10.2021 in Writ Petition (W.P.(C) 5882/2021) has directed the Authority to proceed with the investigation, however, it had directed the Authority that any order emanating from the conduct of the investigation needs to be passed only with the leave of the Hon'ble High Court.
21. Accordingly, after the receipt of the request of the withdrawal of the application from the domestic industry, the Authority filed an application CM. Appl. 46567/2022 before the Hon'ble High Court of Delhi seeking its permission to publish the termination notification. The application was heard along with the W.P. (c) 5882/2021 by the Hon'ble Court on 01.11.2022. The following order was passed by the Hon'ble Court:

*“... In view of the aforesaid statements, the present application is allowed and the present writ petition along with application stands disposed of as satisfied.
The interim orders, if any, stand vacated.”*

22. As regard the comments of the interested parties with respect to completion of analysis on dumping and injury analysis, it is noted that in view of the withdrawal request put forward the domestic industry and the facts and circumstances of the instant investigation, such an exercise is not warranted.

G. Conclusion

23. In view of the aforesaid request made by the domestic industry, ISMA, under the provisions of Rule 14(a) of the Anti-dumping Rules, 1995, and in accordance with the Order of the Hon'ble High Court in CM Appl. 46567/2022 and W.P. (C) 5882/2021, the Authority hereby terminates the investigation initiated on 15th May, 2021 vide notification No. 6/56/2020-DGTR against the imports of Solar Cells whether or not assembled into Modules or Panels originating in or exported from China PR, Thailand and Vietnam.


(Anant Swarup)
Designated Authority