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SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
Department of Revenue

Notification
No. 50 /2017-Customs (ADD)

New Delhi, the 18th October, 2017

G.S.R. (E).-Whereas, the designated authority *vide* notification No.15/28/2014-DGAD, dated the 21st July, 2015, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 21st July, 2015, had initiated mid-term review investigation in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), read with rule 23 of 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 Anti-dumping Rules) in the matter of continuation of anti-dumping duty on imports of Soda Ash (hereinafter referred to as the subject goods), falling under sub-heading 2836 20 of the First Schedule to the Customs Tariff Act, originating in, or exported from, People's Republic of China, European Union, Kenya, Pakistan, Iran, Ukraine and United States of America (hereinafter referred to as the subject countries), imposed *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.34/2012-Customs (ADD), dated the 3rd July, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R.528(E), dated the 3rd July, 2012;

And, whereas, the designated authority, in its final findings in mid-term review (hereinafter referred to as the final findings) *vide* notification No.15/28/2014-DGAD, dated the 23rd September, 2016, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 23rd September, 2016, has come to the conclusion that-

- (i) although dumping has continued despite the anti-dumping duties in force and the dumping of subject goods from the subject countries is positive during the Period of Investigation (hereinafter referred to as POI), the adverse impact of the same on the volume, prices and profitability of the domestic industry is absent during the POI as well as post-POI;
- (ii) both undercutting and underselling are negative during POI as well as post-POI;
- (iii) the injury margin is negative during POI as well as post-POI;
- (iv) the likely injury margin, on the basis prices of third country exports by the subject countries during the POI are also negative;
- (v) price suppression and price depression effects are absent;
- (vi) all most all volume parameters and price parameters of the domestic industry are positive during POI and post-POI and there is a remarkable improvement of lasting nature in the performance of the domestic industry;
- (vii) although dumping continues, neither it has caused injury to the domestic industry, nor is there any likelihood of causing injury in the event of revocation of the anti-dumping duties, and had recommended revocation of the anti-dumping duties imposed on the imports of the subject goods, originating in or exported from the subject countries;

And whereas, the said final findings dated the 23rd September, 2016 were challenged in the Hon'ble High Court of Gujarat in Special Civil Applications No.16426 of 2016 and 16428 of 2016 and the High Court vide its order dated the 13th December, 2016 had held that in case, pursuant to the impugned final findings recorded by the designated authority, the Central Government published a notification in the Official Gazette under rule 18 of the Anti-dumping Rules, the same shall not be acted upon till the final disposal of these petitions;

And whereas, the Central Government had rescinded the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.34/2012-Customs (ADD), dated the 3rd July, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 528(E), dated the 3rd July, 2012, *vide* notification No.55/2016-Customs (ADD), dated 21st December 2016, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 1163(E), dated the 21st December, 2016 and the operation of such rescission was kept in abeyance subject to the final order of the Hon'ble Court of Gujarat in Special Civil Applications No. 16426 of 2016 and 16428 of 2016;

And whereas, the designated authority *vide* notification No.7/5/2017-DGAD dated the 16th June, 2017, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 16th June, 2017, has initiated review in terms of sub-section (5) of section 9A of the Customs Tariff Act and in pursuance of rule 23 of the Anti-dumping Rules, in the matter of continuation of anti-dumping duty on imports of the subject goods originating in, or exported from, the subject countries imposed *vide* the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.34/2012-Customs (ADD), dated the 3rd July, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R.528(E), dated the 3rd July, 2012, and has recommended for extension of antidumping duty, in terms of sub-section (5) of section 9A of the said Customs Tariff Act, *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 33/2017-Customs (ADD), dated the 30th June 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 801(E), dated the 30th June 2017, and was subject to the final decision of the Hon'ble High court of Gujarat in Special Civil Applications No.16426 of 2016 and 16428 of 2016, this notification, unless revoked earlier, shall remain in force up to and inclusive of the 2nd July, 2018;

And whereas Hon'ble Gujarat High Court *vide* its common judgment dated the 23rd February,2017, quashed the disclosure statements dated the 14th September, 2016, final findings dated 23rd September, 2016, as well as subsequent notifications issued by the Central Government under rule 18 of the rules and restored the proceedings to the designated authority, directing the Designated Authority to issue fresh disclosure statement, in consonance with the relevant statutory provisions and in the light of the observations made in the judgment;

And whereas the Designated Authority conducted another oral hearing on 25th April, 2017, giving opportunity to the interested parties to present their views orally and the interested parties were allowed opportunity to file written submissions and thereafter rejoinder to the submissions made by other interested parties;

And whereas, the designated authority *vide* notification No. 15/28/2014-DGAD, dated the 22nd July 2017, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 22nd July 2017, has issued mid-term review final findings in terms of sub-section (5) of section 9A of the Customs

Tariff Act and in pursuance of rule 23 of the Anti-dumping Rules, in the matter of anti-dumping duty on imports of the subject goods originating in, or exported from, the subject countries imposed *vide* the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.34/2012-Customs (ADD), dated the 3rd July, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R.528(E), dated the 3rd July, 2012, and has recommended revocation of anti-dumping duty imposed on the imports of the subject goods, originating in or exported from the subject countries;

And whereas, the said final findings dated the 22nd July, 2017 has been challenged in the Hon'ble High Court of Gujarat in Special Civil Applications No.14202 of 2017 and the High Court *vide* its order dated the 31st July, 2017 has held that in case, pursuant to the impugned final findings recorded by the designated authority, the Central Government publishes a notification in the Official Gazette under rule 18 of the Anti- dumping Rules, the same shall not be acted upon till the final disposal of these petitions.

Now, therefore in exercise of the powers conferred by sub-section (1) and sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975), read with rules 18 and 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, and in view of the aforesaid order of the Hon'ble High Court of Gujarat dated the 31st July, 2017, the Central Government hereby rescinds the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.34/2012-Customs (ADD), dated the 3rd July, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 528(E), dated the 3rd July, 2012, in supersession of notification No. 55/2016-Customs (ADD), dated the 21st December, 2016, except as respects things done or omitted to be done before such rescission, and such rescission shall remain in abeyance subject to the final order of the Hon'ble High Court of Gujarat in Special Civil Applications No. 14202 of 2017.

[F.No.354/198/2011-TRU (Pt.-1)]

(Gunjan Kumar Verma)
Under Secretary to the Government of India