To be published in Part-1 Section-I of the Gazette of India Extraordinary

F. No. 7/25/2023-DGTR

Government of India, Department of Commerce

Ministry of Commerce & Industry

Directorate General of Trade Remedies

4th Floor, Jeevan Tara Building,

5, Parliament Street, New Delhi- 110001

Date: 11th August, 2025

FINAL FINDING

Case No. – AD (AA) – 02/2023

Subject: Anti-absorption review investigation of the anti-dumping duty imposed on imports of 'Untreated Fumed Silica' originating in or exported from China PR.

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. In accordance with the provisions of Rule 30 of the Anti-Dumping Rules, M/s Cabot Sanmar Limited, (hereinafter referred to as the "applicant") filed an application before the Designated Authority (hereinafter also referred to as the "Authority") alleging absorption of anti-dumping duty imposed on imports of 'Untreated Fumed Silica' (hereinafter referred to as the "subject goods" or the "product under consideration") originating in or exported from China PR (hereinafter referred to as the "subject country") and produced by Shandong Dongyue Silicone Material Co., Ltd. (hereinafter referred to as the "subject exporter" or "respondent").

2. The anti-dumping investigation concerning imports of Untreated Fumed Silica from China PR and Korea RP was initiated vide notification dated 22nd September 2020. Vide final findings F. No. 6/40/2020-DGTR dated 20th September 2021, the Authority recommended the imposition of anti-dumping duty on imports of Untreated Fumed Silica for a period of 5 years. Such duties were levied by the Ministry of Finance vide Notification No. 66/2021-Customs (ADD) dated 11 November 2021. The table below summarizes the duty in force at present.

SN	Country	Producer	Amount
1	China PR	Shandong Dongyue Silicone Material Co., Ltd.	1,018 $/MT
2	China PR	Wacker Chemicals Fumed Silica (Zhangjiagang) Co. Ltd.	Nil

3	China PR	Any other	1,296 $/MT
4	Korea RP	OCI Company Limited	Nil
5	Korea RP	Any other	373$/MT

3. In terms of Section 9A(1B) of the Act and Rule 29(2) of the Rules, where an article subject to anti-dumping duty is imported into India at such price or under such condition which is considered as absorption of existing anti-dumping duty, which is thereby rendered or may be rendered ineffective, the Designated Authority may, after conducting a review, recommend modification in the form or basis of the duty and/or the quantum of antidumping duty after reassessing the dumping margin and injury margin. In accordance with the same, the Authority is required to review, based on an application with sufficient evidence, made by or on behalf of the domestic industry or any other interested party as to whether the existing anti-dumping duty is thereby rendered or may be rendered ineffective because of absorption of duty.

4. On the basis of the duly substantiated written application submitted by the applicants and having satisfied itself based on the *prima facie* evidence submitted by the applicant concerning absorption of the anti-dumping duties imposed on the exports from China PR by Shandong Dongyue Silicone Material Co. Ltd, the Authority initiated an anti-absorption investigation to determine the existence and effect of absorption of the anti-dumping duty on exports of the product under consideration by the subject exporter from China PR and to recommend modification of the quantum or form of the anti-dumping duty, in accordance with Section 9A(IB) of the Act and Rule 30 of the Rules, vide Notification No. 7/25/2023-DGTR dated 31st December, 2024. The investigation was initiated only on the exports from China PR by Shandong Dongyue Silicone Material Co. Ltd,

B. PROCEDURE

5. The procedure described hereinbelow has been followed in the investigation.

a. The Authority vide Notification No. 7/25/2023-DGTR, dated 31st December 2024, published a public notice in the Gazette of India, Extraordinary, initiating an anti-absorption investigation against imports of the subject goods by the subject exporter, Shandong Dongyue Silicone Material Co. Ltd from the subject country.

b. In accordance Rule 30(4) the embassy of China in India was notified before proceeding to initiate anti-absorption investigation.

c. The absorption period has been considered as 1st July 2023 to 30th June 2024 (12 months). The Authority has compared the prices in such a period to the prices in the period of investigation of the original investigation.

d. In accordance with Rule 6(2) of the rules, a copy of the public notice was forwarded by the Authority to the embassy of China in India, the subject

producer/ exporter known importers and other interested parties.

e. In accordance with Rule 6(3) of the rules, the Authority provided a copy of the non-confidential version of the application to the subject producer / exporter, and to the Government of China, through its embassy, and to other interested parties who made a request in writing.

f. The Authority forwarded a copy of the public notice initiating the anti-absorption investigation to the subject producer/ exporter in the subject country, and other interested parties and provided them an opportunity to file response to the questionnaire in the form and manner prescribed within time limit, as prescribed in the initiation notification, and make their views known in writing.

g. The Authority forwarded a copy of the Notification to the following known importers/ users of the subject goods in India calling for necessary information, in accordance with Rule 6(4) of the Rules:

i. Adinath Auxi Chem Industry Address
ii. Jay Chem Marketing
iii. Aadishwar Excipients Private Limited
iv. Amcorp Advance Materials LLP
v. Kenda Farben India Private Limited
vi. Reda Chemicals India Private Limited
vii. Pidilite Industries Limited
viii. Fasto Advance Materials India Private Limited
ix. HP Adhesives Limited
x. Adinath Auxi Chem Industry Private Limited
xi. K.P. Manish Global Ingredients Pvt Ltd
xii. 3M India Limited
xiii. Diwan Chand Sahani & Sons
xiv. Ankush Enterprise
xv. Keshav Hichem Private Limited
xvi. Nikeon Corporation
xvii. Parkash International
xviii. Phoenix Nutraceuticals

h. The Authority sent the importer's questionnaire to the following known Associations of the subject goods in India for circulation & calling necessary information in accordance with Rule 6(4) of the Rules:

i. Federation of Indian Chamber of Commerce and Industry (FICCI)
ii. Associated Chambers of Commerce and Industry of India
iii. Confederation of Indian Industry (CII)

i. Shandong Dongyue Silicone Material Co. Ltd (herein after referred to as respondent") has furnished a response to the questionnaire issued by the

Authority.

j. Transaction-wise imports data for the absorption period was procured from DG Systems. The Authority has relied upon the data from 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 exporter.

k. Information was sought from the applicant and responding exporter to the extent deemed necessary.

l. All the interested parties were requested to e-mail the non-confidential versions (NCV) of their submissions/responses/comments filed by them to all the other interested parties.

m. 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 4th April 2024 in hybrid mode. The parties, which presented their views in the oral hearing, were requested to file written submissions of the views expressed orally, followed by rejoinder submissions.

n. Due to the change of the Designated Authority, a fresh oral hearing was held on 23 May 2025 wherein all interested parties were provided the opportunity to present their views. The parties who presented their views in the oral hearing were requested to file written submissions of the views expressed orally, followed by rejoinder submissions, if any.

o. The submissions made by the interested parties, arguments raised, and information provided by various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered relevant to the present investigation, have been appropriately considered by the Authority in this final finding.

p. The Authority, during the course of the investigation, satisfied itself to the accuracy of the information supplied by the interested parties, which forms the basis of this final finding to the extent possible and verified the data/ documents submitted by the domestic industry to the extent considered relevant and necessary.

q. The information provided by the interested parties on a confidential basis was examined with regard to the 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 a confidential basis were directed to provide sufficient non-confidential version of the information filed on a confidential basis.

r. Wherever an interested party has refused access to, or has otherwise not provided

necessary information during the course of the investigation, or has significantly impeded the investigation, the Authority considered such interested parties as non-cooperative and recorded these final findings on the basis of the facts available.

s. The Authority circulated the disclosure statement containing all essential facts under consideration for making the final recommendations to the Central Government to all interested parties on 9th July 2025. The Authority has examined all the post disclosure comments made by the interested parties in these final findings to the extent deemed relevant. Any submission which was merely a reproduction of the previous submission, and which had been adequately examined by the Authority has not been repeated for the sake of brevity.

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 US$ = Rs. 84.00. The exchange rate considered in the original investigation was US$ = Rs. 71.65.

C. SUBMISSIONS MADE BY SUBJECT EXPORTER ON VARIOUS ISSUES

6. The following submissions have been made by Shandong Dongyue Silicone Material Co., Ltd., during the course of the investigation.

a. The product exported by the respondent is an industrial grade untreated fumed silica, primarily used in the production of silicone sealants which has a lower commercial value compared to pharmaceutical or food-grade variants of fumed silica supplied by Wacker.

b. Price comparisons should not be made without taking into account differences in grades and technical parameters, as these influence the market positioning and value of the product.

c. The application filed by the domestic industry was beyond the two-year time limit stipulated under Rule 29(3) of the Rules, which mandates that such investigations be normally initiated within two years from the date of imposition of definitive anti-dumping duty.

d. No special circumstances were recorded in writing by the Authority to justify such delayed initiation.

e. The information provided by the applicant does not establish any prima facie evidence of absorption of anti-dumping duty.

f. The decline in export prices to India was driven by global market trends and oversupply conditions, rather than by any intention to neutralize the imposed anti-dumping duty.

g. Certain by-products generated from its other chemical processes as input materials in the production of untreated fumed silica. These internal transfers were priced based on internal accounting principles, leading to a stable cost structure. This internal cost arrangement made its pricing sustainable even in a competitive market environment.

h. The decline in export prices during the period of absorption (July 2023 – June 2024) was not due to any absorption of the anti-dumping duty but as a result of global price adjustments and not due to any attempt to offset the effect of the duty.

i. The price trend is a result of oversupply in global markets, pricing pressure from competitors, and overall softening in demand post-COVID recovery.

j. The price changes were influenced by exchange rate fluctuations, and the depreciation of the Indian rupee over the period explains part of the price movement when denominated in INR.

k. Shandong Dongyue's production costs have decreased which shows that the prices are not influenced by anti-dumping duties, but by overall market conditions

D. SUBMISSIONS MADE BY THE APPLICANT ON VARIOUS ISSUES

7. The following submissions have been made by the applicant during the course of the investigation.

a. The scope of the product under consideration in the present anti-absorption investigation remains the same as that defined in the original investigation, which includes all grades of untreated fumed silica.

b. The application was filed for initiation of the anti-absorption investigation within two years from the date of imposition of definitive duties. The original application was filed in September 2023, well within the statutory timeline.

c. The applicant subsequently updated the period of absorption to reflect the most recent price trends up to June 2024, and such supplementation of data does not invalidate the application or the initiation of the investigation.

d. Rule 29(3) allows an application to be filed by the domestic industry or by any other interested party. There is no legal requirement that an application can only be filed by the domestic industry. The application can be filed by domestic producer who has imported the product under consideration in substantial quantities, domestic producer whose share is less than the limit prescribed under Rule 5(3), an association and or any other interested party.

e. Rule 29(3) permits the Authority to accept an application beyond two years in special circumstances, provided reasons are recorded in writing. In the present case, however, such a situation did not arise, as the original application was well within the prescribed period.

f. The evidence furnished in the application clearly demonstrates that the exporter's CIF prices to India have declined significantly post imposition of duty, while raw material and utility costs have increased. This shows that the exporter has absorbed the anti-dumping duty, thereby undermining its remedial effect.

g. The exporter's narrative regarding the use of by-products in production was not supported by any third-party documentation or accounting standards. No documentary evidence was provided to substantiate the valuation or market relevance of such internal transfers.

h. The exporter did not submit any transaction-wise third-country export data or cost audit reports to justify the claimed decline in export prices as being part of a broader trend. Therefore, the explanation of market-driven price reductions remained unverified.

i. While global costs of inputs such as Metallurgical Grade Silicon (MG Silicon) and utilities (power, gas) have increased during the absorption period, the exporter's prices to India declined, suggesting that the anti-dumping duty has been neutralized.

j. Participating producer has admitted that the price decline for the Indian market has been higher than the price decline for the domestic sales or other countries. While the price in the domestic market and the export price to third countries has declined by 32% only, the export price to India has declined by 44%.

k. The producer has not claimed market economy treatment. Therefore, in absence of MET, the Authority should not consider the change in the cost of production of the producer.

l. While the cost of production has increased in rupee terms, the import price has declined.

m. While the cost of production has declined in dollar terms, the import price has declined at a much steeper rate.

n. While the cost of production has declined in CNY terms, the import price has declined at a much steeper rate.

o. The import price has declined without any commensurate change in cost of production of the article and therefore, absorption has taken place.

p. The applicant has invoiced the material in US$. It cannot contend that it was adjusting its prices to reflect the increase in exchange rate. The cost of production of Indian industry increases with the increase in exchange rate and therefore if the exporter adjusts its prices to reflect exchange rate, this itself implies causing injury to Indian industry.

E. EXAMINATION BY THE AUTHORITY

8. As the present investigation is an anti-absorption review of anti-dumping duty in force, the scope of the product under consideration remains the same as defined in the original investigation. Untreated Fumed Silica is a synthetic amorphous silica produced through flame hydrolysis of chlorosilanes. The product is characterized by high surface area, low bulk density, and is commonly used as a thickening agent, anti-caking agent, carrier for liquids, and rheology modifier.

9. The Authority notes that untreated fumed silica is imported in various grades with differing surface areas; however, the basic physical and chemical characteristics of these grades remain the same. The product is marketed in powder form and is classified under subheadings 28112200, 28112190, 2839100, and 34049090 of the Customs Tariff Act, 1975. The customs classification is indicative only and is not binding for defining the product scope.

10. The respondent -exporter has claimed that the product exported by it is an industrial grade untreated fumed silica, primarily used in the production of silicone sealants which has a lower commercial value compared to pharmaceutical or food-grade variants of fumed silica supplied by Wacker. The Authority notes that the present investigation is an anti-absorption investigation, and the purpose is to examine if the export price has moved in line with the cost of raw material. The respondent has not claimed that there is difference in the product profile exported in the original investigation and the present investigation. Therefore, the Authority does not find it necessary to examine the issue of scope of product under consideration or like-article.

11. No submissions have been made on the scope of the product under consideration. Therefore, the Authority does not find it necessary to examine the issue of scope of product under consideration or like-article.

E. 1 Miscellaneous issues.

12. The other interested parties have commented that the investigation was initiated after the time limit prescribed under Rule 29(3). The relevant extracts of Rule 29 (3) are produced below.

> *(3) The domestic industry or any other interested party shall file the application seeking initiation of anti-absorption investigation normally within two years from the date of imposition of definitive anti-dumping duty :*
> ***Provided*** *that in view of special circumstances in a given case, for reasons to be recorded in writing,*

the designated authority may accept an application for such initiation after expiry of the said period of two years

13. The Authority notes that the requirement under the rules is for an applicant to file the application within the time limits. The requirement is not for initiation of the investigation by the Authority. The anti-dumping duties were imposed by Ministry of Finance vide Notification No. 66/2021-Customs (ADD) dated 11th November 2021. The two-year period expired on 10th November 2023. The applicant had filed the application on September 2023 with period of absorption as January 2023 to June 2023. The applicant had later updated the application with the period of investigation as July 2023 to June 2024. Therefore, the fact that the investigation was initiated after the expiry of two years does not make the initiation bad in law. The Authority also notes that Rule 29(3) allows flexibility in accepting applications beyond the two-year period in special circumstances. It was open for the Authority to accept the application even if the same was beyond the prescribed time limits.

E. 2 <u>Absorption of anti-dumping duty</u>

14. The respondent has claimed that the decline in the export price to India was not because of the absorption of duties but because of the decline in cost of sales. The Authority notes that in the original investigation, the Chinese producers were considered operating in non-market economy conditions. Similarly, the producer has not claimed market economy treatment in the present investigation. Therefore, the claimed cost of sales of the producer cannot be accepted to examine if the export price declined because of decline in the cost of sales. It is seen that even when exporter's data is considered, the decline in export price is more than the decline in the cost of sales.

15. A table showing change in cost of sales, selling price in domestic market, selling price in the Indian market and selling price to other countries of the respondent is given below. The producer has not provided actual information on the cost of sales, domestic selling price, export price to India and to other countries. In the written submission, only non-confidential trend has been provided which is shown below.

SN	Particulars	UoM	Original POI	Current POI	Change
1	Cost of sales	$/MT	110	85	22.7%
2	Domestic selling price	$/MT	100	76	24.0%
3	Export price to India	$/MT	105	73	30.5%
4	Export price to other countries	$/MT	108	82	24.1%

16. The Authority notes that from the information on record that the cost of sales of the respondent has declined by 22.7% and the domestic selling price has also declined by 24%. However, export price to India has declined by 30.5%. The decline in the export price is higher than the decline in the cost of sales or the domestic selling price. The decline in export

price to India is more than the decline in export price to other countries.

17. The respondent has claimed that the decline in export price to India is in the same region as the decline in the export price to other countries. The respondent has not provided information on transaction wise export price to third countries to substantiate claims of third country export price decline. Further, the exporter has only provided trends for cost of sale and selling price for different markets. Notwithstanding, even on weighted average basis and as per the trends given, it is seen that whereas the export price to India declined by 30.5%, its export price to other countries declined only by 24.1%.

18. The respondent has also submitted that MG Silicon Metal is used as a primary raw material in the production of another product, organosilicon products which is used to produce the product under consideration. The Authority notes that this fact was applicable in the original investigation as well. In an anti-absorption investigation, the Authority is only required to examine if the export price has declined in line with decline in the cost of sales. In the present investigation, it is seen that the cost of sales has reduced at a lower rate as compared to the export price of the respondent.

19. In order to examine if the export price has declined for the producer, the Authority has compared the net export price determined in the original investigation for the respondent with the net export price in the absorption period reported by the respondent.

SN	Particulars	UoM	Original POI	Current POI	Change
1	Export price to India	$/MT	***	***	***
	Trend	Indexed	100	70	
2	Exchange rate	CNY/$	6.97	7.20	
3	Export price to India	CNY/MT	***	***	***
	Trend	Indexed	100	73	

Source – Provided by domestic industry in written submission https://www.exchangerates.org.uk/

20. It is seen that the export price of the producer has declined in both USD and CNY.

21. The applicant had submitted that the raw material cost and the utility cost has increased whereas the import price has declined. The Authority has examined the data. The table below shows the change in raw material and utility cost allowed for NIP calculation between the original period and the absorption period.

SN	Particulars	UOM	Original period	Absorption period	Change
1	Raw material cost	Rs/MT	***	***	***
	Trend	Indexed	100	118	
2	Utility cost	Rs/MT	***	***	***
	Trend	Indexed	100	141	

3	Total of above	Rs/MT	***	***	***
	Trend	Indexed	100	123	
4	Exchange rate	Rs/$	71.65	84.00	
5	Total of above	$/MT	***	***	***
	Trend	Indexed	100	105	

22. It is seen that the cost on account of raw material and utility has increased in the absorption period in both INR and USD.

23. With regard to the submission that the decline in the import price was on account of depreciation of the currency, the Authority has compared the parameters in same currency and found absorption of anti-dumping duty. Since the export price is quoted in USD, the same is relevant to determine whether the export price has declined. The exporter cannot contend that the export price has declined because INR has depreciated.

24. The Authority has evaluated the change in cost and price in USD which shows that the cost has increased whereas the import price has declined. The table below shows the degree of absorption by the respondent.

SN	Particulars	UOM	Original period	Absorption period	Change
1	Export price to India	$/MT	***	***	***
	Trend	Indexed	100	70	
2	Increase in raw material and utility cost	$/MT	***	***	***
	Trend	Indexed	100	105	
3	Absorption	$/MT			***

E. 3 <u>Calculation of dumping margin and injury margin</u>

25. Rule 29(2) of the Anti-Dumping Rules states as follows:

> *"(2) Where an article subject to anti-dumping duty is imported into India at such price or under such condition which is considered as absorption of the existing anti-dumping duty, and such duty is thereby rendered or maybe rendered ineffective, the designated Authority may, after conducting review, recommend modification in the form or basis of the anti-dumping duty, or the quantum of anti-dumping duty, or both, after reassessing the dumping margin and injury margin and appropriate changes or adjustments in previously determined normal value and injury, if necessary, in accordance with the provisions of rule 10 and Annexure III to these Rules, respectively, may be done".*

26. In accordance with Rule 29(2), the Authority has considered the normal value and non-injurious price determined in the original investigation and has duly adjusted the same for necessary changes.

27. The Authority notes that in the original investigation, the normal value was determined based on export price from Japan to India adjusted to ex-factory. The normal value in the present investigation has been determined by considering the normal value determined in the original investigation and duly adjusting it for appropriate changes.

SN	Particulars	Unit	Amount
1	Normal value in original investigation	$/MT	***
2	Exchange rate of period of investigation in original investigation	Rs/$	71.65
3	Normal value in original investigation	Rs/MT	***
4	Adjustments in previously determined normal value	Rs/MT	***
5	Adjusted normal value	Rs/MT	***
5	Exchange rate of absorption period	Rs/$	84
6	Adjusted normal value	$/MT	***

28. Similarly, the non-injurious price in the present investigation has been determined by considering the non-injurious price determined in the original investigation and duly adjusting it for appropriate changes.

SN	Particulars	Unit	Amount
1	Non-injurious price in original investigation	$/MT	***
2	Exchange rate of period of investigation in original investigation	Rs/$	71.65
2	Non-injurious price in original investigation	Rs/MT	***
3	Adjustments in previously determined non-injurious price	Rs/MT	***
4	Adjusted non-injurious price	Rs/MT	***
5	Exchange rate of absorption period	Rs/$	84
5	Adjusted non-injurious price	$/MT	***

29. Considering the normal value and export price for the subject goods, the dumping margin for the subject goods from Shandong has been determined as follows.

SN	Particulars	Normal value $/MT	Net export price $/MT	Dumping margin		
				$/MT	%	Range
1	Original period	***	***	***	***	50-60%
2	Absorption period	***	***	***	***	70-80%

30. The net export price to India has declined significantly from $***/MT during the original period to $***/MT during the absorption period. This represents a drop of approximately 29% in the export price. In percentage terms, the dumping margin has risen from 52% to 109%, clearly showing a more than doubling of the dumping margin.

31. Considering the non-injurious price and landed price for the subject goods, the injury margin for the subject goods for Shandong has been determined as follows

SN	Particulars	NIP $/MT	Landed price $/MT	Injury margin		
				$/MT	%	Range
1	Original period	***	***	***	***	25-35%
2	Absorption period	***	***	***	***	50-60%

32. The landed price of imports from the subject country has declined from $***/MT during the original period to $***/MT in the absorption period a reduction of approximately 25%. As a result, the injury margin has increased from $***/MT to $***/MT.

33. The Authority notes that the producer has claimed custom duty of 10% in calculation of its landed price. However, the Authority notes that the product under consideration attracts a concessional custom duty of 4.175% when imported from the subject country. Therefore, custom duty of 4.175% has been considered in calculating the landed price.

F. POST DISCLOSURE COMMENTS

F.1 Submissions by other interested parties.

34. The following comments to the disclosure statement have been filed by the participating exporter.
    a. The landed price has been incorrectly determined.
    b. The updated period of absorption, which forms the basis of the ongoing investigation was submitted beyond the two-year limit prescribed under Rule 29(3) of the anti-dumping rules.
    c. If the investigation had been initiated based on the period initially considered, which fell within the prescribed two-year window, no case of absorption would have arisen.
    d. Price fluctuations in MG Silicon Metal do not directly influence the production cost of untreated fumed silica, as the cost is determined by the market value of the by-products. MG Silicon Metal is used in the production of other products which results in by product production. These by-products serve as the actual input materials for production of untreated fumed silica.
    e. Raw materials are sourced domestically within China and exchange rate fluctuations between INR and USD have no bearing on its production costs. The company invoices in USD, as is standard international practice, and its export pricing is influenced by market-driven factors.

F.2 Submissions by the applicant.

35. The following comments to the disclosure statement have been filed by the applicant: -
    a. Rule 29(3) allows flexibility in accepting applications beyond the two-year period in special circumstances. The present application was filed in time and the Authority has the option to accept the application even if the same was beyond the prescribed time limits.
    b. Under the Rule 29(2), normal value can be determined only after making adjustments

to the previously determined normal value. Considering of actual import price from Japan into India during the period would have amounted to fresh determination of normal value.

F.3 Examination by the Authority.

36. On the submission of responding exporter that landed price has been incorrectly determined, the issue was already dealt in the disclosure statement. The producer has claimed custom duty of 10% in calculation of its landed price whereas the product under consideration attracts a concessional custom duty of 4.175% when imported from the subject country. Therefore, custom duty of 4.175% has been considered in calculating the landed price.

37. Regarding the claim that the revised absorption period was submitted beyond the two-year limit specified under the rules and that, had the investigation been initiated based on the originally considered period, no case of absorption would have emerged, the Authority holds that the exporter has merely made an assertion without submitting any supporting evidence. There is no demonstration of how considering a different period would negate the existence of absorption. It is further clarified that the rules mandate timely filing of the application by the applicant, as observed by the Authority in para 13 above. The investigation in this case was initiated within the prescribed time limits under the rules.

38. The participating exporter has stated that MG Silicon Metal is used in the production of organosilicon which results in by-products [***]. These by-products serve as the actual input materials for production of untreated fumed silica and therefore price of MG Silicon Metal should not be considered for determining absorption. The Authority notes that while participating exporter has claimed these by-products as raw material in submissions, in the costing data different raw material has been reported [***] as a raw material. Contradictory statements have been made by the participating exporter. The Authority also notes that the present investigation is limited to a determination whether the export price has declined and if so, quantification of dumping margin and injury margin on the basis of normal value and NIP previously determined, duly adjusted. The Authority is not required to re-determine normal value. Changes in normal value are required to be seen on the basis of methodology followed for determination of normal value at the time of original investigation. Since the Chinese producer had not claimed market economy treatment at the time of original investigation, the Authority had determined normal value based on para-7 of Annexure-I of the Anti-Dumping Rules. Therefore, the Authority is required to follow the normal value earlier determined and the methodology followed at the time of original investigation. Being non-market economy, the changes in costs reported by the exporter are in any case not relevant. The investigation has shown that whereas the export prices to India has declined, the cost of production has increased, thus establishing absorption of duty.

G. CONCLUSIONS AND RECOMMENDATIONS

39. After examining the submissions made by all the interested parties and issues raised therein; and considering the facts available on record, the Authority concludes as below: -

a. The application for initiation of an anti-absorption investigation was filed by Cabot Sanmar Limited as domestic producer of the subject goods.

b. The scope of the product under consideration is the same as that in the original investigation, that is Untreated Fumed Silica.

c. The application was filed, and investigation was initiated to examine whether Shandong Dongyue Silicone Material Co., Ltd has engaged in absorption of anti-dumping duty imposed, and if so, to re-quantify the amount of anti-dumping duty after reassessment of normal value and non-injurious price.

d. Based on the data of the domestic industry, it is seen that the raw material cost has increased. The domestic industry has provided sufficient evidence to establish that there is an increase in the cost of production. The subject exporter did not claim market economy treatment and therefore its cost of raw material was not accepted.

e. The Authority has considered the exports as reported in the response filed by subject exporter for examination of absorption of duty.

f. While the raw material cost of the product had increased, the export price of the subject exporter had declined.

g. The rules require the Authority to reassess the normal value and non-injurious price and thereafter compute the new dumping margin and injury margin in order to quantify the fresh amount of anti-dumping duty that should be imposed. The same has been done by the Authority.

h. The dumping margin and injury margin determined for the exporter are higher than that determined in the previous investigation.

i. The facts on record clearly establish that the anti-dumping duty in force has been absorbed by the said exporter by reducing the price.

40. The Authority notes that the 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 absorption. Having initiated and conducted the investigation into absorption of duty by Shandong Dongyue Silicone Material Co., Ltd. in terms of the provisions laid down under the Anti-dumping Rules, the Authority is of the view that modification of anti-dumping duty applicable on Shandong Dongyue Silicone Material Co., Ltd. is required. Therefore, the Authority recommends modification of anti-dumping duty on imports of the subject goods from Shandong Dongyue Silicone Material Co., Ltd. from the subject country. The applicant had not alleged absorption by any other exporter and the investigation was restricted to only Shandong Dongyue Silicone Material Co., Ltd.

41. The Authority recommends modification of the quantum of duty imposed on imports of the subject goods originating or exported from China PR and Korea RP vide Final Findings 6/40/2020-DGTR dated 20th September 2021 and Notification No. 66/2021-Customs (ADD) dated 11th November 2021, as below. Having regard to the lesser duty rule, the

Authority recommends modification of definitive antidumping duty based on lesser of margin of dumping and margin of injury, in respect of the subject exporter of the present investigation. As regards exporters not subject to the present investigation, the anti-dumping duty imposed earlier would continue. Accordingly, the definitive anti-dumping duties on the import of the subject goods, originating in or exported from China PR, incorporating the above recommendation of the Authority in the instant anti-absorption investigation, is as indicated in Col. 7 of the duty table below. Such duties shall continue for a period of five years from the date of issuance of Notification No. 66/2021-Customs (ADD) dated 11th November 2021.

Duty table

SN	Heading	Description	Country of origin	Country of export	Producer	Amount	UOM	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	28112200	Untreated fumed silica	China PR	Any country including China PR	Shandong Dongyue Silicone Material Co., Ltd.	1,296	MT	US$
2	-do-	-do-	China PR	Any country including China PR	Wacker Chemicals Fumed Silica (Zhangjiagang) Co., Ltd.	NIL	MT	US$
3	-do-	-do-	China PR	Any country including China PR	Any producer other than SN I. and 2.	1,296	MT	US$
4	-do-	-do-	Any country other than China PR and Korea RP	China PR	Any	1,296	MT	US$
5	-do-	-do-	Korea RP	Any country including Korea RP	OCI Company Limited	NIL	MT	US$
6	-do-	-do-	Korea RP	Any country including Korea RP	Any producer other than SN 5	373	MT	US$
7	-do-	-do-	Any country other than Korea RP and China PR	Korea RP	Any	373	MT	US$

H. FURTHER PROCEDURE.

42. An appeal against the order of the Authority arising out of the final findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the relevant provisions of the Act.

(Siddharth Mahajan)
Designated Authority