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## **Nhava Sheva Customs Commissioner Implements Supreme Court Order in SRF Case**

- Imported Goods Deemed Domestic for CVD Calculations
- Excise Notifications with CENVAT Non Availment Condition for Excise Exemption to Apply on Imported Goods
- Revenue Moves Supreme Court Vacation Bench for Review of SRF Case DB Judgement

The principle which was laid down in Thermax Private Limited and Hyderabad Industries Limited was summarised in the following manner: -

“The ratio of the aforesaid judgment in Thermax Private Limited (supra) was relied upon by this Court in Hyderabad Industries Ltd. (supra) while interpreting Section 3(1) of the Tariff Act itself; albeit in somewhat different context. However, the manner in which the issue was dealt with lends support to the case of the assessee herein. In that case, the court noted that Section 3(1) of the Tariff Act provides for levy of an additional duty. The duty is, in other words, in addition to the customs duty leviable under Section 12 of the Customs Act read with Section 2 of the Tariff Act. The explanation to Section 3 has two limbs. The first limb clarifies that the duty chargeable under Section 3(1) would be the excise duty for the time being leviable on a like article if produced or manufactured in India. The condition precedent for levy of additional duty thus contemplated by the explanation deals with the situation where ‘a like article is not so produced or manufactured’. The use of the word ‘so’ implies that



the production or manufacture referred to in the second limb is relatable to the use of that expression in the first limb which is of a like article being produced or manufactured in India. The

words ‘if produced or manufactured in India’ do not mean that the like article should be actually produced or manufactured in India. As per the explanation if an imported article is one which has been manufactured or produced, then it must be presumed, for the purpose of Section 3 (1) , that such an article can likewise be manufactured or produced in India. **For the purpose of attracting additional duty under**

**Section 3 on the import of a manufactured or produced article the actual manufacture or production of a like article in India is not necessary. For quantification of additional duty in such a case, it has to be imagined that the article imported had been manufactured or produced in India and then to see what amount of excise duty was leviable thereon.”**

(Emphasis supplied)

### **Case Summary**

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 9440 OF 2003

M/S. SRF LTD. ... Appellant

Versus

COMMISSIONER OF CUSTOMS, CHENNAI ... Respondent  
With

CIVIL APPEAL NO. 1623 OF 2009

M/S. ITC LTD. ... Appellant

Versus

COMMISSIONER OF CUSTOMS  
(IMPORT & GENERAL), NEW DELHI ... Respondent  
ORDER

In both these appeals, identical question of law has come up for consideration. For sake of convenience, we will take note of the facts appearing in Civil Appeal No. 9440 of 2003.

The appellant herein had imported Nylon Filament Yarn of 210 deniers falling under Chapter 54 of the Customs Tariff. The appellant claimed nil rate of additional duty of customs by relying on exemption in terms of Serial No. 122 of Notification No.

6/2002-CE dated 01.03.2002. The Deputy Commissioner of Customs passed orders dated 12.04.2002 holding that the appellant was not entitled for exemption from payment of additional duty/Countervailing Duty (CVD) since it was not fulfilling condition No. 20 of the aforesaid Notification. The Commissioner (Appeals) confirmed the aforesaid order of the Deputy Commissioner and dismissed the appeal of the appellant vide orders dated 12.09.2002. In further appeal to the Customs, Excise and Gold (Control) Appellate Tribunal (hereinafter referred to as ‘CEGAT’), even the CEGAT has affirmed the order of the authorities below and dismissed the appeal.

### **Crude Stabilises at \$62**

Crude Oil (Indian Basket) from 20 to 26 May 2015

	20 May	21 May	22 May	25 May	26 May
(\$/bbl)	62.65	63.46	63.68	63.68	62.26
(Rs/bbl)	4001.46	4042.40	4048.14	4051.63	3975.30
(Rs/\$)	63.87	63.70	63.57	63.62	63.85

(Previous Trading Day Price)

Source: Ministry of Petroleum & Natural Gas

Entry! Serial No. 122 in the Notification No. 6/2002 reads as under -

SNo.	Chapter or heading No. or sub-heading	Description of goods	Rate under the First Schedule	Rate under Condition the Second No. Schedule
122	5402.10, 5402.41, 5402.49, 5402.51, 5402.59, 5402.61 or 5402.69	Nylon filament yarn or polypropylene multifilament yarn of 210 deniers with tolerance of 6 per cent.	Nil	- 20

As per the aforesaid entry, the rate of duty is nil. Condition No. 20 of this Notification, which was relied upon by the authorities below in denying the exemption from payment of CVD, is to the following effect:

"20. If no credit under rule 3 or rule 11 of the CENVAT Credit Rules, 2002, has been taken in respect of the inputs or capital goods used in the manufacture of these goods."

The aforesaid condition is to the effect that the importer should not have availed credit under rule 3 or rule 11 of the CENVAT Credit Rules, 2002, in respect of the capital goods used for the manufacture of these goods.

In the present case, admitted position is that no such CENVAT credit is availed by the appellant. However, the reason for denying the benefit of the aforesaid Notification is that in the case of the appellant, no such credit is admissible under the CENVAT Rules. On this basis, the CEGAT has come to the conclusion that when the credit under the CENVAT Rules is not admissible to the appellant, question of fulfilling the aforesaid condition does not arise. In holding so, it followed the judgment of the Bombay High Court in the case of 'Ashok Traders v. Union of India' [1987 (32) ELT 262], wherein the Bombay High Court had held

that 'it is impossible to imagine a case where in respect of raw nephtha used in HDPE in the foreign country, Central Excise duty leviable under the Indian Law can be levied or paid.' Thus, the CEGAT found that only those conditions could be satisfied which were possible of satisfaction and the condition which was not possible of satisfaction had to be treated as not satisfied.

We are of the opinion that the aforesaid reasoning is no longer good law after the judgment of this court in

'Thermax Private Limited y. Collector of Customs (Bombay), New Customs House' [1992 (4) SCC 440] which was affirmed by the Constitution Bench in the case of 'Hyderabad Industries Limited y. Union of India' [1999 (5) SCC 15]. In a recent judgment pronounced by this very Bench in the case of 'AIDEK Tourism Services Private Limited v. Commissioner of Customs, New Delhi' (Civil Appeal No. 2616 of 2001).

We are of the opinion that on the facts of these cases, these appeals are squarely covered by the aforesaid judgments. We accordingly hold that appellants were entitled to exemption from payment of CVD in terms of Notification No. 6/02. The appeals are allowed and the demand of CVD raised by the respondents-authorities is set aside.

## Sub Saharan gets Another 10 Years for Duty Access to US Market

The US Senate passed legislation on 14 May to extend duty-free access to the US for Sub-Saharan African countries through the African Growth and Opportunity Act (AGOA) for another decade.

AGOA expands upon the US Generalized System of Preferences (GSP), a set of formal exceptions from the WTO's most-favoured nation (MFN) principle that allows Washington to offer developing countries preferential treatment on specific goods. The current version of AGOA is due to expire on 30 September, unless re-authorized beforehand.

The bill, passed last week by a margin of 97 votes to 1, includes the renewal of several trade preference programmes: the GSP, expired since July 2013, will now be renewed through 31 December 2017; AGOA, including the third-country fabric (TCF) provision and preferential duty treatment programme for Haiti, will be extended until 30 September 2025.

The legislation will still require approval by the House of Representatives and President Barack Obama before it can become law.

### New features

The general rule of origin under the new AGOA retains a value-added requirement of 35 percent.

This provision entails that products may integrate materials sourced from outside countries –

in other words, non-AGOA-beneficiaries – provided that the "direct costs of processing" undertaken in one or more designated AGOA-beneficiary countries equal at least 35 percent of the product's appraised value.

The new version also includes language on the promotion of the role of women in social and economic development in Sub-Saharan Africa as part of the eligibility criteria of the scheme.

The bill gives the US President the authority to designate "certain cotton articles" as eligible articles for least developed countries under the GSP programme. A Senate Finance Committee report associated with the legislation links this undertaking to the WTO implementation commitments on duty-free quota-free (DFQF) treatment for certain cotton products originating from LDCs.

### South Africa subject to "out of cycle" review

Although South Africa remains eligible for AGOA under the new legislation, the bill specifies that some concerns have been raised about the country's compliance with certain provisions of the Act. An "out-of-cycle" review of South Africa will therefore be undertaken 30 days after AGOA's enactment.

In the context of this review, if the President determines that South Africa does not meet

## Finally, Najib Shah in Excise and Customs Board after One Year Wait

### Modi Govt Fills CBEC to Full Strength with Five New Entrants



Government on Monday appointed five senior IRS officers, as the new Members of the Central Board of Excise and Customs (CBEC).

Najib Shah is the first on the list. He should take over from the current Chairman Kaushal Srivastava who will retire in two months at end July. Shah will thus oversee the next two Budgets in his innings as the head of Excise and Customs Board. The senior had to wait for nearly a year to join the Board. (The rumours is that the BJP Government did not want a Muslim at the top during their term in the Central Government.)

Others to join the Board along with the retirement months are: Ashok Kaushal (September 1955) presently Chief Commissioner of Customs Mumbai, V.S. Krishnan (November 1955) currently Chief Commissioner Excise, Mumbai, Neerja Shah wife of Najib Shah (September 1955) currently DG HRD, Vanaja Narayan Sarna (January 1958) currently Chief Commissioner TAR.

Ram Tirath who is now DG Safeguards should join the Board in the vacancy created by Ms. Roy Chander who is retiring at this month end.

It seems that the BJP government is filling up vacancies in top positions in line with established norms of seniority to keep the promotion chain moving. This will boost the morale of the revenue officers who had protested to the Finance Minister on the move to supersede the entire 1979 Batch to stop Najib Shah from entering the Board.

certain requirements, the country's eligibility could either be withdrawn, suspended, or limited.

Earlier talks over AGOA's renewal had move slowly due to a dispute between Pretoria and Washington on poultry trade, following South Africa's decision to impose anti-dumping duties on certain imported US poultry products. (See Bridges Weekly, 29 January 2015)

Additionally, according to a report by the US Senate Finance Committee, South Africa recently indicated its intention to renegotiate its commitments under the WTO's General Agreement on Trade in Services (GATS) requiring foreign-owned companies to relinquish 51 percent ownership to South Africans.

The country has also developed proposals for policy changes with regard to intellectual property rights legislation that could result in several "shortcomings." These issues will be taken into account during the review of South Africa's eligibility, the report says.

## WEEKLY INDEX OF CHANGES

### Stiff \$3 Plus Anti-dumping Duty on USB Flash Drives from China and Taiwan Notified

- Supreme Court Stays High Court Dismissal of DGAD Finding (See also Pentaerythritol Case below)
- 15 May Supreme Court admits appeal goes on vacation
- 22 May Second hearing in vacation bench of Justice Mr. A.K. Sikri and Mr. Uday Umesh Lalit, High Court judgement stayed
- Customs notification imposing \$3.12 per piece anti-dumping duty issued by Department of Revenue within two hours of judgement
- Pen Drive Imports in the pipeline left in the Lurch
- Sudden imposition of duty puts importers at huge loss
- Shortage in market smugglers and carriers surface once again at airports.

Ntn 22-ADD 22.05.2015 (DoR) Whereas in the matter of 'USB Flash Drives' (hereinafter referred to as the subject goods) falling Chapter 8471, 8473, 8504, 8517, 8519, 8523, 8524, 8538, 8542 or 8543 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in or exported from People's Republic of China and Chinese Taipei (hereinafter referred to as the subject countries), and imported into India, the designated authority in its final findings published in the Gazette of India, Extraordinary, Part I, Section 1,

vide notification number 14/22/2012-DGAD dated the 19<sup>th</sup> December 2014, has come to the conclusion that—

(a) the subject goods has been exported to India from subject countries below its normal value, thus resulting in dumping of the product;

(b) the domestic industry has suffered material injury due to dumping of the subject goods;

(c) the material injury has been caused by the dumped imports of the subject goods originating in or exported from the subject countries;

And, whereas, the designated authority has

recommended imposition of definitive anti-dumping duty on the imports of subject goods, originating in or exported from the subject countries and imported into India, in order to remove injury to the domestic industry.

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes definitive anti-dumping duty on the subject goods, the description of which is specified in column (3) of the Table below, falling under sub-heading/ tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), exported from the countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), exported by the exporters as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (8), in the currency as specified in the corresponding entry in column (10) and as per unit of measurement as specified in the corresponding entry in column (9), of the said Table, namely :-

Table

SNo.	Chapter	Description of goods	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of Measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	8471, 8473, 8504, 8517, 8519, 8523, 8524, 8538, 8542 or 8543	USB Flash Drives	People's Republic of China	People's Republic of China	Any	Any	3.12	Piece	USD
2.	-do-	USB Flash Drives	People's Republic of China	Any country other than People's Republic of China	Any	Any	3.12	Piece	USD
3.	do-	USB Flash Drives	Any country other than People's Republic of China	People's Republic of China	Any	Any	3.12	Piece	USD
4.	do-	USB Flash Drives	Chinese Taipei	Chinese Taipei	Any	Any	3.06	Piece	USD
5.	do-	USB Flash Drives	Chinese Taipei	Any country other than Chinese Taipei	Any	Any	3.06	Piece	USD
6.	do-	USB Flash Drives	Any country other than Chinese Taipei	Chinese Taipei	Any	Any	3.06	Piece	USD

Note: "USB Flash Drives" includes products known in the market parlance by various other names such as pen drive, keychain drives, key drives, USB sticks, flash sticks, jump sticks, USB keys or memory keys.

2. The anti-dumping duty imposed under this

notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be paid in Indian currency.

[F.No.354/82/2014-TRU]

dated the 11th December, 2014, had come to the conclusion that –

(i) the subject goods have been exported to India from the subject country below its associated normal value, thus, resulting in dumping of the product;

(ii) the domestic industry has suffered material injury in respect of the subject goods;

(iii) the material injury has been caused by the dumped imports from the subject country,

and has recommended imposition of definitive anti-dumping duty on imports of the subject goods, originating in or exported from subject country and imported into India, in order to remove injury to the domestic industry;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment

### Pentaerythritol from Russia Hit with \$474/MT of Anti-dumping Duty for Five Years

- Supreme Court Stays Similar High Court Order Dismissing DGAD Finding in Pentaerythritol Case. (See USB Flash Drive Case above)
- Six Domestic Trade Associations Led by Reliance Implead Themselves in Case to Protect their Industry

Ntn 20-ADD 22.05.2015 (DoR) Whereas, in the matter of "Pentaerythritol" (hereinafter referred to as the subject goods), falling under Chapter 29 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the

Customs Tariff Act), originating in, or exported from Russia (hereinafter referred to as the subject country), and imported into India, the designated authority in its final findings published in the Gazette of India, Extraordinary, Part I, Section 1, vide notification number 14/26/2012-DGAD

and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, specification of which is specified in column (4), falling under sub-heading

of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (5), exported from the countries as specified in the corresponding entry in column (6), produced by the producers as specified in the corresponding entry in column (7), exported by the exporters as specified in the

corresponding entry in column (8), imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (9) in the currency as specified in the corresponding entry in column (11) and as per unit of measurement as specified in the corresponding entry in column (10) of the said Table.

**Table**

SNo.	Sub-heading	Description of goods	Specifications	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	2905 42	Pentaerythritol	Any grade	Russia	Russia	Any	Any	474	MT	US Dollar
2	2905 42	Pentaerythritol	Any grade	Russia	Any country other than Russia	Any	Any	474	MT	US Dollar
3	2905 42	Pentaerythritol	Any grade	Any country other than Russia	Russia	Any	Any	474	MT	US Dollar

2. The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be paid in Indian currency.

[F.No.354/84/2014-TRU]

### Anti-dumping Duty of \$367.59/MT Imposed on Sodium Citrate from China for Five Years

Ntfn 19-ADD 20.05.2015 (DoR) Whereas, in the matter of "Sodium Citrate" (hereinafter referred to as the subject goods), falling under tariff item

2918 15 20 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from People's Republic of China (hereinafter referred to as the subject country), and imported into India, the designated authority in its final findings published in the Gazette of India, Extraordinary, Part I, Section 1 vide notification number 14/23/2013-DGAD, dated the 26th February, 2015, had come to the conclusion that –

(i) the subject goods have been exported to India from the subject country below its associated normal value, thus, resulting in dumping of the subject goods;

(ii) the domestic industry has suffered material injury on account of imports from subject countries;

(iii) the material injury has been caused by the dumped imports of subject goods from the subject country,

and has recommended imposition of definitive

anti-dumping duty on imports of the subject goods, originating in or exported from subject country and imported into India, in order to remove injury to the domestic industry;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), exported from the countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), exported by the exporters as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty at the rate equal

**Table**

SNo.	Tariff item	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	2918 15 20	Sodium Citrate	People's Republic of China	People's Republic of China	Any	Any	367.59	MT	US Dollar
2	2918 15 20	Sodium Citrate	People's Republic of China	Any	Any	Any	367.59	MT	US Dollar
3	2918 15 20	Sodium Citrate	Any	People's Republic of China	Any	Any	367.59	MT	US Dollar

Note: The description of goods includes Tri Sodium Citrate, Tri Sodium Citrate dehydrate, Sodium Citrate dehydrate, Tribasic Sodium Citrate, Sodium Citrate Tribasic Dihydrate, Sodium Citrate Dibasic Sesquihydrate and Sodium Citrate Monobasic Bioxtra.

2. The anti-dumping duty imposed under this notification shall be effective for a period of five

years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be paid in Indian currency.

**Explanation.-** For the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance

### Ram Tirath Appointed as DG Safeguards

(But He may Join Board on 1 June!)

48-Cus(NT) 25.05.2015 (DoR) In exercise of the powers conferred by sub-rule (1) of rule 3 of the Customs

Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 and in supersession of notification of the Government of India in the Ministry of Finance, Department of Revenue, No. 115/2013– Customs (N.T.), dated the 27<sup>th</sup> November, 2013, published in the Gazette of India, Extraordinary vide number G.S.R. 753(E), dated the 27<sup>th</sup> November, 2013, the Central Government hereby appoints Shri Ram Tirath as the Director General (Safeguard) for the purposes of the said rules.

[F.No.21000/26/2015-OSD(ICD)]

to the amount as specified in the corresponding entry in column (8) after reducing the amount of safeguard duty applicable on the subject goods vide notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 04/2014-Customs (SG), dated the 31st December, 2014, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 936(E), dated the 31st December, 2014, in the currency as specified in the corresponding entry in column (10) and as per unit of measurement as specified in the corresponding entry in column (9) of the said Table, namely:-

(Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.

[F.No.354/78/2015-TRU]

## Another Five Years of Anti-dumping Duty on Alloy Wheel from China, Korea and Thailand

Ntnf21-ADD 22.05.2015 (DoR) Whereas in the matter of Cast Aluminium Alloy Wheels or Alloy Road Wheels used in

Motor Vehicles, whether or not attached with their accessories, of a size in diameters ranging from 12 inches to 24 inches (hereinafter referred to as the subject goods), falling under Chapter heading 8708 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as Customs Tariff Act), originating in, or exported from the People's Republic of China, Korea RP and Thailand (hereinafter referred to as the subject countries), and imported into India, the designated authority in its preliminary findings published in the Gazette of India, Extraordinary, Part I, Section 1, *vide* notification No. 14/7/2012-DGAD, dated the 13<sup>th</sup> January, 2014, had come to the conclusion that –

(a) the subject goods have been exported to India from the subject countries below its normal value;

(b) the domestic industry has suffered material injury in respect of the subject goods;

(c) the material injury has been caused by the dumped imports of the subject goods from subject countries,

and had recommended imposition of provisional anti-dumping duty on imports of the subject goods, originating in or exported from the subject countries and imported into India;

And whereas, on the basis of the aforesaid preliminary findings of the designated authority, the Central Government had imposed the provisional anti-dumping duty on the subject goods,

originating in or exported from the subject countries *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 15/2014-Customs (ADD), dated the 11<sup>th</sup> April, 2014, published in Part II, Section 3, Sub-section (i) of the Gazette of India, Extraordinary *vide* number G.S.R 280(E), dated the 11<sup>th</sup> April, 2014;

And whereas, the designated authority in its final findings *vide* notification No. 14/7/2012-DGAD, dated the 9<sup>th</sup> June, 2014 published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 30<sup>th</sup> December, 2014 has come to the conclusion that-

(a) the subject goods have been exported to India from the subject countries below its normal value;

(b) the domestic industry has suffered material injury in respect of the subject goods;

(c) the material injury has been caused by the dumped imports of subject goods from the subject countries,

and has recommended imposition of the definitive anti-dumping duty on the subject goods, originating in or exported from the subject countries, in order to remove injury to the domestic industry

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering

### Service Charges of 14% Effective from 1 June

14-ST 19.05.2015 (DoR) In exercise of the powers conferred by clauses (a), (c) and (f) of section 107, section 108, sub-sections (2), (3) and (4) of section 109, section 153 and section 159 of the Finance Act, 2015 (No. 20 of 2015), the Central Government hereby appoints the 1st day of June, 2015 as the date on which the provisions of clauses (a), (c) and (f) of section 107, section 108, sub-sections (2), (3) and (4) of section 109, section 153 and section 159 of the said Act shall come into force.

[F.No. 334/5/2015 - TRU]

the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under heading of the First Schedule to the said Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), and produced by the producer as specified in the corresponding entry in column (6), when exported from the country as specified in the corresponding entry in column (5), by the exporter as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty at the rate equal to the amount as indicated in the corresponding entry in column (8), in the currency as specified in the corresponding entry in column (10) and as per unit of measurement as specified in the corresponding entry in column (9) of the said Table.

Table

SNo.	Heading	Description of goods	Country of origin	Country of Export	Producer	Exporter	Duty amount	Unit	Cur-
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	8708	Cast Aluminium Alloy Wheels or Alloy Road Wheels used in Motor Vehicles, whether or not attached with their accessories, of a size in diameters ranging from 12 inches to 24 inches	People's Republic of China	People's Republic of China	Baoding Lizhong Wheels Manufacturing Co. Ltd., China PR	Baoding Lizhong Wheels Manufacturing Co. Ltd., China PR	1.37	KG	US\$
2	8708	-do-	People's Republic of China	People's Republic of China	Baoding Lizhong Wheels Manufacturing Co. Ltd., China PR	Hyundai Mobis, Hong Kong and Hyundai Glovis Co. Ltd, Korea RP	1.37	KG	US\$
3	8708	-do-	People's Republic of China	People's Republic of China	Non-Sampled Producer/exporters listed in the Schedule to this notification	Non-Sampled Producer/exporters listed in the Schedule to this notification	1.37	KG	US\$
4	8708	-do-	People's Republic of China	People's Republic of China	Any combination other than mentioned in Sl No. 1 to 3 above	Any combination other than mentioned in Sl No. 1 to 3 above	2.15	KG	US\$
5	8708	-do-	People's Republic of China	Any country other than those subject to anti-dumping duty	Any	Any	2.15	KG	US\$
6	8708	-do-	Any country other than those subject to anti-dumping duty	People's Republic of China	Any	Any	2.15	KG	US\$
7	8708	-do-	Korea RP	Korea RP	Any	Any	1.18	KG	US\$
8	8708	-do-	Korea RP	Any country other than those subject to anti-dumping duty	Any	Any	1.18	KG	US\$

9	8708	-do-	Any country other than those subject to anti-dumping duty	Korea RP	Any	Any	1.18	KG	US\$
10	8708	-do-	Thailand	Thailand	Any	Any	1.06	KG	US\$
11	8708	-do-	Thailand	Any country other than those subject to anti-dumping duty	Any	Any	1.06	KG	US\$
12	8708	-do-	Any country other than those subject to anti-dumping duty	Thailand	Any	Any	1.06	KG	US\$

Schedule	
SNo.	Name of the Producer/Exporters
1	Seyen Heavy Industries (Shanghai) Co., Ltd, Shanghai, China PR (Producer) and Shanghai General Motors Corporation Ltd, Pudong, Shanghai, China PR (Exporter).
2	Zhejiang Baokang Wheel Manufacture Co., Ltd, Wangzhai Town, Wuyi, Zhejiang, China PR (Producer & Exporter)
3	Zhejiang Zent Auto Wheel Co. Ltd., Yongkang City, Zhejiang, China PR (Producer & Exporter)
4	Zhejiang Jinfei Kaida Wheel Co, Ltd., Jinhua City, Zhejiang, China PR (Producer & Exporter)
5	Wuxi City Wanxuan Metal Production Co., Ltd., Wuxi City, Jiangsu, China PR (Producer & Exporter)
6	Zhejiang Shuguang Industrial Co., Ltd., Wuyi, Zhejiang, China PR (Producer & Exporter)
7	Xiangyang Hengde Auto Parts Co. Ltd., Xiangyang, Hubei Province, China PR (Producer & Exporter)
8	Kunshan Liufeng Machinery Industry Co. Ltd, Suzhou City, Jiangsu Province, China PR (Producer) and Lio Fung International Corporation, Kunshan Development Zone, Jiangsu Province, China PR (Exporter)

2. The anti-dumping duty imposed under this notification shall be levied for a period of 5 years (unless revoked, amended or superseded earlier) from the date of imposition of the provisional anti-dumping duty, that is, the 11<sup>th</sup> April, 2014 and shall be paid in Indian currency.  
[F. No.354/241/2012-TRU]

### Additional Duty of Excise Exemption on Carbonated Drinks and Water Omitted

29-CE In exercise of the powers  
22.05.2015 conferred by sub-section (1)  
(DoR) of section 5A of the Central  
Excise Act, 1944 (1 of  
1944), read with sub-section (3) of section 85  
of Finance Act, 2005 (18 of 2005), the Central  
Government on being satisfied that it is necessary  
in the public interest so to do, hereby  
makes the following further amendment in the  
notification of the Government of India in the  
Ministry of Finance (Department of Revenue)  
No. 6/2005-Central Excise, dated the 1<sup>st</sup> March,  
2005, published in the Gazette of India, Extraordinary,  
vide number G.S.R. 126(E), dated the 1<sup>st</sup> March,  
2005, namely:-

In the said notification, in the Table, S. No. 1A  
and the entries relating thereto shall be omitted.

[The omitted entry is "Water, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured"]

[F. No.341/ 10 /2015-TRU]

## Bar Coding Track and Trace in Pharma Exports Optional Till 1 Oct Bar Coding Compulsory only on Outside Tertiary Packing

Subject: Implementation of the Track and Trace system for export of drug formulations.

13-PN(RE) In exercise of the powers  
22.05.2015 conferred under Paragraph 2.04  
(DGFT) of the Foreign Trade Policy,  
2015-20, as amended from time  
to time, the Director General of Foreign Trade  
hereby amends Para 2.89 A of Handbook of  
Procedure, 2015-20, as notified vide Public  
Notice No. 4/2015-20 dated 01.04.2015, as under,  
for laying down the procedure for implementation  
of the Track and Trace system for export consignments  
of drug formulations:

### 2. "2.89 A

#### Procedure for Implementation of the Track and Trace system for export of drug formulations

(i) The manufacturer or the exporter of drug formulations will print the barcode as per GS1 Global Standard at different packaging levels to facilitate tracking and tracing of their products. The details are as follows:

##### (a) Primary Level:

Incorporation of two dimensional (2D) barcode encoding unique and universal global product identification code in the format of 14 digits Global Trade Item Number (GTIN) along with batch number, expiry date and a unique serial number of the primary pack. The bar code labelling at primary level is exempted till further notification; however, the above mentioned details are required to be printed in human readable form on optional basis till further notification.

##### (b) Secondary Level:

Incorporation of one or two dimensional (1D or 2D) barcode encoding unique and universal global product identification code in the format of 14 digits Global Trade Item Number (GTIN) along with batch number, expiry date and a unique

serial number of the secondary pack. However, manufacturer or exporter shall affix bar code on mono carton containing one primary pack on optional basis till further notification.

##### (c) Tertiary Level:

Incorporation of one dimensional (1D) barcode encoding unique and universal global product identification code in the format of 14 digits Global Trade Item Number (GTIN) along with batch number, expiry date and a unique serial number of the tertiary pack i.e. Serial Shipping Container Code (SSCC).

(ii) The manufacturer or exporter shall maintain the data in the parent-child relationship for three levels of packaging i.e. Primary, Secondary and Tertiary packaging and their movement in its supply chain. However, maintenance of parent-child relationship between primary and secondary packaging is optional till further notification.

(iii) The data mentioned in (ii) above shall be uploaded on the central portal of the Government of India by the manufacturer or exporter or its designated agency before release of the drug formulations for sale or distribution.

(iv) The responsibility of the correctness, completeness and ensuring timely upload of data on the central portal shall be with the manufacturer or exporter.

(v) The above rules (i) to (iv) will not be applicable to those drug formulations manufactured for export purposes, where the government of the importing country has mandated or formally notified its intention to mandate a specific requirement and the exporter intends to avail the option of printing the barcodes in their format after duly obtaining the permission of DCGI or its nominee. However, the tertiary level of packaging will have additional printing of barcode as per (i)(c) above in

addition to importing country's requirement, if any.

(vi) The exports of the drugs having manufacturing date prior to 01.10.2015 will be exempted from requirement of data uploading on central portal.

(vii) With effect from 01.10.2015, all drugs with manufacturing date on or after 01.10.2015 can be exported only if both the tertiary and secondary packaging carry barcoding as applicable and the relevant data as prescribed by DGFT is uploaded on the central portal.

#### Explanation:

(a) For the purpose of this rule,

(i) Drug formulation means a formulation manufactured with a license from Drug Control Authority under the provisions of Drugs & Cosmetics Act and Rules made there under.

(ii) Primary packaging means the package which is in direct physical contact with the active ingredient. Secondary packaging means a carton containing one or more primary packs and includes a mono carton containing one primary pack. The tertiary packaging means a shipper containing one or more secondary packs.

(b) Separate guidelines shall be issued for grant of exemption (s), data requirement, maintenance and upload on central portal."

#### 3. Effect of this Public Notice

In supersession of the earlier Public Notice No. 4/2015-20 dated 1st April, 2015, the procedure for implementation of the Track and Trace system for export of drug formulations has been modified.

## High Speed Diesel and Light Diesel Oil Import from Ship Breaking in Free Import List

*Subject: Amendment in import policy of fuels, incidental to the import of ship for ship breaking, under Chapter 27 of ITC (HS), 2012 – Schedule – 1 (Import Policy).*

07-Nfn(RE) In exercise of powers conferred by Section 3 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, the Central Government hereby amends the Import Policy of fuels, incidental to the import of ship for ship breaking, under ITC (HS) code 2710 1930 and 2710 1940 of Chapter 27 of ITC (HS), 2012 – Schedule – 1 (Import Policy) as under:

ITC (HS)	Item	Existing Policy	Existing Policy Condition	Revised Policy Condition
2710 1930	High speed diesel (HSD)	State Trading Enterprise	Import as per Policy Condition (5) below.	Import as per Policy Condition (5) below. However, import of HSD, brought on board in old ships / vessels which are meant for breaking, whether within vessel's machinery/ engine or outside (as remnant fuel) and is incidental to such ships / vessels, is "free".
2710 1940	Light diesel oil (LDO)	State Trading Enterprise	Import allowed through IOC subject to para 2.11 of Foreign Trade Policy.	Import allowed through IOC subject to para 2.20 of Foreign Trade Policy (2015-20). However, import of LDO, brought on board in old ships / vessels which are meant for breaking, whether within vessel's machinery/engine or outside (as remnant fuel) and is incidental to such ships / vessels, is "free".

### 2. Effect of this Notification

Import of High Speed Diesel (HSD) and Light diesel oil (LDO), brought on board in the old ships / vessels for purpose of breaking, and which are incidental to such ships / vessels, is "free".

## Corrigendum to Central Excise Nfn 26 and 27 both Dated 30 April 2015

*[Corrigendum dated 8th May 2015]*

In the notification of the Government of India, in the Ministry of Finance (Department of Revenue),-

(i) No.26/2015-Central Excise, dated the 30th April, 2015 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 344(E) dated the 30th April, 2015, in page 13, in line 37, for "shall apply" read "shall also apply".

(ii) No.27/2015-Central Excise, dated the 30th April, 2015 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 345(E) dated the 30th April, 2015, in page 14, in line 27, for "shall apply" read "shall also apply".

*[F. No. 334/5/2015-TRU]*

## Bharat Diamond Bourse Mumbai Notified for Rough Diamond Import, Trading and Re-export w.e.f. 1 July 2015

*Subject:- Import, trading & re-export of rough diamonds by notified entities in Bharat Diamond Bourse, Bandra Kurla Cargo Complex, Mumbai.*

17-CBEC The Central Government had announced its intent to permit the trading of rough diamonds in India by leading diamond mining companies of the world by creating a 'Special Notified Zone'. For this purpose, Dept. of Commerce / GJEPC have sought a regulatory framework under the Customs Act. After consultations with other regulators, namely, DGFT, RBI and with industry, namely, Bharat Diamond Bourse, and GJEPC, the Board has decided to introduce necessary provisions to allow and facilitate viewing/ auction/sale of Rough Diamonds at Bharat Diamond Bourse, Mumbai w.e.f. 1.7.2015.

2. The Precious Cargo Customs Clearance Centre at Bandra Kurla Com-

## Exchange Rates for Customs Valuation

### Rupee Rises by Five Paise to Rs. 64.30 against Dollar for Customs Valuation on Imports w.e.f. 22 May 2015

47-Cus(NT) In exercise of the powers conferred by section 14 of 21.05.2015 the Customs Act, 1962 (52 of 1962), and in super session of the notification of the Government of India in the Ministry of Finance (Department of Revenue)

No.44/2015-CUSTOMS (N.T.), dated the 07<sup>th</sup> May, 2015 vide number S.O.1222 (E), dated the 07<sup>th</sup> May, 2015, except as respects things done or omitted to be done before such super session, the Central Board of Excise and Customs hereby determines that the rate of exchange of conversion of each of the foreign currency specified in column (2) of each of Schedule I and Schedule II annexed hereto into Indian currency or *vice versa* shall, **with effect from 22<sup>nd</sup> May, 2015** be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SNo.	Currency	Imported Goods		Exported Goods	
		Current	Previous	Current	Previous
(1)	(2)	(3)		(3)	
		(a)	(b)		

#### Schedule I – Rate of exchange of one unit of foreign currency equivalent to Indian rupees

1.	Australian Dollar	50.95	51.60	49.65	50.30
2.	Bahrain Dinar	173.95	174.10	164.45	164.60
3.	Canadian Dollar	52.90	53.60	51.65	52.40
4.	Danish Kroner	9.65	9.85	9.40	9.55
5.	EURO	71.85	73.35	70.05	71.55
6.	Hong Kong Dollar	8.30	8.30	8.15	8.15
7.	Kuwait Dinar	217.40	217.60	205.10	205.65
8.	Newzeland Dollar	47.40	48.55	46.00	47.30
9.	Norwegian Kroner	8.55	8.70	8.30	8.45
10.	Pound Sterling	100.30	98.40	98.05	96.20
11.	Singapore Dollar	48.35	48.65	47.20	47.50
12.	South African Rand	5.55	5.45	5.25	5.15
13.	Saudi Arabian Riyal	17.50	17.50	16.55	16.55
14.	Swedish Kroner	7.75	7.85	7.55	7.65
15.	Swiss Franc	69.10	70.50	67.45	68.80
16.	UAE Dirham	17.85	17.85	16.90	16.90
17.	US Dollar	64.30	64.35	63.25	63.30

#### Schedule II – Rate of exchange of 100 units of foreign currency equivalent to Indian rupees

1.	Japanese Yen	53.25	54.00	52.00	52.80
2.	Kenya Shilling	67.85	69.10	64.00	65.10

*[F.No.468/01/2015-Cus.V]*

plex, Mumbai (or PCCCC for short) is already notified u/s 8 of the Customs Act, 1962 and Bharat Diamond Bourse (BDB for short) is duly notified as a custodian u/s 45 of the Customs Act. BDB has proposed to identify an area, within the Bharat Diamond Bourse Complex which shall house facilities for receipt, storage, viewing, auctions/sales of imported Rough Diamonds. It shall include all necessary commercial, security & customs related facilities incidental to these activities. This area shall henceforth be referred as a "Special Notified Zone", (or SNZ, for short). The Bharat Diamond Bourse shall submit the floor plan, proposed facilities, including security related features, for approval under section 8 and in terms of the requirements under "Handling of Cargo in Customs Area Regulation, 2009" to the jurisdictional Commissioner of Customs.

3. M/S Bharat Diamond Bourse, in their capacity as a Custodian, appointed under section 45 of the Customs Act, 1962, propose to outsource the handling of rough diamonds, imported for auctions/sales, to a special purpose vehicle, namely, India Diamond Trading Centre, constituted by GJEPC and Bharat Diamond Bourse. For this purpose, BDB shall make an application before the jurisdictional Commissioner of Customs for approval in terms of circular 45/2013 - Cus dated 31.12.2013.

4. The list of companies entitled to avail of the facility of consigning rough diamonds to India for the purpose of viewing and sales from the SNZ shall be those as are permitted vide RBI's Circular No. 116 dated 1.4.2014 or as amended from time to time.

5. The import of rough diamonds will be permitted through Air cargo mode only. No import through hand carriage or express courier service mode will be permitted.

6. The rough diamonds arriving for viewing / auctions / sale by bidding/sale by negotiation will be accompanied by a declaration of value by way of an invoice, packing list, documents of insurance and a Kimberley Process Certificate as provided in Circular no.53/2003-Cus dated 23<sup>rd</sup> June, 2003.

7. The imported parcels meant for the purpose of viewing/auctions/sales will be initially transhipped from strong room of BDB at Air Cargo Complex at Sahar to the Strong Room at PCCCC, BDB, Bandra Kurla Complex, Mumbai as per procedure being followed and notified by way of existing trade notices / standing orders. The imported parcels will be examined by Customs in the presence of the representatives of the mining company, M/S Bharat Diamond Bourse and M/S India Diamond Trading Centre for tallying the carat weight with the import invoice, packing list and Kimberley Certificate. Thereafter the parcel will be sealed and transferred to the strong room at the SNZ.

8. The special notified zone will be accessible to traders to visit for viewing the rough diamonds

and/or auctions / sale by bidding/sale by negotiation. The GJEPC shall define the eligibility conditions for such visitors, under intimation to the Customs. All persons permitted to visit the SNZ shall be issued with photo identity cards by M/S India Diamond Trading Centre. Suitable security arrangements for controlling access and ensuring against any pilferage, damage or unauthorised removal of goods from the Customs area shall be undertaken by Bharat Diamond Bourse/ M/S Indian Diamond Trading Centre.

9. The working hours of the SNZ and timings for viewing, auctions/sale shall be notified by Bharat Diamond Bourse / M/S India Diamond Trading Centre in consultation and approval of the jurisdictional Commissioner of Customs.

10. Any such viewing, auctions/sales may result in all imported lots being sold or only some of the lots being sold or all lots remaining unsold. The sales of rough diamonds from the SNZ shall be of a single or multiple lots but no sale of a sub-lot will be allowed. During the viewing/sale process, mixing of lots of the Rough Diamonds will not be permitted.

11. After the completion of viewing/sales of the rough diamonds at the SNZ, these will be re-packed, lot wise, in the same manner as had been received in the SNZ from the strong room of the

**Application Forms for SFIS for NFE Earnings in 2014-15 Notified**

14-PN(RE) 25.05.2015 (DGFT) In exercise of the powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14, the Director

General of Foreign Trade hereby makes an amendment in the Handbook of Procedures, Vol.I, (Appendices and Aayat Niryat Forms).

2. The ANF 3B-2 as given in annexure to this Public Notice shall be filed for claiming benefit under the Served from India Scheme (SFIS) for the year 2014-15.

Effect of Public Notice: ANF3B-2 for claiming benefit of Served From India Scheme (SFIS) for foreign exchange earned in the year 2014-15 is being notified.

**[Annexure to this Public Notice in [www.worldtradesScanner.com](http://www.worldtradesScanner.com)]**

BDB at the PCCCC, no later than 60 days from the date of import. The reconstituted parcels shall be sealed in the presence of customs, representatives of the mining company, M/S Bharat Diamond Bourse and M/S India Diamond Trading Centre, after tallying the carat weight with the import invoice, packing list and Kimberley Certificate and transferred to the strong room of BDB at PCCCC under customs escort.

12. A successful auction/sale by bidding/sale by negotiation shall lead to a price discovery in respect of a lot or lots. The diamond mining company shall issue a sale invoice in respect of such lot or lots, as are sold. The sale invoice, so issued by the diamond mining company, shall be the relevant document for the declaration of value u/s Section 14 of the customs Act, 1962. Such a lot or lots shall be cleared by the buyer by filing a bill of entry at the PCCCC.

13. The goods which are not sold shall be exported under a shipping bill, filed not later than 75 days of the date of import. In view of the anticipated regularity of such transactions of export of the unsold diamonds, no permission for filing shipping bill would have to be obtained. India Diamond Trading Centre acting "on A/C" of the consignor (Mining company) shall file a shipping bill for export of the unsold diamonds at PCCCC. Export of the unsold rough diamonds will be permitted to any destination outside India.

14. The shipping bill may be filed using the Import Export Code number obtained by M/S India Diamond Trading Centre and in conformity with the regulations under the FTP and RBI.

15. Bharat Diamond Bourse and their duly appointed handling agent, M/S India Diamond Trading Centre shall be responsible for the receipt, sales, re-exports, custody, delivery, re-export and accounting of the rough diamonds imported for viewing and/or sale in such form as prescribed by the jurisdictional Commissioner of Customs.

16. The jurisdictional Commissioner of Customs shall issue consequential trade notices / standing orders immediately.

17. Any difficulties in implementation of the procedure may be brought to the notice of the Board. F. No: 451/13/2015 Cus V

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