

PRINCIPAL BENCH - COURT NO. 1

**Anti Dumping Miscellaneous Application No. 50005 of 2023  
in  
Anti Dumping Appeal No. 51878 of 2021**

**Owens Corning India Private Limited** ..... Appellant

## VERSUS

**Designated Authority Directorate General  
of Anti-Dumping and Allied Duties** .....Respondent

**APPEARANCE:**

Ms. Reena Asthana Khair & Ms. Shreya Dahiya, Shri Rajesh Sharma & Shri Nikhil Sharma, Advocate for the appellant.

Shri Ameet Singh, Ms. Bhavana Varsha & Ms. Niharika Sharma, Advocate for DGAD

Shri Rakesh Kumar, Authorised Representative for the Revenue

Shri Devender Bagia, Shri Ankur Sharma, Shri Jayant Raghu Ram, Shri Ashutosh Aravind Kumar & Shri Arpit Mehra, Advocate for Respondent 3,4 & 5.

**CORAM : HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT  
HON'BLE MR. P.V.SUBBA RAO, MEMBER (TECHNICAL)  
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)**

**DATE OF HEARING: March 20, 2023**

# ORDERSHEET

An application under Rule 41 of the Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 has been filed for implementation of the order dated August 30, 2022 passed in this appeal. It has been stated in paragraph 4 of the application that despite directions having been issued by the Tribunal, the Central

Government has not taken any steps for compliance of the directions and though a writ petition was filed by the Central Government in the Delhi High Court to assail the decision of the Tribunal in the matter of **Jubilant Ingrevia Limited**, the Delhi High Court passed an order on 05.09.2022 directing that as an interim measure provisional assessment of imports concerning that product in issue will be made for the time being.

2. On 20.02.2023 when the application was taken up learned authorized representative appearing for the Central Government took time to seek instructions in the matter.

3. Today, when the matter has been taken up, learned authorized representative states that a writ petition has been filed before the Delhi High Court to assail the final order dated August 30, 2022 passed by the Tribunal and so the hearing on this application may be adjourned.

4. Learned counsel for the applicant states that at this stage the interest of the applicant may be protected to the extent it was protected by the Delhi High Court in the Writ Petition filed by Union of India against the decision of the Tribunal in the matter of **Jubilant Ingrevia**.

5. In **Jubilant Ingrevia**, the Tribunal had set aside the office memorandum issued by the Under Secretary conveying the decision of the Central Government not to impose anti-dumping duty despite a

recommendation made by the designated authority for imposition of anti-dumping duty.

6. The order passed by the Delhi High Court on 05.09.2022 in W.P(C)5185/2022 filed by the Union of India against the decision of the Tribunal in **Jubilant Ingrevia**, is reproduced below:

"W.P.(C) 5185/2022& CM No.15389/2022 [Application filed on behalf of the petitioner seeking interim relief]

5. The respondent before us is the domestic industry. It is not in dispute that the Designated Authority [in short "DA"] via notification dated 25.08.2020 has recommended the imposition of anti-dumping duty [in short "ADD"].

6. It is also not in dispute that the Government of India has disagreed with the recommendation made by the DA.

7. This decision forms part of the Office Memorandum (OM) dated 14.12.2020.

8. Given this position, we are of the view that as an adinterim measure, the following direction would suffice, as the need to impose ADD would arise only if the respondent were to succeed in the instant writ petition.

- (i) The provisional assessment of imports concerning the product in issue will be made for the time being. The importers would, thus, be put to notice of the possibility of ADD being imposed, albeit as per law, if, as noticed above, the respondent were to succeed in the instant writ petition.
- (ii) It is, however, made clear that the aforesaid direction will not create any equities in favour of the respondent.
- (iii) Furthermore, this direction will not have an impact on the merits of the writ petition.

9. CM No.15389/2022 is disposed of in the aforesaid terms.

10. List the matter on 02.03.2023.”

7. A similar interim order was passed by the Delhi High Court in W.P(C) No. 6758/2022 on 05.09.2022 in the writ petition filed by the Union of India to assail the decision of the Tribunal rendered in **Association of Synthetic Fibre Industry vs. Union of India and 4 others**<sup>1</sup> in which the office memorandum was set aside.

8. It is, therefore, considered appropriate to pass a similar order, as was passed by the High Court, which will remain operative till a decision is taken by the Central Government on the recommendation made by the designated authority for imposition of anti-dumping duty. The directions are as follows:

(i) The provisional assessment of imports concerning the subject goods from the subject countries will be made for the time being;

(ii) It is, however, made clear that the aforesaid direction will not create any equities in favour of the domestic industry; and

(iii) This direction will not have any impact on the decision to be taken by the Central Government pursuant to the directions issued for reconsideration of the recommendation made by the designated authority.

9. The learned authorized representative appearing for the Department shall send a copy of this order to all the concerned zones where the imports of the subject goods are likely to be made and also

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1. **Anti-Dumping Appeal No. 51049 of 2021 decided on 01.11.2021**

ensure that necessary and effective steps are taken by all concerned for due compliance of this order.

10. List this application on **May 22, 2023**.

**(JUSTICE DILIP GUPTA)**  
**PRESIDENT**

**(P.V.SUBBA RAO)**  
**MEMBER (TECHNICAL)**

**(BINU TAMTA)**  
**MEMBER (JUDICIAL)**

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