

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH

ANTI DUMPING APPEAL No. 51425 OF 2022

(Arising out of Customs Notification No. 68/2021-Customs (ADD) dated 06.12.2021 issued by the Ministry of Finance read with Final Findings No. 6/27/2020-DGTR dated 07.09.2021 by the Designated Authority)

**Technova Imaging Systems
Private Limited**

124, 1st Floor, AnsalBhawan, 16,
KG Marg, Barakhamba, New Delhi,
Delhi 110001

...Appellant

versus

- 1. The Union of India**
Through the Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi-110001
- 2. Designated Authority, Directorate
General of Trade Remedies,**
Department of Commerce,
Ministry of Commerce & Industry,
4th Floor, Jeevan Tara Building,
Parliament Street, New Delhi-110001
- 3. Hindalco Industries Limited**
Ahura Centre, 1st Floor, B wing,
Mahakali Caves Road,
Mumbai-400093
- 4. Aludecor Lamination Pvt. Ltd.**
Martin Burn Building, Suite 52, Floor 5, 1, RN,
Mukherjee Road,
Kolkata – 700001, West Bengal
- 5. M/s. Alkraft Thermotechnologies
Pvt. Ltd.**
35 A & B/1, Ambattur Industrial Estate,
Chennai 600058, Tamilnadu, India
- 6. Jiangsu Dingsheng New Materials
Joint-Stock Co.**
Jingkou Industrial Park,
Zhenjiang, Jiangsu
- 7. Dingsheng Aluminum Industries**
(Hongkong) Trading Co., Limited
Flat/RM 1405 Gloucester Road, Wanchai, HK
- 8. Hangzhou Dingsheng Import & Export Co., Ltd.**
PingYao Zone, Yuhang Industrial Area,
Hangzhou, Zhejiang, 311115, China

- 9. Inner Mongolia Liansheng New Energy Material Co.**
Xiaoshan Ganghui Center,
Hazgzhou City, Zhejiang Province
- 10. Indomax Industries**
D19/3, Okhla Phase-2, New Delhi-110020
- 11. MAHLE Anand Thermal Systems Private Limited**
Plot No. 3, Sector 41, Kasna Industrial Area,
201310 Greater Noida, Uttar Pradesh
- 12. Jindal (India) Limited**
Jindal Centre, 12, Bhikaji Cama Palace,
New Delhi – 1100666
- 13. Raviraj Foils Limited**
702, 7th Floor, Saffron, Panchvati,
Ambavadi, Ahmedabad, Gujarat 380006
- 14. Arconic (Kunshan) Aluminum Products Co., Ltd**
No. 111 Yanhu Road Huaqiao Town,
Kunshan City, 215332, Jiangsu Province, China
- 15. M/s Granges Aluminium (Shanghai) Ltd. (GAS)**
1111 Jiatang Highway Shanghai, China, 201807.
- 16. Aluminium Secondary Manufacturers Association**
1/6B, Asaf Ali Road, New Delhi- 110002
- 17. ACP Manufacturer Association**
2E/7, Jhandewalan Extension,
New Delhi-110055
- 18. Alutech Packaging Private Limited**
DSM-315, DLF Tower,
Shivaji Marg, Moti Nagar, Delhi – 110005, India
- 19. Greenberry Foils India Limited**
Plot No. 6, Near Godrej Factory Valia,
GIDC Industrial Estate, Valia Rd,
Ankleshwar, Gujarat 393135
- 20. R.S. Foils Private Limited**
Survey No. 54, Samlaya-Tundav Road,
Village – Moto Motipura,
Tal – Savli, Dist. – Vadodara
391770, Gujarat, India
- 21. Shree Venkateshwara Electrocast Private Limited**
Flat No. 204, Block – B,
Panchsheel Apartment, 493/B/1,
GT Road (S), Shibpur, Howrah,
Kolkata, WB, 711102

**22. Hanon Automotive Systems India
Pvt. Ltd.**

...Respondents

No.-1, Nelson Mandela Marg,
Shanti Kunj B Block, Anand Gram,
Vasant Kunj, New Delhi-110070

APPEARANCE:

Shri V. Lakshmikumaran, Shri Devinder Bagia, Shri Ankur Sharma, Shri Jayant Raghu Ram, Shri Ashutosh Arvind Kumar, Advocates for the Appellant

Shri S. Seetharaman and Shri Darpan Bhuyan, Advocates for Respondent No. 3

Ms. Reena Asthana Khair and Ms. Shreya Dahiya, Advocates for Respondent No.15

Shri Devesh Tripathi, Shri Rajesh Sharma, Ms. Roopali Sharma and Shri Nikhil Sharma, Advocates for Respondent No.10 & 17

Shri Ameet Singh and Ms. Bhawna, Advocates for Designated Authority

Shri Viswajeet Saharan, Authorised Representative for the Central Government

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)
HON'BLE MS. RACHNA GUPTA, MEMBER (JUDICIAL)

Date of Hearing: 09.11.2022
Date of Decision: 13.04.2023

FINAL ORDER NO. 50471/2023

JUSTICE DILIP GUPTA:

Technova Imaging Systems Private Limited ¹ has filed this appeal to assail the final findings dated 07.09.2021 issued by the designated authority and the consequential customs notification dated 06.12.2021 issued by the Central Government imposing anti-dumping duty on 'certain flat rolled products of aluminium'² from China PR. The

1. the appellant
2. the subject goods

second relief that has been claimed is to grant exclusion to **higher width Lithograde Aluminium coils above 1150 mm width**, which are not commercially manufactured and supplied by the domestic industry i.e., Hindalco Industries Ltd.³

2. During the hearing of the appeal, Shri V. Lakshmikumaran, learned counsel for the appellant assisted by Shri Devinder Bagia, Shri Ankur Sharma, Shri Jayant Raghu Ram and Shri Ashutosh Arvind Kumar, restricted his submissions to the second prayer.

3. It transpires from the records that Hindalco Industries Limited, which has been impleaded as respondent no. 3 in this appeal, had filed an application before the designated authority on behalf of the domestic industry under the provisions of the Customs Tariff Act, 1975⁴ and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and Determination of Injury) Rules, 1995⁵ for initiation of anti-dumping investigation on the imports of certain flat rolled products of aluminium originating in or exported from China PR⁶. The investigation was initiated by the designated authority by a notification dated 08.09.2020 to determine the existence, degree and effect of the alleged dumping and to recommend the amount of anti-dumping duty, which, if levied, would be adequate to remove the injury to the domestic industry. The investigation was conducted for the period from 01.04.2019 to 31.03.2020 and the injury analysis period was notified to be from 01.04.2016 to 31.03.2019 and the period of investigation. The designated authority provided an

3. **Hindalco**
4. **the Tariff Act**
5. **the 1995 Rules**
6. **the subject country**

opportunity to all the interested parties to present their submissions orally in the hearing conducted on 25.05.2021 and the interested parties who presented their views were advised to file written submissions of the views expressed orally by them. The interested parties were also provided an opportunity to file rejoinder submissions to the views expressed by the opposing interested parties. A disclosure statement containing the essential facts which would form the basis for the final findings was issued to the interested parties on 26.08.2021 and the interested parties were allowed time upto 02.09.2021 to give their comments. The final findings of designated authority were notified on 07.09.2021. The conclusion and the recommendation made by the designated authority in the final findings are as follows:

"L. CONCLUSION

127. After examining the submissions made by the domestic industry and the other interested parties and issues raised therein and considering the facts available on record, the Authority concludes that:

- a) Considering the normal value and export price for the subject goods, dumping margin for the subject goods from the subject country has been determined, and the margin is positive and significant.
- b) The domestic industry has suffered material injury and the injury margin is positive. The examination of the imports of the subject product and the performance of the domestic industry shows that the volume of dumped imports from the subject country has increased in both absolute and relative terms. The volume of the subject goods has increased by more than 60% whereas demand has increased by only 18%. It is also noted that the imports of the subject goods from the subject country are

suppressing the prices of the domestic industry. The production and the sales of the domestic industry have remained largely stable in the period of investigation while the capacity utilization remains suboptimal. It is noted that the market share of domestic industry has declined by 12% in the period of investigation whereas market share of the imports from the subject country has increased by 35%. The performance of the domestic industry has significantly deteriorated in respect of profits, cash profits and return on capital employed. The domestic industry has suffered financial losses, cash losses and negative return on investments in the period of investigation.

- c) The material injury suffered by the domestic industry has been caused by the dumped imports.

M. RECOMMENDATION

128. The Authority notes that the investigation was initiated and notified to all the interested parties and adequate opportunity was given to the domestic industry, the exporters, the importers and the other interested parties to provide information on the aspects of the dumping, the injury and the causal link. Having initiated and conducted the investigation into dumping, injury and causal link in terms of the provisions laid down under the Rules, the Authority is of the view that imposition of anti-dumping duty is required to offset the dumping and the injury. Therefore, the Authority recommends imposition of the anti-dumping duty on the imports of subject goods originating in or exported from the subject country.

129. Having regard to the lesser duty rule followed by the Authority, the Authority recommends imposition of the anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury so as to remove the injury to the domestic industry. The Authority, therefore, considers it

necessary to recommend imposition of the definitive anti-dumping duty equal to the amount mentioned in the column (7), on all imports of the subject goods described at Column (3) of the duty table, originating in or exported from China PR, from the date of notification to be issued in this regard by the Central Government.”

4. The Central Government, thereafter, issued the notification dated 06.12.2021 imposing anti-dumping duty on flat rolled products of aluminium for a period of 5 years from the date of publication of the notification. However, the following two products were excluded from the scope of the subject goods.

“i. Can-body Stock–also includes Can End Stock (CES) used to make aluminium cans.

ii. Aluminium Foil up to 80 microns.”

5. The issue, therefore, that arises for consideration this appeal is regarding exclusion of the higher width Lithograde Aluminium coils above 1150 mm width from the product on which anti-dumping duty has been imposed by the customs notification.

6. The case set out by the appellant is that it is a manufacturer of **Lithographic Digital Offset Printing Plate**⁷. Aluminium offset printing plates are photo sensitive digital plates used in the printing industry for transferring data as an image onto paper or on non-absorbent substrates like tin sheets or poly films. The use of Aluminium offset printing plates in the printing process enables the digital workflow to directly transfer the image from a computer to the plate' using lasers, unlike the analog workflow that requires an intermediary film to transfer the image. Aluminium offset printing plates are manufactured from high purity lithograde aluminium coils,

7. Aluminium offset printing plates

which is the principal raw material for its manufacture. The appellant is the sole manufacturer of Aluminium offset printing plates in India and, accordingly, is also the sole user of lithograde aluminium coils in India. Hindalco is the only Indian manufacturer of certain lithograde aluminium coils. The appellant claims that it buys the entire production of Hindalco of lower width lithograde aluminium coils but even at full capacity, Hindalco is unable to fulfil the demand of the appellant for lithograde aluminium coils below 1150 mm as during the period of investigation, the appellant had a demand more than 16,000 MT of lower width lithograde aluminium coils, out of which only around 10,000 MT were supplied by Hindalco. Thus, the appellant has to fulfil this demand of lower width lithograde aluminium coils by importing the remaining quantities.

7. The appellant further claims that for lithograde aluminium coils above 1150 mm width, Hindalco is unable to supply any commercial quantities to the appellant. Out of the total demand of such lithograde aluminium coils above 1150 mm, which was close to 10,000 MT during the period of investigation, Hindalco manufactured some trial quantities and could supply only around 2% of the total demand of appellant during the period of investigation but most of such higher width coils supplied by Hindalco failed to meet the technical manufacturing requirements of the appellant. The said rejected coils were returned to Hindalco and Hindalco acknowledged the genuineness of such rejections by way of written communications to appellant. Hindalco also acknowledges on its website that it can manufacture lithograde aluminium coils only up to 1150 mm width. Due to the inability of Hindalco to manufacture such coils above the

width of 1150 mm in commercial quantities, the appellant had to import the same to fulfil its demand.

8. It would be useful to reproduce the paragraphs of disclosure statement of the designated authority that deal with product under consideration.

9. The key submissions made by the domestic industry with regard to product under consideration have been recorded by the designated authority in the following manner:

"5. The following are the key submissions made by the domestic industry with regard to the product under consideration and the like article:

a. The product under consideration is "Flat Rolled Products of Aluminium" (FRP). FRP is made in the form of ALuminium Rolled Coils, or Aluminium Rolled Sheets of various dimensions. FRP is made from primary or secondary aluminium which may undergo several processes such as melting & alloying, slab casting (slabs/concast), hot rolling, cold rolling, and other finishing processes and used for a variety of applications depending upon the gauge, temper, alloy, width, finish etc.

e. Exclusion requests: With regard to exclusion requests made by the interested parties, the domestic industry has submitted as follows:

(i) to (x) *****

Lithographic Aluminum Coils having a width above 1150mm

xi. The domestic industry has supplied coils having width above 1150mm in the past to customers. Further, the quality of products provided by the petitioner meets all the specified requirements.

xii. No industry or manufacturer can supply products meeting all specifications at all times.

Depending upon the industry and product in question, there will be some products in a batch or over multiple batches that may not meet all specifications. In such cases, those products are returned and amounts for the same are adjusted for future orders or refunded. This in itself cannot be a ground for exclusion.”

10. The submissions made by the other interested parties on the product under consideration are as follows:

“C.2 Submissions made by the other interested parties

6. The following are the submission made by the other interested parties with regard to the product under consideration and like article:

a to c *****

d. Exclusion requests: Following exclusions have been requested by the opposing interested parties:

i to xv *****

Lithograde Aluminium Coils above 1150 mm width

xvi. Aluminium offset printing plates are manufactured from high purity litho-grade aluminium coils which is the crucial and principal raw material for its manufacturing. Litho-grade aluminium coils, which has been made a part of the current PUC, are a special grade of aluminium coils made from alloy of aluminium and lithium.

xvii. TechNova requires litho-grade Aluminium coils of certain higher width ranges which goes up to 1600 mm which the domestic industry does not manufacture. The domestic industry is not commercially capable of supplying litho-grade aluminium coils beyond 1150 mm. Consequently, users have no other option but to import Lithograde aluminium coils beyond 1150 mm width into India.

xviii. During the POI and 2020-21, 95%-100% of the Lithograde aluminium coils beyond width 1150 mm have been imported, whereas, the domestic industry has been able to supply only 0%-5% of Lithograde aluminium coils above 1150 mm width.

xix. Most of these coils supplied by the domestic industry had been on a trial basis out of which many of them failed to produce the desired quality standards required and were liable to be rejected.

xx. Thus, the Authority is requested to exclude lithograde aluminium coils above 1150 mm width from the product scope."

11. The designated authority examined the product under consideration in the following manner:

"C.3 Examination by the Authority

7. Various interest parties have raised a number of issues with regard to the scope of the product under consideration in the present case. Interested parties have sought exclusion of certain products from the scope of the PUC on the grounds that the domestic industry is not capable of producing the product type or supply the product in the desired product type, or the quality of the product produced and supplied by the domestic industry is not satisfactory. The arguments of interested parties have been examined after calling relevant information from the parties and examined the same during the table verification and also taking into account the evidence submitted on record by the interested parties."

8 to 23 *****

Lithograde Aluminium Coils above 1150 mm width

24. Interested parties have submitted that the domestic industry is not commercially capable of supplying Lithograde Aluminium coils beyond 1150

mm and up to 1600 mm width and that the domestic industry has been able to supply only 0% - 5% of Lithograde Aluminium coils above 1150 mm width.

25. On the other hand, the domestic industry has submitted that it has supplied coils having width above 1150 mm in the past to customers meeting all the specified requirements.

26. The Authority has verified the evidence submitted by the domestic industry and finds that the domestic industry has supplied Lithograde Aluminium coils beyond 1150 mm and up to 1600 mm width to one of the parties. Accordingly, this is included within the scope of the PUC.

27. The Authority notes that a possible demand-supply gap does not justify the exclusion of particular product types where they are comparable to the product under consideration in terms of characteristics such as physical & chemical characteristics, functions & uses, product specifications, distribution & marketing and tariff classification of the goods.

28. Interested parties have argued that the supply of these coils by domestic industry had been on a trial basis out of which many of them failed to produce the desired quality standards required and were liable to be rejected.

29. The Authority notes that if the government has prescribed certain standards of a product and the product supplied by the domestic industry conforms to such standards, the consumers cannot contend that the product type produced by the domestic industry does not meet the desired standards. It is also noted that nothing substantial has been provided by the interested parties to demonstrate the difference in the quality of the product supplied by the domestic industry and imported into India.

30. Therefore, the Authority holds not to exclude such a product from the scope of PUC."

12. On the basis of the comments submitted by the interested parties to the disclosure statement, the designated authority recorded the following final findings with regard the product under consideration:

"I.3 Examination by the Authority

123. The analysis and the decision of the Authority on the issues raised above are as below:

(i) to (vi)*****

(vii) The arguments with respect to the exclusion of Lithograde Aluminium Coils above 1150 MM width have already been addressed by the Authority. First, the Authority has verified evidence of supply of Lithograde Aluminium coils beyond 1150 mm and up to 1600 mm width to one of the parties by the domestic industry. Secondly, a possible demand-supply gap does not justify exclusion of the PUC. The interested parties are free to import the product and imports are not prohibited. Thirdly, if the products manufactured by the domestic industry conform to the standards prescribed by relevant governmental authorities, the consumers cannot contend that the product type produced by the domestic industry does not meet the desired standards. Quality issues, in any event, do not justify exclusion and there is no reason for the Authority to deviate from this."

13. Shri V. Lakshmikumaran, learned counsel appearing for the appellant made the following submissions:-

- (i) The designated authority committed an error while defining the scope of product under the consideration to include even products not manufactured by the domestic industry;
- (ii) The designated authority committed an error in not excluding higher width lithograde aluminium coils above 1150 mm width not commercially manufactured

by domestic industry from the purview of the product under consideration; and

- (iii)** The designated authority incorrectly appreciated the facts and evidences presented during investigation leading to an incorrect reasoning on demand supply gap and quality parameters.

14. Shri S. Seetharaman assisted by Shri Atul Sharma and Shri Darpan Bhuyan, learned counsel appearing for Hindalco made the following submissions:

- (i)** Higher width lithograde aluminium coils above 1150 mm are manufactured by the domestic industry. The designated authority had also verified that the domestic industry has produced and supplied higher width lithograde aluminium coils above 1150 mm;
- (ii)** As the appellant purchases the entire quantity of lithograde aluminium coils produced by the domestic industry it would mean that the domestic industry produces lithograde aluminium coils equivalent to the orders received by it from the appellant. This is for the reason that the appellant is the sole buyer and the user of lithograde aluminium coils;
- (iii)** The cheap dumped imports of lithograde aluminium coils from China PR have cannibalized the potential sales that can be realized by the domestic industry from the appellant which is the sole customer;
- (iv)** If certain grades of the product under consideration are exempted on the basis that they cannot cater to the entire demand/requirement of that particular grade in India and cheap dumped imports at unfair prices are

allowed to continue as they did before the imposition of anti-dumping duty through the customs notification, the domestic industry would never be able increase capacity with respect to such grades;

- (v)** A supply demand gap cannot be the basis for not levying anti-dumping duty;
- (vi)** Grant of exclusion to lithograde aluminium coils above 1150 mm will lead to circumvention of anti-dumping duty imposed on coils less than 1150 mm since for example 1400 mm coil can be rotated and cut into aluminium sheets of 700 mm to manufacture the Aluminium offset printing plates; and
- (vii)** The contentions of the appellant regarding quality are misconceived, quality concerns cannot be a ground for exclusion of any particular grade/product type from the scope of the product under consideration.

15. Shri Ameet Singh, learned counsel appearing for the designated authority and Shri Vishwajeet Saharan, learned counsel for the Central Government, however, supported the findings recorded by the designated authority.

16. Shri Devesh Tripathi, learned counsel appearing for the respondent no's. 10 and 17 and Ms. Reena Khair learned counsel assisted by Ms. Shreya Dahiya, appearing for the respondent no. 15.

17. The submissions advanced by the learned counsel for the appellant and the learned counsel for the respondents have been considered.

18. The appellant as the sole manufacturer of Aluminium offset printing plates in India is also the sole user of lithograde aluminium

coils in India. Hindalco is the only manufacturer of **certain** lithograde aluminium coils in India. The appellant claims that it buys the entire production of Hindalco of lower width lithograde aluminium coils which Hindalco manufactures and even this demand of lithograde aluminium coils below 1150 mm is not met by Hindalco as out of the total demand of 16,000 MT, only 10,000 MT were supplied by Hindalco. The remaining demand of lower width lithograde aluminium coils is met by the appellant by importing.

19. The appellant also claims that Hindalco is unable to supply any commercial quantities to the appellant of lithograde aluminium coils above 1150 mm. Out of the total demand of lithograde aluminium coils above 1150 mm, which was approximately 10,000 MT during the period of investigation, Hindalco manufactured some trial quantities and could supply only around 2% of the total demand of the appellant during the period of investigation. However, most of such higher width coils supplied by Hindalco could not meet the technical requirements of the appellant and they were returned to Hindalco. It is for this reason that the appellant claims that it has to import lithograde aluminium coils above 1150 mm.

20. It is not denied by Hindalco that only 2% of the total demand of lithograde aluminium coils above 1150 mm were supplied to the appellant and nor has it been denied that 25% of such trial quantity were rejected by the appellant. In the final findings, the designated authority placed reliance on few invoices of supply of lithograde aluminium coils above 1150 mm by Hindalco and held that the possible demand-supply gap would not justify the exclusion of this product from imposition of anti-dumping duty.

21. The issue of demand-supply gap would arise only if Hindalco was commercially producing and supplying lithograde aluminium coils above 1150 mm. This demand as supply gap may make sense for lithograde aluminium coils below 1150 mm because Hindalco was commercially producing the same even though it could not meet the entire demand of the appellant.

22. It needs to be noted that the Manual of Standard Operating Practices for Trade Remedy Investigations issued by the Directorate General of Trade Remedies, Department of Commerce, Government of India provides in Article 3.10 that provides that product under consideration should include only those items which are manufactured by the domestic industry. In fact, the product under consideration should preferably include those items, which are produced and commercially sold in the domestic market by the domestic industry.

The relevant portions are as follows:

"3.10. The PUC is defined to include those items only, which are manufactured by the DI. Mere competence without any production or merchant sales may not be sufficient to include an item in the definition of the PUC. Similarly, if an item is produced and consumed only captively (in-house) without any outside sales the DI's request for an investigation against this product may be considered with caution. The PUC should preferably include those items, which are produced and commercially sold in the domestic market by the respective DI. An exception could be the cases where the applicant is a new industry, who has set up facility for a new product or could be an upstream product of an existing industry and the new industry is facing difficulty in capturing market on account of dumped imports of the product.

3.26. The complete process of defining and describing the PUC as mentioned above is carried out during the fresh/original investigation. It is the responsibility of the

Investigation team (with the approval of the DG) to clearly and accurately define and describe the scope of the PUC concerned during the fresh/original investigation at the stage of consideration of initiation.”

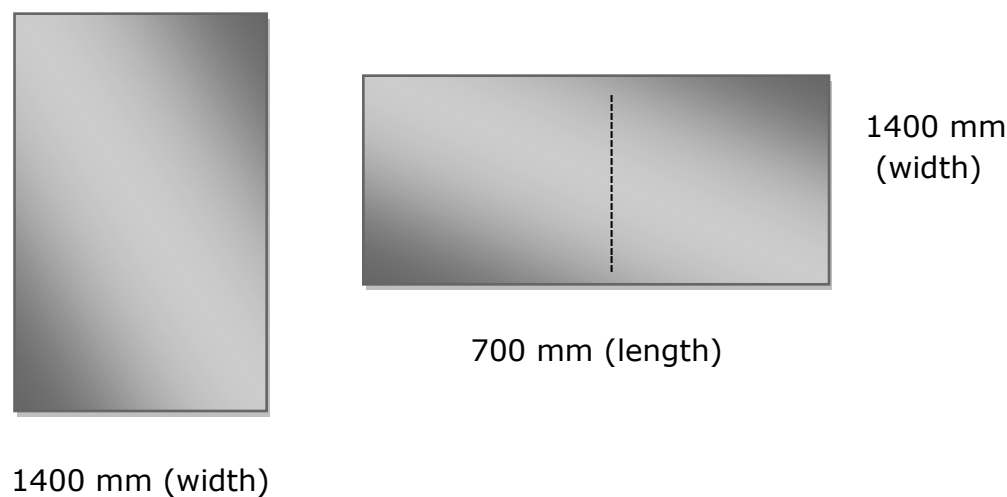
23. It is seen that for the period from Financial Year 2019-2020 to 2022-2023 Hindalco only supplied miniscule quantities, on trial basis to the appellant during the period of investigation but no supply of higher width coils was to the appellant made either pre or post period of investigation. In fact, only 2% of the requirement of the appellant of higher width coils were supplied on trial basis during the period of investigation and 25% of the supplies were rejected because they did not meet the technical manufacturing requirements. Even according to the Hindalco, only 74% of the supply of lithograde aluminium coils between 1150 mm to 1600 mm met the requirements.

24. It is, therefore, clear that Hindalco does not produce lithograde aluminium coils above 1150 mm on a commercial basis and it was only on a trial basis that this product was supplied to the appellant which also could not meet the technical requirements. The designated authority, therefore, committed an error in observing that Hindalco had supplied lithograde aluminium coils beyond 1150 mm and up to 1600 mm to the appellant when only miniscule supply had been made. In such a situation when commercial production had not been undertaken by Hindalco of this product, the issue of demand-supply gap would not arise.

25. The designated authority also noted that Hindalco is manufacturing lithograde aluminium coil as per the applicable BIS Standards and thus, the issue of failing the testing requirements cannot be raised by the appellant. The designated authority has not

made any specific reference to the BIS Standard that the product satisfies and neither the learned counsel for the Hindalco placed any particular standard, particularly when learned counsel for the appellant had specifically stated that there are no BIS Standard covering this product.

26. Learned counsel for Hindalco also submitted that giving exclusion to wider width coils will lead to circumvention of anti-dumping duty imposed on the coils of less than 1150 mm width. The contention is that since the coils are of several hundred feet in length, the appellant can cut the lower width coil taking the length as the breadth of the newly cut part and use it as wider width coil to manufacture wider width plates. This has been described by Hindalco in the following manner:



27. Elaborating this, learned counsel for Hindalco stated that coil of width 1400mm can be rotated, its length now taken as width, and be cut into aluminium sheets of 700mm to manufacture the aluminium offset printing plates, thus circumventing the duty.

28. Learned counsel for the appellant submitted that this submission is commercially and technically not correct. The appellant

has described the manufacturing process of aluminium offset printing plates in the following manner:

Mechanical Uncoiling	The coils are loaded on coil car and un-coiler to feed the web to the line.
Jointing station	The station is used to joint leading and trailing edge of metal to process.
Accumulator	In order to attain continuous operation of the line there is an on-line coil storage mass. This permit joining operations without stopping the line.
Degreasing	The web first passes through this process tank where it is treated with not chemical to clean of all oil, grease & dirt, thus making web clean for next treatment.
Rinse 1	The degreased coil is then rinsed by spraying with water to remove excess surface chemical.
Electro-chemical Graining	The coil is grained/roughened in this tank by electrolysis process.
Rinse 2	The grained coil is thoroughly washed off any residual electrolyte by multiple water sprays.
Passivation	The coil is neutralized for any process residue in this tank by chemical wash.
Rinse 3	The coil is washed by water to remove all traces of chemical from previous process.
Anodising	The web is anodized (a layer of Aluminium oxide is formed) by electrolysis process.
Rinse 4	The coil is washed by multiple sprays of water to remove the entire residual chemical from previous
Post Treatment	The coil is thoroughly cleaned in this tank under mild acidic conditions.
Rinse 5	The coil is washed for the removal of residual chemical film using water sprays.
Drying	The coil is dried completely before it is coated.
Coating	Heat sensitive coating is done in a dust free environment taking cognisance of all process application requirements.
Drying	The coating is dried in this section.
Baking	Baking process ensures that web dries effectively and makes coil ready for cooling process.
Cooling	This process ensures that web is cooled before it could be handled at next process stage easily.
Flattener	The web is then passed through de-curl assembly to achieve required flatness.
Auto Inspection	The web is inspected by Auto-inspection system. Defective plates are tabbed & segregated from the conveyor belt.

Cutting/Slitting	The auto-inspected web passes through edge, centre & cut-to length stations, gets finished to customer required sizes.
Packaging	The Plates are collected from Conveyor Belt, wrapped in black polyethylene paper, boxed in a foldover & identified by label.
Conditioning	The plates are subjected to conditioning process. Post final inspection; the plates are released for dispatch to customer.

29. Learned counsel for the appellant also submitted that in the manufacturing of aluminium offset printing plates, the grain direction and rolling direction play an important role. The hot rolling and cold rolling process which is undertaken by Hindalco at its factory to produce the lithographich coils introduces a strong directional alignment in aluminium in the form of rolling lines and this directional alignment is called as ‘grain direction’.

30. At its plant, the appellant subjects the lithographic coils to the ‘electro-chemical graining’ process for conversion into offset printing plates. Electro-chemical graining is a process by which the surface of the coil is evenly roughened to improve the adhesion of the coating layer to the coils which improves the water/ink balance of the printing by the printers through exposure and developing. Technically the electro graining can only be done in the direction in which the coil has been rolled by Hindalco. After undergoing graining, the coils then undergo, inter-alia, the processes of anodizing and coating to become lithographic plates.

31. When the manufactured plates are installed into the printing press, they get bent at their gripper ends of the printing rollers. In such a situation, bending of the plates takes place perpendicular to the graining direction of the plates. If they are bent parallel to the graining direction of the plates, they will crack during the high-speed printing causing serious accidents. The web printing presses are high

speed machines with 40,000 to 80,000 impressions per hour speeds. The printing machine rollers exert high pressure on the plate cylinders and tension/stress on the plate edge which is bent for lockup in the gripper at both ends. Due to this reason, the length of the coated coil cannot be transposed as width of the plate while mounting in the press.

32. Thus, the contention of Hindalco that the wide width coil can be substitutes lower width coil which will ultimately lead to circumvention of the imposed anti-dumping duty is not only an afterthought as it was not a point taken before the designated authority, but it is also not tenable and technically not possible. In fact, the fact during the course of hearing learned counsel stated that Hindalco is setting up a new line for wide width coil to be produced at Hirakut in future. Any planned factory to produce and supply lithographic coils above 1150 mm at Hirakut also means that Hindalco is currently not able to supply wider width coils as required by the appellant.

33. In the material injury analysis, the anti-dumping law requires consideration of period of investigation data and not future commitments which is entirely subjective. The future expansion of scope of product is to be considered under a new investigation or a mid-term review provision under the 1995 Rules, once facts of manufacture and supply in commercial quantities are established. In any view of the matter, this submission was not raised by Hindalco before the designated authority.

34. The inevitable conclusion that follows from the aforesaid discussion is that Hindalco does not manufacture/produce lithographic aluminium coils above 1150 mm on a commercial basis. Thus, when the domestic industry does not manufacture/produce lithographic

aluminium coils above 1150 mm on a commercial basis, this product would have to be excluded from scope of the product on which anti-dumping duty has been imposed under the customs notification dated 06.12.2021 issued by the Central Government on the basis of the final findings dated 07.09.2021 issued by the designated authority.

35. The customs notification dated 06.12.2021 is, accordingly, modified by excluding the 'lithograde aluminium coils above 1150 mm' from imposition of anti-dumping duty. The appeal is, accordingly, allowed to the extent indicated above.

(Order Pronounced on **13.04.2023**)

(JUSTICE DILIP GUPTA)
PRESIDENT

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

(RACHNA GUPTA)
MEMBER (JUDICIAL)

JB, Shreya