

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

PRINCIPAL BENCH

**Anti Dumping Appeal No. 51366 of 2022**

(Arising out of Final Findings F. No. 06/27/2020-DGTR dated 07.09.2021 of the Designated Authority, Directorate General of Trade and Customs Notification No. 68/2021-Customs (ADD) dated 06.12.2021)

**Banco Products India Ltd.**

**...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 Anti-Dumping and Allied Duties**  
Department of Commerce & Industry,  
Parliament Street, Jeevan Tara Building,  
4<sup>th</sup> Floor, New Delhi-110001
- 3. Hindalco Industries Limited**  
3<sup>rd</sup> Floor, B Wing, S.K. Ahire  
Marg, Worli, Mumbai-400030
- 4. Jiangso Dingsheng New Materials Joint-Stock Co.**  
Jingkou Industrial Park, Zhenjiang,
- 5. Hangzhou Dingsheng Import & Export Co., Ltd.**  
Area, Hangzhou, Zhejiang, 311115,  
China
- 6. Dingsheng Aluminum Industries (Hongkong) Trading Co., Limited**  
Flat/RM 1405 Gloucester Road, Wanchai, HK
- 7. Inner Mongolia Liansheng New Energy Material Co.**  
Xiaoshan Ganghui Center,  
Hangzhou City,  
Zhejiang Province
- 8. Arconic (Kunshan) Aluminum Products Co., Ltd.**  
No. 111 Yanhu Road Huaquao  
Town, Kunshan City, 215332,  
Jiangsu Province,  
China
- 9. M/s Granges Aluminium (Shan Ghai) Ltd. (GAS)**  
1111 Jiatang Highway Shanghai,  
China, 201807

**10. M/s. Alkraft Thermotechnologies Pvt. Ltd.**

35 A & B/1, Ambattur Industrial Estate,  
Chennai 600058, Tamil Nadu, India

**11. Technova Imaging Systems Private Limited**

124, 1<sup>st</sup> Floor, AnsalBhawan, 16,  
KG Marg, Barakhamba, New Delhi,  
Delhi 110001

**12. MAHLE Anand Thermal Systems Private Limited**

Plot No. 3, Section 41, Kasna  
Industrial Area, 201310 Greater Noida,  
Uttar Pradesh

**13. Aluminium Secondary Manufacturers Association**

1/6B, Asaf Ali Road, New Delhi-110002

**14. Alutech Packaging Private Limited**

DSM-315, DLF Tower, Shivaji Marg,  
Moti Nagar, Delhi 110005, (India)

**15. Greenberry Foils India Limited**

Plot No. 6, Near Godrej Factory  
Valia, GIDC Industrial Estate,  
Valia Rd, Ankleshwar, Gujarat 393135

**16. Jindal (India) Limited**

Jindal Centre, 12, Bhikaji Cama Palace,  
New Delhi-110066

**17. Raviraj Foils Limited**

702, 7<sup>th</sup> Floor, Saffron, Panchvati, Ambavadi,  
Ahmedabad, Gujarat- 380006

**18. R.S. Foils Private Limited**

Survey No. 54, Samlaya-Tundav  
Road, Village-MotaMotipura,  
Tal – Savli, Dist – Vadodara 3917770,  
Gujarat, India

**19. Shree Venkateshwara Electrocast Private Limited**

Flat No. 204, Block-B, Panchsheel Apartment,  
493/B/1, G.T. Road (S), Shibpur, Howrah,  
Kolkata, WB, 711102

**20. ACP Manufacturer Association**

2E/7, Jhandewalan Extension, New Delhi-110055

**21. Aludecor Lamination Private Limited**

Martin Burn Building, Suite 52,  
Floor 5, 1, RN, Mukherjee Road,  
Kolkata-700001, West Bengal

**22. Indomax Industries**

D19/3, Okhla Phase-2, New Delhi-110020

**...Respondents**

**With**

**Anti Dumping Miscellaneous Application No. 50681 of 2022**

(on behalf of appellant)

**APPEARANCE:**

Mr. Devesh Tripathi, Shri Rajesh Sharma, Ms. Rupali Sharma, Shri Nikhil Sharma, Advocates for the Appellant

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

Ms. Reena Asthana Khair, Ms. Shreya Dahiya, Advocates for Respondent No. 9

Ms. Bhawna, Advocate for Designated Authority

Shri Viswajeet Saharan, Authorized Representative for the Central Government

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

**Date of Hearing: 03.11.2022**

**Date of Decision: 13.04.2023**

**FINAL ORDER NO. 50472/2023**

**JUSTICE DILIP GUPTA:**

Banco Products (India) Pvt. Ltd.<sup>1</sup> has filed this appeal with a prayer that the final findings dated 07.09.2021 of the designated authority be modified so as to exclude the product 'colour coated aluminium coils' from imposition of anti-dumping duty. The second relief that has been claimed is to also modify the consequential Customs Notification 06.12.2021 issued by the Central Government to exclude 'colour coated aluminium coils' from imposition of anti-dumping duty retrospectively w.e.f. 06.12.2021 and for refund of the excess/additional duty so collected on the import of 'colour coated aluminium coils' w.e.f. 06.12.2021.

2. It transpires from the records that Hindalco Industries Limited<sup>2</sup>, which has been impleaded as respondent no. 3 in this appeal, had

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**1.     the appellant**  
**2.     Hindalco**

filed an application before the designated authority on behalf of the domestic industry under the provisions of the Customs Tariff Act, 1975<sup>3</sup> and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and Determination of Injury) Rules, 1995<sup>4</sup> for initiation of anti-dumping investigation on the imports of certain flat rolled products of aluminium<sup>5</sup> originating in or exported from China PR<sup>6</sup>. 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 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

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

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.”

3. 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.”

4. A preliminary objection was raised by the learned counsel for the respondents that the present appeal would not be maintainable as

the appellant had not participated in the investigation and the proceeding before the designated authority.

5. The appellant, therefore, filed Miscellaneous Application No. 50681 of 2022 with a prayer that permission may be granted to file additional documents. It has also been stated that a similar issue has also been raised in **Anti-Dumping Appeal No. 51485 of 2022** filed by **M/s. Mahle Anand Thermal Systems Private Limited** vs. **Union of India and others**.

6. Learned counsel for the applicant/appellant, however, fairly stated that since **Anti-Dumping Appeal No. 51485 of 2022** filed by **M/s. Mahle Anand Thermal Systems Private Limited** raises the same issues as have been raised in the present appeal, it would not be necessary to decide the application or the appeal because relief, if any, granted to **M/s. Mahle Anand Thermal Systems Private Limited** would also enure to the benefit of the appellant.

7. In view of the aforesaid statement made by the learned counsel for the appellant, the application would have to be rejected and is rejected. The appeal, consequently, stands dismissed.

(Order Pronounced on **13.04.2023**)

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

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

**(RACHNA GUPTA)**  
**MEMBER (JUDICIAL)**