

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH**

Dated: 06/09/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. AD/A/53280/2016-CU[DB] dated 30/08/2016

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 9C of the Customs Tariff Act, 1975.


Deputy/Asstt. Registrar (CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1	AD/4023/2012	Jindal Stainless Ltd (formerly Known As Jsl Limited) Op Jindal Marg HISAR-HARYANA

**Name and Address of
Respondent**

2	-DESIGNATED AUTHORITY DIRECTORATE GENERAL OF ANTI-DUMPING AND ALLIED DUTIES, 1. MINISTRY OF COMMERCE AND INDUSTRIES. GOVERNMENT OF INDIA UDYOG BHAWAN, NEW DELHI 110001 2. UNION OF INDIA MINISTRY OF FINANCE SECRETARY - REVENUE GOVERNMENT OF INDIA NORTH BLOCK, NEW DELHI
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Copy To

3 Advocate(s) / Consultant(s):

**JITENDRA SINGH ADV
F-21, GEETANJALI ENCLAVE,
NEW DELHI**

DB-D

4 Additional Party's Name & Address :

5 Bar Association, CESTAT, Delhi

6 Director Publications, Customs, Excise. I.P. Estate, Delhi

7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp. ICICI Bank of Defence colony New Delhi-3

8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

10 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

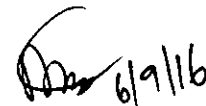
12 TaxIndiaOnline.com Pvt. Ltd., B-XI/8183, Vasant Kunj, New Delhi - 110070

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

14 The ICFAI society , 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

15 MS Knowlegde Processing Pvt. Ltd.(Taxmanagementindia.com),FF-19, 1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

16 C.D.R. 17 Office Copy 18 Guard File


6/9/16
Deputy/Asstt. Registrar(CUSTOMS Appeal Branch)

Appeal No. AD/4023/2012

M/s. Jindal Stainless Ltd. ... Appellants

Designated Authority.	...	Respondent
Directorate General of Anti-Dumping and Allied Duties/Ministry of Finance		

Present Shri Govind Dixit, A.R. for the Revenue

Hon'ble Mr. B. Ravichandran, , Technical Member

Date of Decision : 30.08.2016

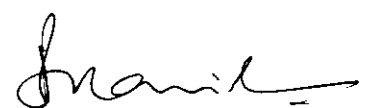
FINAL ORDER NO. 53280 /2016 AD

The appeal is against the Final Finding dated 14.11.2011 of Designated Authority (DA), Directorate General of Anti-Dumping and

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Allied Duties, Ministry of Commerce and Industry and Notification No. 46/12-CUS (ADD) dated 4.10.2012 of Ministry of Finance imposing Anti Dumping Duty (AD Duty) on cold rolled flat products of stainless steel of specified dimension (subject goods) originating in/ or exported from Korea R P, E U and USA. The appellant is engaged in the manufacture of, *inter alia*, subject goods in India. The grievance of the appellant is restricted to the point that AD duty recommended and imposed was connected to a reference price rather than a fixed quantum of such duty. In other words, while the appellants supported imposition of AD duty on subject goods, they are aggrieved by the method for quantification of calculation of such duty.

2. Learned Counsel on behalf of the appellant submitted that recommendation by the Designated Authority is without proper consultation with Domestic Industry. The disclosure statement or the Final Finding did not give any justification for resorting to variable duties instead of fixed AD Duties. It is the case of the appellant that the recommendation of the Designated Authority is arbitrary and contrary to the provisions of Rule 4 (d) of Anti Dumping rules. The type of duty imposed has a direct implication for the effectiveness of such imposition. The learned counsel submitted that the AD duty linked to reference price does not fully solve the problem of dumping and injury to domestic industry as it does not take into consideration rising price of the inputs and finished goods. In view of the wide fluctuation of these

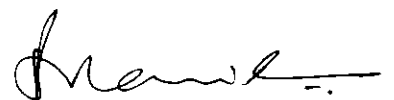


parameters, the reference based AD duty will not serve the intended purpose.

3. The learned Counsel for the Designated Authority and learned AR for the Revenue defended the Final Finding of the Designated Authority and notification issued thereafter. It is submitted that the margin of dumping and consequent injury to the domestic industry has been evaluated by the Designated Authority and AD duties has been recommended keeping in view the overall analysis and conclusions drawn by the Designated Authority. There is no deviation of any procedure or requirement in the process.

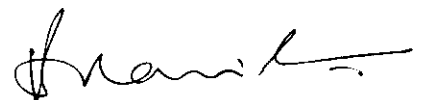
4. Having heard all the sides, as above, we find that the appellant is apparently aggrieved by the Final Finding and the Customs Notification only to the effect of methodology of calculating AD duty. We note that AD duty in the present case was fixed as amount equal to the difference between a fixed reference price and the landed value of the subject goods in case the landed value at the time of importation is below the said reference price, The landed value means the 'assessable value' in terms of Customs Act, 1962.

5. We have perused carefully the Final Findings of the Designated Authority. We note that none of the data or analysis made by the Designated Authority has been questioned in the present appeal. The dispute is on the final recommendation on the methodology of AD duty calculation. The dumping margin and the magnitude of injury and



injury margin has been elaborately dealt with by the Designated Authority. Injury margin has been indicated in percentage terms [para 44 of the finding] . The Designated Authority having initiated and conducted an investigation into dumping, injury and the causal link thereof, in terms of Anti Dumping Rules finally established positive dumping margin as well as material injury to the Domestic Industry. Considering the said dumping margin, the Designated Authority recommended AD duty to offset dumping and consequently injury to the Domestic Industry. It is clear that the Designated Authority followed lesser duty Rule and recommended definitive Anti Dumping having reference price as constant.

6. While the appellant challenged the methodology of fixing AD duty as above, they are not able to convincably establish about need for alternative method of having Anti Dumping duty. The Designated Authority having vested with the powers, on exercising the same in accordance with the AD Rules, more specifically with reference to Rule 4. Rule 4 (d), recommended the amount of AD duty equal to the margin of dumping or less which if levied, would remove the injury to the domestic industry, and the date of commencement of such duty. The reference price based AD duty imposed is based on analysis of various parameters, more specifically of the price behavior of the imported goods, domestic goods, dumping margin and the injury to the domestic industry. Unless it is established with positive evidence that serious

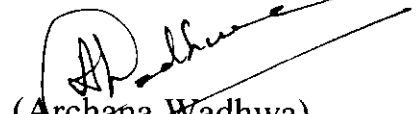


error has happened in any of these analysis, Tribunal will not be interfering with the finding of the Designated Authority as the finding of the Designated Authority were based on material facts and the same cannot be overturned based on purported subjective grievance of the appellant. We find no merit in the present appeal and the same is accordingly dismissed.

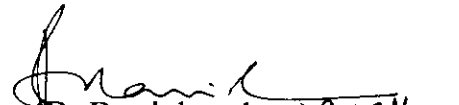
(Pronounced in the open Court on 30.8.2016)



(Justice Dr. Satish Chandra)
President



(Archana Wadhwa)
Judicial Member



(B. Ravichandran) 24816
Technical Member