FAX : 011-26108426

REGISTERED / AD

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

Dated: **14/09/2016**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **AD/A/53397-53399/2016-CU[DB]** dated **06/09/2016**

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/Stay/3794/2012	AD/2996/2012	**The All India Glass Manufacturers Federation** 812, New Delhi House, 27, Barakhamba Road, New Delhi-110001
2	AD/COD/59793/2013	AD/59114/2013	**Eti Soda Sogutozu Business Center** D Block No.14/d Bestepeler/ankara TURKEY
3		AD/59150/2013	**The All India Glass Manufacturers Federation Aigmf** 812, New Delhi House 27, Barakhamba Road NEW DELHI-110001
			Name and Address of Respondent
4			-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

Other Appellants and Respondents as per Annexure

Copy To

7Advocate(s) / Consultant(s):

Pramod Kumar Rai & Athena Law Associates
808, L&T FLATS, (SHREE AWAS)
SEC-18-B, DWARKA, NEW DELHI-110078
DWARKA,
NEW DELHI-110075

Athena Law Associates
808, L & T BUILDING, SECTOR 18B,
DWARKA,
NEW DELHI-110075

Rajesh Sharma (Advocate)
TPM CONSULTANTS, K-3/A SAKET,
NEW DELHI-110017

8 Additional Party's Name & Address :
9 Bar Association, CESTAT, Delhi

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

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

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

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

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

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

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

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

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

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

20 C.D.R. **21** Office Copy **22** Guard File

15/09/16

Deputy/Asstt. Registrar(CUSTOMS Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING : 01/09/2016.
DATE OF DECISION : 06 /09/2016.

Anti Dumping Stay Application No. 3794 of 2012 in Appeal No. 2996 of 2012

M/s The All India Glass Manufacturers Federation — Appellant

versus

Union of India/DA — Respondent

[Arising out of the Notification No. 34/2012-Customs (ADD) dated 03/07/2012 issued by the Ministry of Finance. Final Finding of the Designated Authority No. 14/17/2010-DGAD dated 17/02/2012.]

Anti Dumping COD Application No. 59793 of 2013 in Appeal No. 59114 of 2013 and Anti Dumping Appeal No. 59150 of 2013

M/s Eti Soda Sogutozu Business Centre]
M/s The All India Glass Manufacturers] Appellants
Federation Aigmf]

Versus

Union of India/DA — Respondent

[Arising out of the Notification No. 8/2013-Customs (ADD) dated 18/04/2013 issued by the Ministry of Finance. Final Finding of the Designated Authority No. 14/3/2011-DGAD dated 09/02/2013.]

Appearance

Shri Pramod Kumar Rai, Advocate – for the appellant.

S/Shri Amit Singh, Advocate for DA and Govind Dixit, Authorized Representative (DR) – for the Respondent.

For I.P. :

Ms. Reena Asthana Khair, Shri Rajesh Sharma and Ms. Rita Jha, Advocates – for (the Domestic Industry) the appellant.

Shri Darpan Bhuyan, Advocate for Respondent – 9.

CORAM : **Hon'ble Shri Justice Dr. Satish Chandra, President**
Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 53397-53399/2016 Dated : 06/09/2016

Per. B. Ravichandran :-

These are three appeals against final findings of the Deisgnated Authority, Directorate General of Anti Dumping and Allied Duties, Ministry of Commerce and Industry and Customs Notification issued upon such final findings imposing Anti Dumping Duty on Soda Ash imported from various countries. The All India Glass Manufacturers Federation filed two of these appeals challenging final findings of the DA dated 17/02/2012 [Customs Notification No. 34/2012 – CUS (ADD) dated 03/7/2012] and final findings dated 09/2/2013 [Customs Notification 8/2013 dated 18/4/2013] on imposition of AD duties on the subject goods when imported from China PR, European Union, Kenya, Iran, Pakistan, Ukraine and USA as well as Turkey and Russia respectively. M/s ETI Soda Sogutozu Business Centre a manufacturer of Soda Ash, based in Turkey filed appeal challenging final finding dated 09/2/2013 and Customs Notification dated 18/4/2013. All these appeals are taken up together for decision.

2. Before proceeding with the appeals on merit we note that in respect of appeal filed by ETI Soda Sogutozu Business Centre, a delay of 5 days in filing the appeal. Upon hearing the learned Counsel for the appellant, we are satisfied about the reasons for such delay. Accordingly, we allow the appeal to taken on record for disposal.

3. The brief facts connected to these appeals are that the Alkali Manufacturers Association of India [AMAI/DI] represented to the DA for Anti Dumping Duty to be imposed on subject goods imported from various countries. The DA initiated investigation and after following the procedure stated in the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) rules, 1995 (AD Rules) concluded that the subject goods are to be imposed with Anti Dumping Duty. Subsequently, the customs notifications imposing such AD duties were issued.

4. The learned Counsel appearing on behalf of the appellants submitted that the sales realization of the DA is much higher than NIP. There is no injury to the DA. The DA had made wrong analysis to arrive at the injury margin. When the net sales realization was more than NIP the DA should not have initiated investigation for AD duty. He further submitted that the DA did not make proper distinction in the analysis between 'dense' and 'light' Soda Ash. They are used by different user industry, one by soap manufacturers and the other by glass manufacturers. The

main thrust of the learned Counsel's argument is that there is no injury to the DI as they have been realizing much higher amount than NIP.

5. The learned Counsel appearing on behalf of respondent No. '9' [M/s Detergent Manufacturers Association of India] supported the arguments of learned Counsel for the appellants against AD duty.

6. The learned Counsel for the Domestic Industry contested the submissions of the appellants. She argued that the DA is required to consider whether there has been the significant increase in dumped imports, either in absolute terms or relative to production or consumption in India. The DA recorded there is an increase in absolute terms which is significant and material while the demand increased by 14% during POI, the dump imports increased by about 108%. The learned Counsel drew our attention to the detailed findings of the DA as recorded in the final findings dated 17/2/2012. She made specific reference to para 117 and 118 of the findings to emphasis that. The price suppression has made the Domestic Industry unable to realize the selling price commensurate with increased in cost of sales.

7. The learned Counsel for the DA submitted to the Bench the final findings which included the confidential information not published in the gazette. We have perused the said information. The learned Counsel submitted that the landed price of imported

goods is much lower than the NIP. The return on investment is also much below the normally accepted bench mark of 22%.

8. The learned AR supported the arguments of learned Counsel for DA.

9. We have heard all the interested parties, as above, and perused the appeal records including the written submissions and confidential version of DA's findings. The AD duty imposed on Soda Ash is being contested by the appellants. The only main issue which formed basis of the appeal is that there is no price injury to the Domestic Industry as the sale price is higher than NIP. The fall in profit of DI is not attributable to the import of subject goods. We note that there is no legal provision to mandate the DA to compare NIP with NSR in order to determine the price effect. NSR is not the only parameter to decide on AD duties. The other price effects of imports such as price suppression and price depression are to examined. We find that these aspects have been specifically examined by the DA in para 117 and 118 of his findings dated 17/2/2012. He concluded that there is a price suppression affecting the DI. It was further recorded that per unit profits of DI in respect of production and sale in the domestic market has significantly declined during the injury period. We have also perused the confidential information as submitted by the learned Counsel for the DA as seen from para 117 and 125 of the findings we note that the landed price is much lower than the NIP and the return on investigation for the

DI is much below the general bench mark. We find that the submissions made by the learned Counsels for the appellant on these grounds are not correct.

10. On careful consideration of the final findings impugned in these appeals and on considering the submissions made by all the interested parties, we find no merit in the present appeals. Accordingly, these appeals are dismissed. The miscellaneous applications for condonation of delay and stay also stand disposed of.

(Order pronounced in the open court on 06/09/2016.)

(Justice Dr. Satish Chandra)
President

(Archana Wadhwa)
Member (Judicial)

(B. Ravichandran) 2916.
Member (Technical)

PK