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REGISTERED / AD

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

Dated: **15/09/2016**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **AD/A/53464/2016-CU[DB]** dated **12/09/2016**

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/50095/2016	AD/50102/2016	**Hubei Tri Ring Forging Co Ltd** No. 8, Zhuyang Road, Chengguan, Gucheng Country HUBEI PROVINCE CHINA
			Name and Address of Respondent
2			Designated Authority-Designated Authority Directorate General Of Anti-dumping And Allied Duties 1. Department Of commerce, Jeevan Tara Building,4Th Floor, 5,Parliament Street NEW DELHI 110001,2. UNION OF INDIA MINISTRY OF FINANCE SECRETARY - REVENUE GOVERNMENT OF INDIA NORTH BLOCK, NEW DELHI.

Copy To

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NEW DELHI-110017

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

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

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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

15/09/16
Deputy/Asstt. Registrar(CUSTOMS Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R.K.Puram, New Delhi.

COURT-I

Date of hearing: 07.09.2016
Date of pronouncement: 12.09.2016

A.D. Stay Application No. 50095 of 2016 and
Anti-Dumping Appeal No. 50102 of 2016

Arising out of the Final Findings F. No.15/11/2014 - DGAD dated 11.09.2015 passed by the Designated Authority, DGAD and Allied Duties, Ministry of Commerce and Industry and Customs Notification No. 49/2015-Customs (ADD) dated 21.10.2015 by the Ministry of Finance).

M/s Hubei Tri-Ring Forging Co. Ltd. ... Appellant

Vs.

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

Appearance:

Sh. Shruv Gupta and Sh. Ankur Sharma, Advocates for the appellants

Ms. Suchitra Sharma, Commr., (AR) and Shri Amit Singh, Advocate for the Revenue

Ms. Reena Khair, Shri Rajesh Sharma, Ms. Rita Jha, Advocates for Domestic Industry.

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. S. K. Mohanty, Member (Judicial)
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order No. 53464/2016

Per **B. Ravichandran**:

The appeal is against Final Finding in sunset review of Anti-Dumping duty (AD duty) on imports of Steering Knuckles (subject goods) originating in or exported from China PR. The Designated Authority (the DA), Directorate General of Anti-Dumping & Allied Duties, Ministry of Commerce and Industry conducted investigation into the import of subject goods which resulted in imposition of provisional AD duty vide Customs Notification dated 15.06.2009. Definitive AD duty was imposed vide Customs Notification dated 12.04.2010. Subsequent to Tribunal's order dated 11.08.2011, a post decisional hearing was given by the DA and findings were issued on 10.04.2012. M/s Bharat Forge Limited (DI) approached the DA for continuation and enhancement of AD duty on subject goods. The sunset review was initiated on 13.06.2013 and Final Findings was notified on 11.09.2015. In between the validity of AD duty was extended upto 12.09.2015 by the Central Government. Though, the impugned findings and subsequent Customs Notification dealt with two types of goods – Front Axle Beams and Steering Knuckles, the present appeal is only with reference to Steering Knuckles.

2. Ld. Counsel for the appellant (a producer and exporter of subject goods from China to India) submitted that in the sunset review the DA has not made proper analysis before concluding the likelihood of recurrence of injury to the DI in case the AD duty on the subject goods is terminated. The appellant challenged the reasoning given by the DA for recommending AD duty on the subject goods from China. It was submitted that the surplus capacity of the appellant is only about 15% and this by itself cannot indicate possible likelihood of increase in

dumped exports to India causing injury to the DI. The DA has not appreciated the fact that the sales in domestic market in China by the appellant has increased and not declined. Reliance was placed on the findings dated 17.01.2012 of the DA regarding sunset review investigation on import of aniline. It was submitted that in that case, it was recorded that mere availability of surplus capacity does not itself indicate that the dumping from that subject countries would recur or continue to cause injury to DA. It was also argued that the landed value of the subject goods had increased during the period of dumping. To sum up, it is the submission of the appellant that there is no rational basis for the DA to conclude the likelihood of recurrence of injury due to dumped import of subject goods by the appellant.

3. Ld. Counsel for the DI submitted that the finding has recorded the continued dumping of the subject goods (0-10%). Though, the total volume of import from subject country was low during the sunset review, it was noted that the current injury margin may not provide a clear indication of the future level of injurious import. This is because the dumping margin estimated are significantly positive though volumes are low. Ld. Counsel also submitted that apart from domestic market, India is the only market for export of subject goods by the appellant. The export to third countries are miniscule. Post POI data has also been analysed to examine the trend and likely scenario in the event of revocation of duty. It was recorded that the imports continue to enter the Indian market and the prices have not varied much.

4. Ld. Counsel for DA and AR for Revenue reiterated the findings of the DA and supported the same.

5. We have heard all the sides and examined the appeal records including the written submissions.

6. The appellant is contesting the continued imposition of AD duty even after sunset review by the DA. Their main grievance is that the likelihood analysis has been made without any rational basis. We note that admittedly apart from domestic market in China for the appellant, India is the only market for significant trade of subject goods. They do have spare capacity of about 15% for production. There is a positive dumping margin recorded. Though, the price injury has been recorded as negative, this alone cannot form basis for revocation of AD duty. We note that in sunset review it is not only the existence of injury during the current period of investigation is considered, the likelihood of recurrence of such injury in case of withdrawal of AD duty is also to be examined. Admittedly, examination being in the realm of future projection has to be made on the basis of various parameters including trends in import, clear possibility of changed situation in the trade of subject goods etc. The continued import even with imposition of AD duty on the subject goods is one of the indicators to be analysed. The DA observed that with the revocation of AD duties the Indian prices are likely to be attractive to the exporter in China and there is a strong likelihood or increase in substantial import as happened in the post POI period. Excess capacity available with the appellant is one of the relevant factors considered. The performance of DI deteriorated due to decline in demand coupled with price pressure of dumped imports. The observation of the Tribunal in ***P.T. Asahimas Chemicals vs. DA, MoF – 2015 (328) ELT 417 (Tri. Del.)*** in para 11 is relevant to the present case. In that case examination of the DA, the overall circumstances regarding appellant's export trend being unreliable and temporary so as not to give a fair indication as to the likelihood of recurrence of dumping and injury in the future

was upheld by the Tribunal. In the present case, there has been adequate and sufficient analysis by the DA regarding the likelihood of recurrence of dumping and injury to the DI in case of revocation of AD duty on the subject goods. We find no reason to interfere with the said analysis and conclusion. Accordingly, the appeal is rejected. The stay application linked to the appeal is also disposed of.

(Pronounced on 12.09.2016)

(Justice Dr. Satish Chandra)
President

(S. K. Mohanty)
Member (Judicial)

(B. Ravichandran) 8.9.16.
Member (Technical)

Pant