CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH

ANTI DUMPING APPEAL No. 50748 OF 2021

(Arising out of Final Findings No. 7/19/2020 DGTR dated 20.01.2021 and Office memorandum F. No. 354/273/2015-TRU dated 05.02.2021)

Association of Chloromethanes Manufacturers ...**Appellant**
REGUS, Level-4, Rectangle one, D-4,
Commercial Complex, Saket, New Delhi-110017

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 & Industry,
Parliament Street, Jeevan Tara Building,
4th Floor, New Delhi-110001

3. **Shandong Donghue Silicone Material Co. Ltd.**
Lizhai Village Section, Tangshan Town,
Huantai County Zibo, 256400

4. **Ningbo Juhua Chemical & Science Co. Ltd.**
No. 501, Yuejintang Road, Ningbo
Petrochemical Economic and Technological
Development Zone, Zhenhai District,
Ningbo, Zhejiang, China

5. **Sandeep Organics Pvt. Ltd.**
104, Nain Krupa, 1st Floor,
118/122, Kazi Sayeed Street,
Vadgadi, Mumbai-400003 (India)

6. **Gujarat Alkalies and Chemicals Limited**
P.O. Petrochemicals-391 346
Dist. Vadodara, Gujarat, India.

7. **Meghmami Finochem Ltd.**
CH/1, CH/2, GIDC Industrial Estate,
Dahej, Tal. Vagra, Bharuch,
Gujarat- 392130

8. **SRF Limited**
Block C, Sector 45, Gurugram-122 003,
Haryana, India.

9. M/s Gujarat Fluorochemicals Limited
Inox Towers, Plot No. 17, Sector 16A,
Noida- 201301, U.P., India

10. M/s TGV Sraac Ltd.
(Formerly Sree Rayalaseema Alkalies and Allied Chemicals Ltd.)
2nd Floor, TGV Mansion, Khairatabad,
Hyderabad- 500004

11. M/s Chemplast Sanmar Ltd. **...Respondent**
The Sanmar Group, 9, Cathedral Road,
Chennai-600086, Tamil Nadu.

APPEARANCE:

Mr. Basava Prabhu Patil, Senior Advocate with Ms. Reena Khair, Mr. Rajesh Sharma, Ms. Praveena Gautam & Ms. Shreya Dahiya, Advocates for the Appellant
Mr. Ameet Singh with Ms. Albeena Wali, Advocates for Designated Authority
Mr. Rakesh Kumar and Mr. Sunil Kumar, Authorised Representative of the Department

CORAM: HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

DATE OF HEARING: 18 October, 2021
DATE OF DECISION: 01 November, 2021

FINAL ORDER. 51912/2021

JUSTICE DILIP GUPTA:

M/s. Association of Chloromethanes[1] has filed this appeal feeling aggrieved by the failure of the Central Government to levy anti-dumping duty on the imports of "Methylene Chloride"[2] originating in or exported from China PR[3], even though the designated authority, in its final findings notified on 20.01.2021, had recommended imposition of anti-dumping duty for a period of five years. The relief claimed in this appeal is for setting aside the Office Memorandum dated 05.02.2021 issued by the Ministry of Finance, Department of Revenue, Tax

1. **the appellant**
2. **the subject goods**
3. **the subject Countries**

Research Unit in connection with the final findings dated 20.01.2021 notified by the designated authority. This memorandum states that the Central Government has decided not to impose any anti-dumping duty on the imports of the subject goods originating in or exported from the subject countries. A further relief that has been claimed is for issuance of a direction to the Central Government to issue a notification for imposition of anti-dumping duty, based on the recommendation made by the designated authority.

2. In **Jubilant Ingrevia Limited** vs. **Union of India and five others**[4], the same issues as have been raised in this appeal were raised. The decision taken by the Central Government not to impose anti-dumping duty, despite a recommendations having been made by the designated authority for an imposition of anti-dumping duty, was set aside and the matter was remitted to the Central Government to take a fresh decision on the recommendation made by the designated authority. The operative part of the order passed by the Tribunal in **Jubilant Ingrevia Limited** is reproduced below:

> "46. Thus, for all the reasons stated above, it is not possible to sustain the decision taken by the Central Government, contained in the Office Memorandum dated 14.12.2020, not to impose anti-dumping duty despite a recommendation having been made by the designated authority for imposition of anti-dumping duty. The matter would, therefore, have to be remitted to the Central Government to take a fresh decision on the recommendation made by the designated authority.
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> 47. Though rule 18 provides that the Central Government has to take a decision within three months of the date of publication of final findings by the designated authority, but as the matter is being remitted to the Central Government for taking a fresh decision, this limitation would not apply, as was observed by the Tribunal in **M/s S. I. Group India Private**

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4. Anti-Dumping Appeal No. 50461 of 2021 decided on 27.10.2021

> **Limited** vs. **Designated Authority, Directorate General of Antidumping and Allied Duties**[5].
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> 48. The Office Memorandum dated 14.12.2020 is, accordingly, set aside and the matter is remitted to the Central Government to reconsider the recommendation made by the designated authority in the light of the observations made above. The appeal would, therefore, have to allowed and is allowed to the extent indicated above."

3. For the reasons stated in the aforesaid decision of the Tribunal in **Jubilant Ingrevia Limited**, the Office Memorandum dated 05.02.2021 is set aside and the matter is remitted to the Central Government to reconsider the recommendation made by the designated authority in the light of the observations made in the said decision. The appeal would, therefore, have to allowed and is allowed to the extent indicated above.

(Pronounced on **01 November, 2021)**

(JUSTICE DILIP GUPTA)
PRESIDENT

(MS. SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

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

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5. Anti-dumping Appeal No. 50430 of 2019 decided on 21.02.2020