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|  <p style="text-align: center;">OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS MUNDRA COMMISSIONERATE Custom House, Mundra (Kachhh) MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 PHONE No: 02838-271165/66/67/68, FAX No.02838-271169/62</p>  | | |
| A | FILE NO. | GEN/ADJ/ADC/931/2023-ADJN. |
| B | DE-NOVO ORDER- IN- ORIGINAL NO | MCH/ADC/MK/98/2023-24 |
| C | PASSED BY | MUKESH KUMARI, ADDITIONAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MUNDRA. |
| D | DATE OF ORDER | 30-06-2023 |
| E | DATE OF ISSUE | 30-06-2023 |
| F | OIA NO & DATE | MUN-CUSTM-OOO-APP-758-22-23 DATED 03.02.2023 |
| G | NOTICEE / PARTY / IMPORTER | M/s ANR INTERNATIONAL PVT. LTD., Plot No. 167, 1st Floor, Block No. 2, F.I.E. Patparganj Indl. Area, DELHI – 110 092 |
| H | DIN NUMBER | 20230671MO00008181E6 |

1. The Order – in – Original is granted to concern free of charge.
2. Any person aggrieved by this Order – in – Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. 1 to

**The Commissioner of Customs (Appeal), MUNDRA
4th floor, HUDCO Building, IshwarBhuvan Road,
Navrangpura, Ahmedabad– 380009.**

3. Appeal shall be filed within Sixty days from the date of Communication of this Order.
4. Appeal should be accompanied by a Fee of Rs. 5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) this copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five Only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.
5. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.
6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.
7. An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty or Penalty are in dispute, where penalty alone is in dispute.

THIS CASE HAS BEEN REMITTED BY THE COMMISSIONER (APPEALS) CUSTOMS, AHMEDABAD VIDE OIA NO. MUN-CUSTM-OOO-APP-758-22-23 DATED 03.02.2023 FOR ISSUANCE OF APPROPRIATE ORDER UNDER THE CUSTOMS ACT, 1962.

BRIEF FACTS OF THE CASE :

This Case Has Been Remitted by The Commissioner (Appeals) Customs, Ahmedabad Vide OIA No. MUN-CUSTM-OOO-APP-758-22-23 Dated 03.05.2023 for Issuance

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Of Appropriate Order Under the Customs Act, 1962 after following the principles of natural justice and adhering to legal provisions.

2.1 M/s ANR INTERNATIONAL PVT. LTD., Plot No. 167, 1st Floor, Block No. 2, F.I.E., Patparganj Indl. Area, DELHI – 110 092, (herein after referred as Importer) filed Bills of Entry 3955827, 3579434, 3579436 and 3579367 Dated 15.05.2021, 15.04.2021, 15.04.2021 and 15.04.2021 respectively (herein after referred as impugned Bills of Entry) through their Customs Broker M/s Liladhar Pasoo Forwarders Pvt. Ltd., for clearance of 'PVC Resin SG 5' (Suspension Grade) classified under CTH 39041020 of the Customs Tariff Act, 1975 imported from China, goods were manufactured by M/s Xinjiang Shengxiong Chlor Alkali Co. Ltd., China.”

2.2 Importer filed the impugned Bills of entry for clearance of 'PVC Resin SG 5' (Suspension Grade) classified under CTH 39041020 of the Customs Tariff Act, 1975 imported from China, which, inter alia, attracted Anti-Dumping Duty in terms of Notification No. 32/2019-Customs (ADD) Dated 10.08.2019. The importer, has self assessed the impugned Bills of Entry declaring higher rate of anti-dumping duty at the rate of USD 147.96 PMT, with a letter through esanchit mentioning that to avoid detention and delay in getting the goods paying Anti-Dumping Duty under Protest at the time of filing Self Assessed impugned Bills of Entry.

2.3 **Prior to the** aforementioned Bills of Entry the importer had filed bill of Entry No. 3436436 Dated 05.04.2021 and self-assessed the same claiming the Anti-Dumping Duty at the rate of USD 61.14 PMT on the said goods leviable in terms of Sl. No. 1 of the Notification NO. 32/2019-Customs (ADD) Dated 10.08.2019 as the goods manufactured by M/s “Xinjiang Shengxiong Chlor Alkali Co. Ltd.,” one of the seven producers mentioned at Sl. No. 1 of the Notification. However, on examination of the goods by the Officers, the bags containing the goods were found to be imprinted with the name “M/s Zhongtai Chemical” and on that basis said self-assessment was not found acceptable to the department and accordingly re-assessed the Bills of Entry at higher rate of USD 147.96 PMT leviable in terms of Sl. No. 2 of the said Notification and issued a Speaking Order. Owing to the facts, the appellant vide letter dated 15.04.2021 informed the officer that the subject goods do not attract anti-dumping duty @ USD 147.96 PMT, but they were paying anti-dumping duty at the rate of USD 147.96 under Protest. In the case they were declare the applicability of Sl. No. 1 of the Notification i.r.o. Anti-Dumping Duty, whereas after examination it was adjudicated with Sl. No. 2 of the Notification and Imposition of Redemption Fine and Penalty; later on the Appellate Authority, ordered to restore Sl. No. 1 of the Notification and allow waiver of Redemption Fine and Penalty.

2.4 Considering the same, In order to avoid delay in getting the goods and to avoid detention the Importer Self Assessed and filed Impugned Bills of Entry by declaring Anti-Dumping Duty @ USD 147.96 PMT, as per Sl. No. 2 of the Notification and simultaneously alongwith other documents they uploaded their Protest Letter through E-Sanchit while filing impugned Bills of Entry. The case is different from that discussed above in para 2.3, Accordingly, three Bills of Entry (except 3955827) were processed / assessed through RMS without Examination and Bill of Entry No. 3955827 were assessed and in the Examination Report it inter alia, mentioned that, Bag having Zhongtai Chemicals, perused Documents and ADD assessed correctly.

3.1 Being aggrieved, with the impugned assessment, the appellant has filed this appeal

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bearing Appeal No. 65/2021-22 to 68/2021-22 all Dated 17.06.2021, before the Hon'able Appellate Authority i.e. Hon'able Commissioner (Appeals), Customs, Ahmedabad, the Importer has, interalia, submitted they paid higher anti-dumping duty only to avoid delay in clearance of goods; the import documents clearly mentioned that the goods are manufactured by M/s "Xinjiang Shengxiong Chlor Alkali Co. Ltd.," who is one of the manufacturers specified under Serial No. 1 of the Notification No. 32/2019-Customs(ADD) Dated 10.08.2019 and therefore Anti-Dumping Duty is payable in terms of Sl. No. 1 of the Notification and not in terms of Sl. No. 2 of the notification.

3.2 On going through the submissions, Hon'able Appellate Authority (Commissioner (Appeals), Customs, Ahmedabad) remand to the proper officer for passing speaking order, who shall examine available facts, documents, submissions and accordingly take necessary action and issue appropriate orders immediately under Section 17(5) of the Customs Act, 1962 as discussed above after following the principles of natural justice and adhering to the legal provisions. While passing this order, no opinion or views have been expressed on the merits of the dispute or the submissions made by the appellant, which shall be independently examined by the proper officer.

WRITTEN SUBMISSION

4. Importer, vide their letter Dated NIL (received by this office on 01.06.2023), interalia, submitted copies of relevant Bill of Entry with supporting Documents submitted while online filing of Bill of Entry viz. Invoice, Packing List, COO and Certificate of Analysis, Letter showing Duty payment under Protest etc., in support of their claim; also submitted copy of Order in Appeal issued in their earlier matter w.r.t. Bill of Entry No. 3436436 Dated 05.04.2021, as discussed in Para 2.3 supra and also submitted copy identical Order In Original issued by the then Adjudicating Authority from Customs, Mundra on 01.09.2022 and requested that impugned Bill of Entry be assessed in terms of Sl. No. 1 of the Notification 32/2019-Customs (ADD) Dated 10.08.2019.

4.2 Also waive off their right of Personal Hearing.

PERSONAL HEARING

5. Importer vide their letter Dated NIL (received by this office on 01.06.2023), waive off their right of Personal Hearing in the matter.

DISCUSSION & FINDING

6. I have carefully gone through the facts of the case, OIA issued for denovo adjudication, following the principles of natural justice and legal provisions of the law under Customs Act / Rules.

7. The case before me is to decide the applicability of the Correct Rate of Anti - Dumping Duty, based on the Documents made available in the matter, as per the Sl. No. of the Anti - Dumping Duty Notification No. 32/2019-Customs (ADD) Dated 10.08.2019 for import of PVC SG5 from China covered under Impugned Bills of Entry filed by the Importer.

8. Personal Hearing was waved off by the Importer, vide their letter Dated NIL (received by this office on 01.06.2023), therefore, the principle of natural justice is being followed in the matter.

9. Gone through the letter Dated NIL (received on 01.06.2023) alongwith Supporting Documents submitted by the Importer, wherein, interalia submitted that, they Imported Consignment covered under Impugned Bills of Entry from China and paid Duty including Anti

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Dumping Duty under Protest as per Sl. No. 2 of the Anti - Dumping Duty Notification No. 32/2019-Customs (ADD) Dated 10.08.2019 though the goods were manufactured by M/s Xinjiang Shengxiong Chlor Alkali Co. Ltd., but name found imprinted on the bags of Imported Goods was “Zhongtai Chemicals” whereas the documents submitted by the appellant the name of the manufacturer was M/s “Xinjiang Shengxiong Chlor Alkali Co. Ltd.”; and on the documents so made available showing name of manufacturer / third party as M/s “Xinjiang Shengxiong Chlor Alkali Co. Ltd.”.

10. Ongoing through the Brief Facts of the case, submission made by the Importer it is seen that the Documents submitted for the goods imported are showing the name of manufacturer eligible for concessional rate of Anti-Dumping Duty, whereas the Out of Four, Three Bills of Entry were cleared without Examination as per the RMS instruction and in One case the Officer assessed the Bill of Entry, with Examination Order, and during Examination, wherein interalia, remarked that the Bag is imprinted with Zhongtai Chemical, Duty paid Correctly (as declared Sl. No. 2 of the Notification).

11.1 On perusal of the Notification No. 32-2019-Cus(ADD) Dated 10.08.2019, it is mentioned that, “Whereas, the designated authority, vide notification No. 7/34/2018 DGTR, Dated the 29th October 2018 published in the Gazette of India, Extraordinary, Part I, Section 1, Dated the 29th October, 2018, had initiated the review in terms of Sub-Section (5) of Section 9A of the Customs Tariff Act, 1975 (51 to 1975) (hereinafter referred to as the Customs Tariff Act), and in pursuance of Rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, in the matter of continuation of Anti-Dumping Duty on Imports of ‘Homopolymer of Vinyl Chloride Monomer (Suspension Grade)’ (hereinafter referred to as the subject good) failing under the heading 3904 of the First Schedule to the Customs Tariff Act, originating in, or exported from China PR, Thailand and United States of America (hereinafter referred to as the subject Countries), imposed vide Notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 27/2014-Customs (ADD) Dated the 13th June, 2014; and whereas, the Central Government had extended the period of imposition of Anti-Dumping Duty on the subject goods, originating in or exported from the subject Countries upto and inclusive of the 12th Day of August, 2019 vide Notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 23/2019-Customs (ADD), Dated the 11th June 2019, published in the Gazette of India, Extraordinary, part II, Section 3, Sub-Section (i), vide number G.S.R. 416€, dated the 11th June 2019; and whereas, in the matter of review of Anti-Dumping Duty on imports of the subject goods, originating in or exported from the subject countries, the Designated Authority in its final findings, published vide Notification F. No. 7/34/2018-DGTR, Dated the 18th July, 2019 published in the Gazette of India, Extraordinary, part 1, Section 1, Dated the 18th July 2019 has come to the conclusion and recommended continue imposition of the Anti-Dumping Duty and therefore, in exercise of the powers conferred by Sub Section (1) and (5) of Section 9A of the Customs Tariff Act, read with Rules 18 and 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid

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final findings of the designated authority.

11.2.1 On going through the Review process being mentioned in the Final Findings by the said Competent Authority i.e. Directorate General of Trade Remedies under Ministry of Commerce and Industry, New Delhi, conducted sunset Review Investigation concerning importers of PVC Suspension Grade Resin from China PR, Thailand and USA, having regard to the Customs Tariff Act, 1975, as amended from time to time and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time and on conclusion of the same vide their Notification issued under F. No. 7/34/2018-DGTR Dated 18.07.2019, circulated their final findings in the matter, in para 33, Para 40, Para 48, Para 74, Para 104 of the Report the Competent Authority has considered the facts and issued finalized amount of Anti-Dumping Duty.

11.2.2 At Para 33 of the said Notification NO. 7/34/2018-DGTR Dated 18.07.2019 is relating to Determination of Export Price for China PR, wherein at (g) they considered the questionnaire submitted by the producers / exporters in present investigation, as, M/s “Xinjiang Shengxiong Chlor Alkali Co. Ltd.,” (Producer) and M/s “Xinjiang Zhongtai Chemical Co. Ltd.,” (Exporter).

12. Importer also requested to allow the Benefits of Sl. No. 1 of the Notification for Imposing Anti Dumping Duty on the Import covered under impugned Bills of Entry.

13. Ongoing through the, Order In Appeal, Notification NO. 7/34/2018-DGTR Dated 18.07.2019 and based on which CBIC issued Notification No. 32/2019-Cus (ADD) Dated 10.08.2019 and submission made by the noticee, I find that the producers / exporters in present case as, M/s “Xinjiang Shengxiong Chlor Alkali Co. Ltd.,” (Producer) and M/s “Xinjiang Zhongtai Chemical Co. Ltd.,” (Exporter), therefore, I do not have any reason to doubt about the Brand Name imprinted on Bag as “Zhongtai Chemical” being owned by them and accordingly, the benefit of Sl. No. 1 of Notification No. 32/2019-Cus (ADD) Dated 10.08.2019, as claimed by the Importer, be allowed.

14. In view of the foregoing discussion and findings, the directions by the Appellate Authority to adjudicate the case afresh; I find it is quite bonafide to accept and allow the benefit of concession Anti-Dumping Duty as mentioned at Sl. No. 1 of the Notification No. 32/2019-Cus (ADD) Dated 10.08.2019, as declared by the Importer and Requested to accept the same, and thus, I pass the following order:-

ORDER

I order to allow the benefit of concessional Anti-Dumping Duty as mentioned at Sl. No. 1 of the Notification No. 32/2019-Cus (ADD) Dated 10.08.2019 for the Import of ‘PVC Resin SG 5’ (Suspension Grade) classified under CTH 39041020 of the Customs Tariff Act, 1975 from China covered under Bills of Entry 3955827, 3579434, 3579436 and 3579367 Dated 15.05.2021, 15.04.2021, 15.04.2021 and 15.04.2021 respectively by the M/s ANR INTERNATIONAL PVT. LTD., Plot No. 167, 1st Floor, Block No. 2, F.I.E., Patparganj Indl. Area, DELHI – 110 092.

15. This order is issued without prejudice to any other action which may be required to be taken against any person as per the provision of the Customs Act, 1962 or any other law for the

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time being in force.

**ADDITIONAL COMMISSIONER
CUSTOMS HOUSE, MUNDRA.
30-06-2023**

**To,
M/s ANR INTERNATIONAL PVT. LTD.,
Plot No. 167, 1st Floor,
Block No. 2, F.I.E.
Patparganj Indl. Area,
DELHI – 110 092
Copy to :-**

1. The Deputy Commissioner of Customs (RRA), Custom House, Mundra
2. The Deputy Commissioner of Customs (TRC/EDI), Custom House, Mundra
3. The Deputy Commissioner of Customs (Gr. II), Custom House, Mundra
4. Guard File.



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