

F.No.276/206/2018-CX.8A
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect taxes & Customs)
Legal Cell

Wing 5 'C' HUDCO-VISHALA Building
Bhikaji Cama Place, R.K. Puram
New Delhi, the 05th March'2019.

To,

1. All Principal Chief Commissioners/ Chief Commissioners of Central Tax & Customs
2. All Principal Director Generals/ Director Generals of Central Tax & Customs
3. <webmaster.cbec@icegate.gov.in>

Sir/Madam,

Sub: Writ Petitions on Safeguard Duty on "Solar cells whether or not assembled in modules or panels" -reg.

The undersigned has been directed to state that based on the final findings of Director General of Trade Remedies (DGTR) vide notification No. 22/1/2018-DGTR dated 16.07.2018, recommending to impose safeguard duty against the imports of 'Solar cells whether or not assembled in modules or panels' falling under heading 8541 of the Customs Tariff Act, 1975, safeguard duty is imposed by the Department of Revenue in terms of the Section 8B of the Customs Tariff Act, 1975 read with Rule 12 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules' 1997 vide notification No. 1/2018-Customs (SG) dated 30.07.2018.

2. In this regard, number of Writ Petitions have been filed before various High Courts of the country against the imposition of such safeguard duty. In one such Writ Petition (C) No. 12817/2018 filed before the Hon'ble Orissa High Court, the Hon'ble Court in I.A. No. 10566/2018 vide Interim Order dated 23.07.2018, instructed Union of India to not to issue any notification under Rule 12 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 without the leave of the Court. The Board filed SLP (C) 24009-24010/2018 against the Interim Order and the Hon'ble Supreme Court, vide order dated 10.09.2018 has not only stayed the said Interim Order dated 23.07.2018 but also stayed further proceedings in WP (C) No. 12817/2018 pending before Hon'ble Orissa High Court.

3. Accordingly, since number of petitions on similar issue have been filed in various High Courts throughout the country, the undersigned has been directed to request you that Hon'ble High Courts may please be apprised of the fact that the similar

issue is sub judice before the Hon'ble Supreme Court, so that any adverse interim/final order by the respective High Courts may be avoided. In case of any adverse order, appropriate action in terms of filing Review Petition/Writ Appeal or forwarding SLP proposal to Board may also be examined, in consultation with the Ld Law officer/ Standing Counsel.

4. The contents of this instruction may be brought to the notice of field formations under your jurisdiction.

Yours faithfully,

(Anish Gupta)
OSD (Legal)
011-26162152

Copy to

1. OSD to Chairman, CBIC, New Delhi for information
2. Director General of Trade Remedies, Department of Commerce, New Delhi for information
3. Joint Secretary, TRU-1, Department of Revenue, New Delhi for information.
4. Commissioner, Directorate of Legal Affairs, CBIC, New Delhi for information.