

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 09/2020-Customs (N.T.)

New Delhi, the 2nd February, 2020

G.S.R. (E).- In exercise of the powers conferred by sub-section (6) of section 9A and sub-section (2) of section 9B of the Customs Tariff Act, 1975 (51 of 1975), the Central Government hereby makes the following rules further to amend the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, namely: -

1. Short title and commencement. — (1) These rules may be called the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Amendment Rules, 2020.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, -

(a) in rule 2,-

(i) in clause (b), for the Explanation, the following *Explanation* shall be substituted, namely: -

“*Explanation.* - For the purposes of this clause, producers shall be deemed to be related to exporters or importers only if,-

(a) one of them directly or indirectly controls the other; or

(b) both of them are directly or indirectly controlled by a third person; or

(c) together they directly or indirectly control a third person subject to the condition that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producers to behave differently from non-related producers.

Note: For the purpose of this *Explanation*, a producer shall be deemed to control another producer when the former is legally or operationally in a position to exercise restraint or direction over the latter.”;

(ii) after clause (d), the following clause shall be inserted, namely: -

‘(da) “period of investigation” means the period during which the existence of dumping is examined;’;

(b) in rule 22, after sub-rule (2), the following sub-rule and Explanation shall be inserted, namely: -

“(3) The anti-dumping duty already imposed for co-operative un-sampled exporters or producers may also be extended to such exporters or producers who were not originally investigated.

Explanation.- For the purposes of these rules, the period of investigation shall,-

- (i) not be more than six months old as on the date of initiation of investigation.
- (ii) be for a period of twelve months and for the reasons to be recorded in writing the designated authority may consider a minimum of six months or maximum of eighteen months.”;

(c) for rule 25, the following rule shall be substituted, namely: -

“25. Circumvention of anti-dumping duty.– (1) Circumvention shall be considered as a change in the pattern of trade between any country and India or between individual companies in any country subject to measures and India, as a result of a practice, process or work for which there is insufficient cause or economic justification other than the imposition of the duty; and where there is evidence of injury or that the remedial effects of the duty are being undermined in terms of the prices or quantities or both of the like product; and where there is evidence of dumping in relation to the normal values previously established for the like product, if necessary with appropriate changes or adjustments or in accordance with the provisions of rule 10.

(2) The practice, process or work referred to in the sub-rule (1) includes, *inter alia*,-

- (a) where an article subject to anti-dumping duty is imported into India from any country including the country of origin or country of export notified for the purposes of levy of anti-dumping duty, in an unassembled, unfinished or incomplete form and is assembled, finished or completed in India or in any other country, such assembly, finishing or completion shall be considered to circumvent the anti-dumping duty in force if, -
 - (i) the operation started or increased after, or just prior to, the anti-dumping investigations and the parts and components are imported from the country of origin or country of export notified for purposes of levy of anti-dumping duty; and
 - (ii) the value added to the inputs brought in, during the assembly or completion operation, is less than 35% of the manufacturing cost:

Provided that for calculation of value addition, expenses on account of procurement of technology, such as patents, copyright, trademark, royalty, technical know-how, consultancy charges, etc., shall not be included in the value of the parts brought in.

Explanation I. – ‘Value’ means the cost of assembled, complete or finished article less value of imported parts or components.

Explanation II. - For the purposes of calculating the ‘value’, expenses on account of payments relating to intellectual property rights, royalty, technical know-how fees and

consultancy charges, shall not be taken into account.

(b) where an article subject to anti-dumping duty is imported into India from country of origin or country of export notified for the levy of anti-dumping duty after being subjected to any process involving alteration of the description, name or composition of an article, such alteration shall be considered to circumvent the anti-dumping duty in force if the alteration of the description or name or composition of the article subject to anti-dumping duty results in the article being altered in form or appearance even in minor forms regardless of the variation of tariff classification, if any;

(c) where an article subject to anti-dumping duty is imported into India through any exporter or producer or country not subject to anti-dumping duty, such exports shall be considered to circumvent the anti-dumping duty in force if the exporters or producers notified for the levy of anti-dumping duty change their trade practice, pattern of trade or channels of sales of the article in order to have their products exported to India through any exporter or producer or country not subject to anti-dumping duty;

(d) any other manner whereby the anti-dumping duty so imposed is rendered ineffective.”;

(d) in Annexure II, for paragraph (iii), the following paragraph shall be substituted, namely: -

“(iii) In cases where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation, the designated authority will cumulatively assess the effect of such imports, only when it determines that,-

(a) the margin of dumping established in relation to the imports from each country is more than two per cent. expressed as percentage of export price and the volume of the imports from each country is three per cent. of the import of like article or where the export of individual countries is less than three per cent., the imports collectively accounts for more than seven per cent. of the import of like article; and

(b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic products.”.

[F.No.334/2/2020-TRU]

(Gaurav Singh)

Deputy Secretary to the Government of India.

Note.- The principal rules were notified *vide* Notification No.2/1995-Customs (N.T), dated the 1st January, 1995, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1(E), dated the 1st January,1995 and was last amended by Notification No.6/2012-Customs (N.T), dated the 19th January, 2012 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 36(E), dated the 19th January, 2012.