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**Government of India**  
**Department of Commerce**  
**Ministry of Commerce & Industry**  
**(Directorate General of Anti-Dumping & Allied Duties)**  
**4<sup>th</sup> Floor Jeevan Tara Building, Parliament Street, New Delhi 110001**

Dated the 27<sup>th</sup> March, 2015

**NOTIFICATION**

**Initiation**  
**(Sunset Review Investigation)**

**Subject: Initiation of First Sunset Review of Anti-dumping Duty imposed on Recordable Digital Versatile Disc [DVD-R] from Vietnam and Thailand.**

**F.No. 15/01/2015-DGAD – Whereas** having regard to the Customs Tariff Act, 1975 as amended in 1995 and thereafter (hereinafter referred as the Act) 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 (hereinafter referred as the Rules), the Designated Authority (hereinafter referred to as the Authority) initiated an antidumping investigation for imposition of anti-dumping duty on imports of Digital Versatile Disc Recordable (DVD-R and RW) from Malaysia, Vietnam and Thailand, originating in or exported from Malaysia, Vietnam and Thailand vide initiation notification dated 5<sup>th</sup> May, 2009. The Authority came out with the Preliminary Findings on 13<sup>th</sup> November 2009 and provisional duties were imposed vide Customs Notifications dated 12<sup>th</sup> April, 2010. The Authority issued its Final Findings on 2<sup>nd</sup> July 2010 and definitive duties were imposed on 28<sup>th</sup> September, 2010. The Authority initiated a Mid-term review investigation against imports of subject goods from Vietnam on 16<sup>th</sup> August, 2012 and on the basis of the recommendation of the Authority, the duties were enhanced against imports from Vietnam vide Customs Notification dated 31<sup>st</sup> December, 2013.

**A. Request for initiation of Sunset Review**

2. WHEREAS in terms of the Customs Tariff (Amendment) Act 1995 and the Rules made there under, as amended from time to time, the antidumping duty imposed shall unless revoked earlier, cease to have effect on expiry of five years from the date of such imposition. The definitive duties on the above countries are valid till 11<sup>th</sup> April, 2015. The Rules supra require the Authority to review from time to time, the need for continued imposition of Anti Dumping Duty and if it is satisfied, on the basis of information received by it that there is no justification for continued

imposition of such duty, the authority may recommend to the Central Government for its withdrawal. Notwithstanding the above provision the Authority is required to review, on the basis of a duly substantiated request made by or on behalf of the domestic industry, within a reasonable period of time prior to the date of the expiry of the measure, whether the expiry of duty is likely to lead to continuation or recurrence of dumping and injury.

3. And Whereas M/s Moser Baer India Ltd. (hereinafter referred to as petitioner) has filed a duly substantiated application before the Authority, on behalf of the producers of the above goods, in accordance with the Act and the Rules, alleging likelihood of continuation or recurrence of dumping of the above goods, originating in or exported from the above countries and consequent injury to the domestic industry and have requested for review, continuation and enhancement of the anti-dumping duties, imposed on the imports of the above goods, originating in or exported from the above countries.

4. The applicant domestic producer i.e., M/s Moser Baer India Ltd. accounts for about 86% of the total production of the product under consideration in India as per the information available, hence constitutes a major proportion in Indian production.

#### **B. Grounds for review**

5. The request is for continuation of the antidumping duties in force based on the grounds that dumping has continued from Thailand and Vietnam and the expiry of the measure would be likely to result in continuation and intensification of dumping and injury to the domestic industry. The applicant has inter-alia claimed that the exporters from Thailand and Vietnam have continued to dump the goods in the Indian market, though the volume has declined in view of the antidumping duty in force, in spite of the fact that antidumping duty is in force. Therefore, dumping would be intensified should the present antidumping duty be revoked. The applicant further claims that the existing capacities of the subject goods in the subject countries far exceed *their* domestic demands, which increases the likelihood of recurrence of dumping once the antidumping duty is removed. As far as Malaysia is concerned, the petitioner has submitted that though there is no import from Malaysia there is a likelihood of recurrence of dumping from that country if the duties are revoked against that country.

#### **C. Product under consideration and Like Article**

6. The product under consideration in the original investigation was *defined as "Recordable Digital Versatile Disc [DVD] of all kinds" which is being dumped in the Indian market by the exporters from Malaysia, Thailand and Vietnam. DVDs can be of a number of types, such as DVD-R, DVD+R, DVD-RW, DVD+RW, mini DVD-R, mini DVD-RW*".

7. The petitioner has submitted that DVD-RWs are being imported at significantly higher prices at present and are not affecting the petitioner and since DVD-RW production of petitioner is extremely low compared to production and sale of DVD-Rs import of DVD-RWs no longer poses any threat to them in terms of dumping and injury. Therefore, DVD-RW has been dropped from the scope of the sunset review investigation. Therefore, the product under consideration in the present sunset review investigation is restricted to *“Recordable Digital Versatile DVD-R, DVD+R, and mini DVD-R”* (Hereinafter referred to as product under consideration or subject goods).

8. The product is classified under Chapter 85 of the Customs Tariff Act under custom sub-heading no. 85232920, 85232950, 85232970, 85234040, 85234050, 85234060; 85234080, 8523409, 85238090, 85235290, 85238050, 85239010, 85239040, 85239050 and 85239090.

#### **D. Countries involved**

9. The duties are in force against Malaysia, Vietnam and Thailand. However, there is no import of the subject goods from Malaysia during last three years. The petitioner has not provided any credible prima facie evidence to establish likelihood of recurrence of dumping from Malaysia and consequent injury to the domestic industry. Therefore, the review will be carried out in respect of Thailand and Vietnam only.

#### **E. Initiation of Sunset Review**

10. Having satisfied itself on the basis of the positive evidence submitted by the domestic industry, substantiating the need for a review, the Authority hereby initiates a review in accordance with Section 9 a (5) of the Act read with Rule 23 of Antidumping Rules, to review whether revocation of the duty, imposed vide Customs Notification 98/2010-Customs dated 28<sup>th</sup> September, 2010, as amended vide Notification No. 34/2013- Customs (ADD) dated 31<sup>st</sup> December, 2013 shall lead to continuation or recurrence of dumping of DVD-R from Thailand and Vietnam and continuation or recurrence of injury to the domestic industry and need for continued imposition of the definitive duty in force against DVD-R.

#### **F. Procedure**

11. The investigation will determine whether the expiry of the measure would be likely to lead to a continuation or recurrence of dumping and injury. The Authority will examine whether the continued imposition of the duties is necessary to offset dumping and whether the injury would be likely to continue or recur if the duty were removed or varied, or both.

- (i) The review will cover all aspects of Final Finding Notification dated 2<sup>nd</sup> July 2010 and Mid Term Review Notification dated 15<sup>th</sup> October, 2013 for *“Recordable Digital Versatile DVD-R, DVD+R, and mini DVD-R”* originating in or exported from Thailand and Vietnam;
- (ii) The period of investigation for the purpose of the present review is from April 2013 –September, 2014 as the period of investigation (POI). However, for the purpose of analyzing injury, the data of 2010-11, 2011-12, 2012-13 and the POI shall be considered;
- (iii) The provisions of Rules 6,7,8,9,10,11,16,17,18,19 and 20 of the Rule supra shall be mutatis mutandis applicable in this review.

#### **G. Submission of Information**

12. The known exporters in the subject countries, the Government of the subject countries through their embassies in India, the importers and users in India known to be concerned with the product are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Authority at the following address:

**The Designated Authority  
Directorate General of Anti-Dumping and Allied Duties  
Ministry of Commerce and Industry  
Department of Commerce  
Room No. 15, 4<sup>th</sup> Floor Jeevan Tara Building, Parliament Street  
New Delhi-110001**

13. Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within the time limit set out below. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

#### **H. Time Limits**

14. Any information relating to the present review and any request for hearing should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 Days) from the date of publication of this Notification. If no information is received within the prescribed time limit or the information received is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with the Anti-dumping Rules.

15. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire responses and offer their comments to the domestic industry’s application regarding the need to continue or otherwise the Anti-dumping measures within 40 days from the date of initiation of this investigation.

## **I. Submission of information on confidential basis**

16. In case confidentiality is claimed on any part of the questionnaire response/submissions, the same must be submitted in two separate sets (a) marked as Confidential (with title, index, number of pages, etc.) and (b) other set marked as Non-Confidential (with title, index, number of pages, etc.). All the information supplied must be clearly marked as either “confidential” or “non-confidential” at the top of each page.

17. Information supplied without any confidential marking shall be treated as non-confidential and the Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Two (2) copies of the confidential version and five (05) copies of the non-confidential version must be submitted by all the interested parties.

18. For information claimed as confidential; the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information cannot be disclosed and/or why summarization of such information is not possible.

19. The non-confidential version is required to be a replica of the confidential, version with the confidential information preferably indexed or blanked out /summarized depending upon the information on which confidentiality is claimed. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on confidential basis. However, in exceptional circumstances, parties submitting the confidential information may indicate that such information is not susceptible to summarization; a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.

20. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.

21. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim may not be taken on record by the Authority. The Authority on being satisfied and accepting the need for confidentiality of the information provided; shall not disclose it to any party without specific authorization of the party providing such information.

## **J. Inspection of public file**

22. In terms of rule 6(7) any interested party may inspect the public file containing non-confidential versions of the evidence submitted by other interested parties.

## **K. Non-cooperation**

23. In case any interested party refuses access to and otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may declare such interested party as non-cooperative and record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

**(J K Dadoo)**  
**Designated Authority**