

Circular No. 05/2015-Customs

F.No.354/104/2014-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax Research Unit

New Delhi, the 28th January, 2015

To,

Chief Commissioners of Customs (All),
Chief Commissioners of Central Excise and Customs (All),
Director General, Directorate General of Revenue Intelligence,
Commissioners of Customs (All),
Commissioners of Central Excise and Customs (All).

Madam/Sir,

Subject: Collection of anti-dumping duty beyond the validity period – Regarding.

I am directed to refer to the Board's Circular No.28/2011-Customs, dated 8th July 2011 on the above subject and to state as under.

2. Circular No.28/2011-Customs, dated 8th July 2011 was issued in the context of a representation received in March, 2011 that anti-dumping duty was being demanded and levied under notification No.100/2005-Customs dated 29th November, 2005 by various Customs authorities on Acrylonitrile Butadiene at the time of its clearance, despite the fact that Directorate General of Anti Dumping and Allied Duties (DGAD) had not initiated sunset review in the matter of levy of anti dumping duty on Acrylonitrile Butadiene, before the expiry of the said notification on 8th June, 2010. It was also represented that in the absence of any initiation of a sunset review, the anti-dumping duty lapses at the expiry of 5 years from the date of its initial imposition.

3. Since in the said case, the DGAD had not initiated any sunset review, the levy under notification (No.100/2005-Customs) could not have been extended (for one year) in terms of the 2nd Proviso to Section 9A (5) of the Customs Tariff Act, which reads as under:

“Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to conclusion before such expiry, the anti-

dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

4. However, reportedly field formations were still collecting anti-dumping duty. It was in this context that the Circular No.28/2011- Customs dated 8th July 2011 was issued so as to clarify that in such cases, definitive/final anti-dumping duty can be collected only for a period of five years from the date of its imposition.

5. In view of the above, Para 3 of the Circular No.28/2011- Customs dated 8th July 2011 is substituted as under:

“3. From a plain reading of this provision it is evident that definitive/final anti-dumping duty can be collected only for a period of five years from the date of its imposition. Generally by virtue of sub-section (2) of section 9A of the Customs tariff Act, 1975, the anti-dumping duty levied in pursuance of final findings of the Directorate General of Anti-Dumping and Allied Duties (DGAD) is effective for a period of five years from the date of imposition of provisional duty except in cases where the DGAD initiates a review before expiry of such five year period. In cases where the DGAD has not initiated any sunset review before the expiry of aforesaid five years, no anti-dumping duty can be collected beyond the period of five years from the date of its imposition.”.

(Malay Samir)
Technical
Officer (TRU)