

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 83/2021-Customs (N.T.)

New Delhi, the 27th October, 2021

G.S.R....(E).- In exercise of the powers conferred by sub-section (7) of section 9 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 Countervailing Duty on Subsidized 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 Countervailing Duty on Subsidized Articles and for Determination of Injury) Second Amendment Rules, 2021.

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

2. In the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, after rule 24, the following rules shall be inserted, namely:-

“**25. Anti-absorption review.** – (1) A countervailing duty imposed under section 9 of the Act may be considered to be absorbed where export prices of an article from the exporting country or countries decrease post imposition of the countervailing duty without any significant change in resale price of such article in India imported from the exporting country or countries.

(2) Where an article subject to countervailing duty is imported into India at such price or under such condition which is considered as absorption of the existing countervailing duty, and such duty is thereby rendered or maybe rendered ineffective, the designated authority may, after conducting review, recommend modification in the form or basis of the countervailing duty, or the quantum of countervailing duty, or both, after reassessing the subsidy margin and injury margin and appropriate changes or adjustments in previously determined benefit from subsidy and injury, if necessary, in accordance with the provisions of rule 12 may be done.

(3) The domestic industry or any other interested party shall file the application seeking initiation of anti-absorption investigation normally within two years from the date of imposition of definitive countervailing duty:

Provided that in view of special circumstances in a given case, for reasons to be recorded in writing, the authority may accept an application for such initiation after expiry of the said period of two years.

Provided further that no such application shall be accepted in cases with less than twelve months' period remaining for the countervailing duty to expire.

26. Initiation of investigation to determine absorption. – (1) Except as provided herein below, the designated authority may initiate an investigation to determine the existence and effect of any alleged absorption of the countervailing duty levied under section 9 of the Act, upon receipt of a written application by or on behalf of the domestic industry or by any other interested party.

(2) The application shall, *inter-alia*, contain sufficient evidence as regards the existence of circumstances referred in sub-rule (1) of rule 25 to justify initiation of an anti-absorption investigation.

(3) Notwithstanding anything contained in sub-rule (1), the designated authority may initiate an investigation *suo motu* if it is satisfied from the information received from the Principal Commissioner of Customs or the Commissioner of Customs appointed under the Customs Act, 1962 (52 of 1962) or any other source, that sufficient evidence exists as to the existence of the circumstances pointing to absorption of countervailing duty in force.

(4) The designated authority may initiate an investigation to determine the existence and effect of any alleged absorption of the countervailing duty in force:

Provided that the designated authority shall notify the Government of the exporting country before proceeding to initiate such an investigation.

(5) The Central Government may, on recommendation of the designated authority, resort to provisional assessment of the imports of the article alleged to be absorbing the countervailing duty in force and may ask a guarantee from the importer, till the time a decision under sub-rule (3) of rule 27 is taken by the Central Government.

(6) The provisions regarding evidence and procedures under rule 7 shall apply *mutatis mutandis* to any investigation carried out under this rule and the review shall be limited only to re-computation of subsidy and injury margin due to the reason that existence of injury and causality has already been determined in the original investigation.

(7) Any such investigation shall be concluded within six months from the date of initiation of the investigation:

Provided that in special circumstances, for reasons to be recorded in writing, the Central Government may extend the said period for another three months.

27. Determination of Absorption. – (1) The designated authority, upon determination that absorption of countervailing duty exists, may recommend modification of the form or basis of the duty, or the quantum of countervailing duty, or both, to imports of articles found to be absorbing an existing countervailing duty and such modification may apply retrospectively from the date of initiation of the investigation under rule 26.

(2) The designated authority shall issue a public notice recording its findings.

(3) The Central Government may, pursuant to the recommendations made by the designated authority, modify the form or basis of the countervailing duty, or the quantum of countervailing duty, or both, applicable to imports of such article, from the date of initiation of the investigation under rule 26 or such date as may be recommended by the designated authority.”.

[F. No. CBIC-190354/209/2021-TRU Section-CBEC]

(Rajeev Ranjan)

Under Secretary to the Government of India.

Note:- The principal rules were published *vide* notification number 1/1995-Customs (N.T), dated the 1st day of January, 1995, in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 2(E), dated the 1st day of January, 1995 and were last amended *vide* notification number 11/2021-Customs (N.T), dated the 1st February, 2021, *vide* number G.S.R. 76(E), dated the 1st February, 2021.