



2025:DHC:1825-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 19th March, 2025

+ **W.P.(C) 3431/2025 & CM APPLs. 16124/2025, 16125/2025, 16126/2025**

HUSKY INJECTION MOLDING SYSTEMS SHANGHAI LTD & ORS.Petitioners

Through: Mr. Gopal Jain, Sr. Adv. with Mr. Vikram Naik and Mr. Pulkit Devpura, Advs. (M: 9636127923)

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Pragyan Pradip Sharma, Sr. Adv. and Mr. Rajesh Sharma, Mr. Nikhil Sharma & Mr. Rustam, Advs. for R-4 to 8. (M: 9560872227)

Ms. Shiva Lakshmi CGSC, with Mr. Govind Sharma, Mr. Madhav Bajaj & Mr. Neel Nikhar, Advs. (M: 8708500030)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. This is the second round of challenge by the Petitioners in the present case in respect of proceedings for imposition of Anti Dumping Duty before the designated authority being Directorate General of Trade Remedies ('DGTR').
3. The brief background of this case is that Respondent No.2, the Designated Authority, Directorate General of Trade Remedies, vide initiation Notification No.6/09/2024-DHTR dated 29th March, 2024 commenced an



anti dumping investigation into imports of Plastic Processing Machines originating in or exported from China and Taiwan. The investigation had been commenced at the behest of the domestic industries being Respondent Nos. 4 to 8 in the present petition. The questionnaire responses were sought by the designated authority in response to the notice issued, calling upon interested parties. Petitioners were required to file their responses being such interested parties.

4. In the first round of challenge, there was a delay in the filing of the said response by the Petitioners for which the deadline was 17th August, 2024. The Petitioners had filed their responses on the intervening night of 17th/18th August, 2024 at 12:19 AM IST and their response had thus been rejected by the designated authority. A writ petition came to be filed before this Court being ***W.P.(C) 1378/2025*** titled ***Husky Injection Molding Systems Shanghai Ltd. & Ors. v. Onion of India & Ors.*** wherein after considering the matter, the Court had permitted the said response to be taken on record. The operative portion of the said order dated 4th February, 2025 is set out below:

“8. The Court has seen the email dated 4th November, 2024. Considering that in such matters, the investigation has to be comprehensive and the Petitioners have already been permitted to participate in the proceedings. A few minutes' delay in the exporters' questionnaire response cannot oust the Petitioners' response from being heard and participating fully in the proceedings.

9. Accordingly, in terms of the facts of the present case, the response to the questionnaire is directed to be taken on record. The delay, if any, in filing the same is condoned. The enquiry shall now proceed in accordance with law. ”



5. Thereafter, the response of the Petitioners appears to have been taken by the designated authority and the disclosure statement has accordingly been published on 13th March, 2025. In the said disclosure statement, the information given by the Petitioners has been considered by the designated authority and the following observations have been made in respect thereof:

“d. Husky Injection Molding Systems Shanghai Ltd

85. The Authority acknowledges that Husky Injection Molding Systems Shanghai Ltd has participated in the current investigation, along with the related producers, Husky Injection Molding Systems SA and Husky Canada.

86. The Authority notes that the questionnaire response submitted by the producer was delayed. A communication was sent to the producer stating the following:

It is informed that the Authority had given to all interested parties to file the respective EQR/IQR/UQR/EIQ till 17.08.2024 on the subject above. Your response was received on 18.08.2024; accordingly, the Authority has treated your responses as being time barred and has not accepted your responses.

87. The producer did not contact the Authority after receiving the above notice. No explanation was provided for the late submission. Subsequently, the producer filed a writ petition in the High Court of Delhi. In the ruling of W.P.(C) 1378/2025 & CMAPPLs.6731-33/2025, the Hon'ble High Court directed the following:

9. Accordingly, in terms of the facts of the present case, the response to the



questionnaire is directed to be taken on record. The delay, if any, in filing the same is condoned. The enquiry shall now proceed in accordance with law.

88. *The Authority reviewed the response submitted by the producer. It was noted that the producer reported two transactions as imports of the product under investigation. The details of these two transactions are provided below.”*

<i>SN</i>	<i>Particulars</i>	<i>PCN</i>
<i>1</i>	<i>***</i>	<i>***</i>
<i>2</i>	<i>***</i>	<i>***</i>

*89. It was observed that the reported transactions do not allow for the identification of the product exported. It could not be inferred if the product exported was product under consideration or non-product under consideration. Additionally, the producer failed to assign proper PCNs to these transactions. Although the value was provided for one of the transactions, the currency was not specified. The Authority also notes that the producer reported exports at the [***] level but only included ocean freight and marine insurance costs. No information was provided regarding port handling, inland freight, or other related expenses. This information is critical for determining the net export price of the producer.*

90. *In the initiation notification, participating interested parties were given the following instructions for submitting their responses:*

All communication should be sent to the Designated Authority via email at email addresses jd12-dgtr@gov.in and ad12-



dgtr@ gov.in with a copy to adv11-dgtr@gov.in. It must be ensured that the narrative part of the submission is in searchable PDF/MS Word format and data files are in MS-Excel format.

91. Husky Group has only submitted their response in PDF format. No Excel files have been provided for Appendix 1 to Appendix 10. Furthermore, it was noted that the Appendix 1 filed with the response was incomplete. The Authority observes that the response submitted by the producer did not provide enough clarity for a reasonable assessment of the individual dumping margin. Accordingly, the Authority proposes to not grant individual dumping margin.”

6. It is this portion of the disclosure statement which has been challenged by the Petitioners primarily on the ground that the verification of the material filed by the Petitioners has not been done in accordance with law.

7. Mr. Gopal Jain, Id. Senior Counsel appearing for the Petitioners submits that the Designated Authority has given more emphasis on form rather than substance by merely observing that the Petitioner’s response was in PDF format and not in the Excel version. The merits of the response ought to have been considered by the designated authority and in the circumstances when the said response has not been considered in accordance with law, the Designated Authority’s conduct would be contrary to the spirit of the order dated 4th February, 2025.

8. Reliance is also placed upon the decision of ***Alleima Materials Technology (Jiangsu) Co Ltd. v. Union of India & Ors.*** bearing ***W.P.(C) No. 12894/2022*** to argue that in such a case, the aggrieved party is even permitted



to prefer a writ petition before this Court to challenge the Designated Authority's disclosure statement. It is also submitted by Mr. Jain, Id. Senior Counsel that the necessary procedure has not been followed while considering the response of the Petitioners as the Manual of Operating Practices for Trade Remedy Investigations followed by DGTR provides as under:-

“8.8 The Investigating Team shall always jointly conduct verification of DI, supporters, Foreign Producers / Exporters or importers/users if the case so requires. Further, the verification would mean verification of facts/figures/data in a table study and/or on the spot physical verification.”

9. As per the above stated clause of the operating manual, the verification of the facts and figures ought to have been done and even on the spot physical verification is permissible.

10. In addition, it is submitted that the Customs Tariff Rules have not been followed by the Designated Authority and hence the disclosure statement is liable to be rescinded and a proper opportunity ought to be offered to the Petitioners.

11. On behalf of Respondent Nos.1 to 3, Ms. Shiva Lakshmi, Id. Counsel appearing for the Central Government submits that the disclosure statement is in accordance with law. She also highlights that in the portion relating to the Petitioners there is a clear analysis of the Petitioners' information in paragraph number 89 of the disclosure statement. It is further submitted by Ms. Lakshmi that in any event, this disclosure statement in itself is an initial disclosure statement and there would be sufficient opportunity for any interested party to file objections and responses, if required. The same is also clear from the disclosure statement's paragraph Nos. 2, 3, 5 & 6 wherein the



interested parties are conferred with the opportunity to make their submissions with respect to the disclosure statement.

12. On behalf of the domestic industry, Mr. Pragyan Pradip Sharma, Id. Senior Counsel submits that there is a preliminary objection on maintainability that is being raised by him. It is submitted that at the stage of the disclosure statement, a writ petition ought not be entertained in as much as that would lead to repeated intervention by this Court with regard to the proceedings before the Designated Authority which necessarily has to proceed in a time bound manner. On this issue, reliance is placed by Id. Senior Counsel upon *Vikash Trading Co. v. Designated Authority, DGAD & AD, New Delhi* being 2013 (291) E.L.T. 15(Mad.) and *Hindustan Lever Ltd. now know as Hindustan Unilever Limited v. Union of India & Ors.* being W.P.(C) 2632/2017.

13. The Court has heard the Id. Counsels for the parties and has also perused the records. As observed hereinabove, this is the second round of litigation in this particular investigation. The process of imposition of anti-dumping duty is one which is to be undertaken by the Designated Authority in an extremely time bound manner. The same is governed by the Custom Tariff Rules, 1995 which came in effect from 1st January, 1995. The principles governing such investigations are set out in Rule 6. Rule 7 also deals with confidential information. However, Rule 8 is relevant for the present purpose and is extracted below:

“8. Accuracy of the information.-

Except in cases referred to in sub-rule (8) of rule 6, the designated authority shall during the course of investigation satisfy itself as to the accuracy of the information supplied by the



interested parties upon which its findings are based.”

14. Under Rule 8, the Designated Authority is to satisfy itself about the accuracy of the information supplied by interested parties. The manner in which the information is to be provided is also set out in the initiation notice and the questionnaire which is put up by the designated authority in the present case. Under Rule 8, the accuracy can be ascertained on the basis of the information provided by the interested parties. Paragraph number 89 of the disclosure statement in fact records various observations about the information gleaned from the response filed by the Petitioners. The said paragraph also specifically records that the reported transactions which are relied upon by the Petitioners do not allow the identification of the product which is to be exported which would be a very crucial aspect in the investigation itself.

15. Moreover, in respect of one of the entries, the designated authority specifically states that the proper PCNs have not been provided. According to the designated authority, the said information which is lacking as per paragraph number 89 is crucial and therefore, the manner in which the information provided by the Petitioners would be considered has been set out in the disclosure statement itself.

16. The system of imposition of anti-dumping duty does not end with the disclosure statement being published. In fact, after the disclosure statement is published, the authority has to determine the nature of the injury which the domestic industry is suffering and thereafter arrive at its preliminary findings or final findings in terms of the Rules. After arriving at such findings, the anti-



dumping duties are determined. As is clear from the disclosure statement itself, paragraph numbers 2 to 7 are set out below:-

“2. The sections cited above contain essential facts under consideration of the Designated Authority, which would form the basis for Final Findings. The reproduction of facts does not tantamount to either acceptance or rejection of any fact/argument/submission. Arguments raised/submissions made by the interested parties during the present investigation are reflected in this disclosure statement to the extent they are considered relevant to this investigation by the Designated Authority.

3. Notwithstanding the facts given in this disclosure statement (including facts given on a confidential basis), the Designated Authority would consider all replies given on merit in order to arrive at the final determination.

*4. *** in this disclosure statement represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.*

5. Interested parties may offer their comments, if any, in the form of soft copy, latest by 5.00 PM on 20th March, 2025 through email to jd12-dgtr@gov.in, dd19-dgtr@gov.in, dir15-dgtr@gov.in, and consultant-dgtr@nic.in.

6. Interested parties are requested not to repeat their earlier submissions if already included and addressed in this disclosure statement.

7. Since anti-dumping investigations are time bound, the Designated Authority will not entertain any request for extension of time.”

17. The Petitioners are always at liberty to respond to the Designated



Authority in respect of any grievances that they may have in the consideration of the data which has been given. In terms of the operating manual it cannot be stated that physical inspection is mandatory in every case. Moreover, it depends upon the product concerned, the nature of the injury which the domestic industry is suffering and the data which is furnished by the exporters/suppliers. In each and every case, if physical inspection is mandated, it would result in delay of the investigation.

18. Upon seeing the facts of this case, it cannot be said that adequate consideration has not been given at this stage. The Petitioners are free to file their responses and give any clarifications which they may deem appropriate to the disclosure statement which shall also be duly considered in terms of the Rules.

19. The preliminary objection raised would also show that while the writ petitions cannot be held to be not maintainable at the stage of the disclosure statement, the Court would be hesitant and reluctant in exercising jurisdiction as determination of anti-dumping duty is a time bound process which is to be exercised by the designated authority.

20. In the opinion of this Court, the rescinding of the disclosure statement is not tenable. The Petitioners are free to proceed in terms of the observations above.

21. Insofar as the data which has been submitted in PDF format is concerned, since the only issue would be of format, the Petitioners may supply the same data in Excel Sheet format, without adding any further data. In view of the fact that the time for submission of responses, is ending tomorrow, considering in the facts of this case, the time is extended till 21st March, 2025.



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22. The petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 19, 2025

kk/ss