

**TO BE PUBLISHED IN PART 1 SECTION-1
OF GAZATTE OF INDIA-EXTRAORDINARY**

**F. No. 7/09/2017-DGAD
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, Parliament Street, New Delhi-110001**

Dated the 2nd May, 2019

FINAL FINDING

Subject: New Shipper Review under Rule 22 of Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 pertaining to Anti-Dumping Duty imposed on the imports of Jute Products” viz – Jute Yarn/ Twine (multiple folded/cabled and single), Hessian Fabric and Jute Yarn originating in or exported from Bangladesh, as requested by M/s Natural Jute Mill (Producer/Exporter), Bangladesh and M/s Kreation Global LLC (exporter/trader), USA regarding Jute Yarn initiated on 18.01.2018.

No. 7/09/2017- DGAD: Having regard to the Customs Tariff Act 1975, as amended from time to time (hereinafter also referred to 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 also referred to as the Rules) thereof;

A. Background of the Case

2. Whereas, in the original Anti-Dumping investigation, the Designated Authority (hereinafter also referred to as the Authority) recommended, inter alia, imposition of anti-dumping duty on the imports of “Jute products” viz- Jute Yarn/Twine (multiple folded/cabled and single), Hessian fabric, and Jute sacking bags, originating in or exported from Bangladesh and Nepal, falling under Chapter 69 of the Customs Tariff Act, 1975, vide Final findings Notification No. 14/19/2015-DGAD dated 20th October, 2016. The Central Government notified the definitive anti-dumping duty vide Notification No. 01/2017-Customs (ADD) -Customs dated 5th January 2017 and Customs Notification No. 11/2017-Cus (ADD) dated 3rd April, 2017.
3. M/s Natural Jute Mill (Producer/Exporter), Bangladesh and M/s Kreation Global LLC (Exporter/Trader), USA filed an application for New Shipper Review (NSR) in terms of Rule 22 of the Anti-dumping Rules read with the Customs Tariff Act, requesting for a New Shipper Review (NSR) claiming individual dumping margin in respect of imports of the

Jute Yarn originating in or exported from Bangladesh which was not exported by them during the POI of the original investigation wherein AD measure has been imposed vide Custom Notification no. 11/2017-Cus (ADD) dated 3rd April, 2017.

4. The Authority, having been prima facie satisfied with the conditions laid down under Rule 22 of Anti-dumping Rules, initiated a New Shipper Review investigation, vide Notification No. 7/9/2017-DGAD dated 18th January 2018, for determination of individual dumping margin for the purposes of imposition of the anti-dumping duties levied on the dumped imports of Jute Yarn (subject goods) originating in or exported from Bangladesh, in respect of M/s Natural Jute Mill (Producer/Exporter), Bangladesh and M/s Kreation Global LLC (Exporter/Trader), USA. .
5. Ministry of Finance notified the provisional assessment on exports made by of M/s Natural Jute Mill (Producer/Exporter), Bangladesh and M/s Kreation Global LLC (Exporter/Trader), USA Limited for the subject goods till completion of the aforesaid NSR investigation vide Notification No. 16/2018- Customs (ADD) dated 23rd March, 2018.
6. The period of investigation for the purpose of this New Shipper Review was fixed as 1st January, 2018 to 31st December, 2018.

B. PROCEDURE

7. The procedure described below has been followed with regard to the present investigation:
 - (i) The Authority issued a public notice vide Notification No. 7/09/2017-DGAD dated 18st January 2018, published in the Gazette of India, Extraordinary, initiating the subject NSR anti-dumping investigation.
 - (ii) The Authority forwarded a copy of the initiation notification to the applicant along with a copy of the exporter's questionnaire and gave them opportunity to make their views known in writing, and filing relevant data in the prescribed Questionnaire, after expiry of the POI.
 - (iii) The Authority also forwarded a copy of the initiation notification to the High Commission of Bangladesh in India.
 - (iv) The Authority forwarded a copy of the initiation notification to the known domestic producers in India and gave them opportunity to make their views known in writing.
 - (v) In response to the initiation notification, Questionnaire response was filed, the applicant M/s Natural Jute Mill (Producer/Exporter), Bangladesh and M/s Kreation Global LLC (Exporter/Trader), USA for NSR.
 - (vi) The Authority made available non-confidential version of submissions/ information filed by various interested parties, in the form of a public file, kept open for inspection by interested parties.

- (vii) The Authority held an Oral Hearing on 14th February, 2019 to provide an opportunity to interested parties to present information orally in accordance with Rule 6(6) followed by written submissions. The interested parties were allowed to present rebuttal rejoinders on the views/information presented by other interested parties. The Authority has considered submissions received from various interested parties appropriately.
- (viii) The Authority issued a disclosure statement dated 22nd April 2019 to the Participating Interested Parties.
- (ix) All relevant Submissions/comments made by interested parties, during the course of this investigation have been considered and included in this disclosure statement.

C. PRODUCT UNDER CONSIDERATION

8. The product under consideration in the original investigation is ‘Jute Products’ comprising of Jute yarn/twine (multiple folded/cabled and single), Hessian Fabrics and Jute Sacking bags. The Authority had recommended separate duty for each type of Jute products in the original investigation to producers. This investigation is pertaining to exports of Jute Yarn only i.e. one of the product types of the PUC considered in original investigation, as stated in the Para 1 of the initiation notification dated 18.1.2018.

D. SUBMISSIONS BY VARIOUS INTERESTED PARTIES AND DOMESTIC INDUSTRY :

9. Submissions by the Domestic Industry:

- i. The investigation was initiated on 18th Jan., 2018. The Authority had formulated new questionnaire format for NSR investigation even before the initiating the case on 25th April, 2018. The petition may have been filed before the issuance of the trade notice, nevertheless the applicant had an obligation to file updated information as per the trade notice after initiation. Despite having sufficient time and knowledge, the applicant did not revise information as per the new application proforma.
- ii. While a bonafide new shipper has the right to seek individual margins, but at the same time the Designated Authority needs to ascertain that the claims are bonafide and there is no abuse/ misuse/ circumvention of anti-dumping duties. It is for this reason that the applicant needs to be strictly put to establish that (a) they are genuine/bonafide exporters who have made bonafide sales (b) they have not exported goods in the original investigation and (c) they are not related to producer or exporter of subject goods who is attracting anti-dumping. The exporters have not fulfilled these criteria
- iii. The exporter or producer should show that they have not exported the subject goods during the period of investigation of original investigation and that they are not related producers who have exported goods in the original POI. There is nothing in the application and subsequent submissions which shows that this requirement is fulfilled with the support of evidences.
- iv. The applicant sought prospective period as period of investigation i.e., a period which is subsequent period to the initiation of investigation under Rule 22. The concept of prospective POR has been heavily criticized by the CESTAT in *Tiles* case
- v. By the reason of prospective period of investigation, the applicants have been able to manipulate and doctor the price by (a) making only ceremonial exports, i.e., 45MT of

exports, (b) at artificially high price. It is pertinent to note here that despite imposition of ant dumping duties, imports from Bangladesh was around 45000 MT during the POI against which the exports made by the applicant is merely 45MT which is 0.1% of exports!!

- vi. During the oral hearing the applicant had argued that low exports were because the provisional assessment notification by the central government came on 23rd March 2018. Within 2 months of initiation the Central Government issued notification for provisional assessment of goods. The Applicant still had 9 months to exports goods but still chose to export only 45MT goods.
- vii. Once the investigation got initiated the applicant could have easily enters into contract with potential customers to exports their goods. Thus, the applicant has not made proper use of time period it had after the notification was issued as can be seen from the exports made by it during this 9 month period. It has only made two exports throughout the POI, which indicates that they are not serious about the present investigation
- viii. It seems from the conduct of the applicant that they are not serious about the fate of the present matter and the current exercise is to try their luck if they can get a favourable margin, as can be seen from the fact that they have exported only twice after filing the application and procuring a prospective POI. The applicant has also secured a trader for its product in USA and not India and China where it has made exports
- ix. The Authority has in past, initiated new shipper review investigations only upon satisfaction of sales made or firm commitment made for exports. The exports made by the applicants during the period of investigation in a new shipper review case must be a bona fide commercial transaction to be a basis for a dumping margin. It needs to be seen whether the sales under consideration is typical and will be representative of the new shipper's future sales. If a producer's or exporter's transactions involve price, quantities, and overall circumstances that do call into question the commercial viability of those sales, the genuineness of those sales, both in terms of value and volume, should be examined
- x. Other country laws, such as US, Brazil, Canada, EU, Turkey, Taiwan and Vietnam etc are pertinent to note in this regard, which also provides that the transactions undertaken by the exporter should be bonafide and commercial in nature
- xi. The Authority has specifically prescribed that the quantities exported by the exporter should be in commercial quantity so as to receive an individual margin of dumping. The applicant had argued that the trade notice was issued recently and thus will have effect for future cases, it is submitted that the principle highlighted is not a new principle. The principle of actual exports been made in commercial quantity has been recognized by the Authority as well as Hon'ble CESTAT in past. Thus the principle is very much applicable to the present Reference is made to Hon'ble CESTAT order in H and R Johnson (India) Limited Vs. Designated Authority and Authority's past judgement in PCV Flex Film, R-134 a, Jute Products by Janata Jute Mills etc.
- xii. There is no questionnaire response from the importers of the product under consideration. This further smoke conscious attempt to suppress the fact that a token export was made at unrealistic price in order to obtain a low or no dumping margin and thereafter aggressively dump the volumes
- xiii. The applicants have claimed excessive confidentiality without any good cause and for the sole objective of hiding information from the domestic industry and preventing the domestic industry from defending its interests.
- xiv. Without prejudice to the above submission that the applicant has not established its case for grant of individual dumping margin, if the Authority concludes that applicant satisfies the condition and individual duties are justified, it is then submitted that the applicant may be given the weighted average duties given to the cooperating companies

- not included in the sample in the original investigation, since the original investigation involved sampling.
- xv. The Domestic Industry also submits in rejoinder as regards argument of the applicant that the use of term ‘commercial quantities’ is not in consonance with Indian Rules and WTO Ant-dumping Agreement, the domestic industry would like to reiterate its stance that the term commercial quantities is not incompatible with WTO and Indian ADD Rules, the requirement for exporters seeking a new shipper review is prevalent not only in various WTO member countries domestic laws, this requirement has also been discussed in Indian jurisprudence, most notably in HR Johnson case.
 - xvi. If an exporter is allowed a margin based only on a small volume of exports or based on an expectation of exports, this would open the scope for manipulation of prices by the exporter for obtaining a lower margin. It is for this very reason that most jurisdictions have introduced a further condition of significant exports or commercial export transactions or commitment to export significant exports as an eligibility criterion for exporters seeking a new shipper review.
 - xvii. Antidumping law in each WTO contracting countries is based on the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, i.e., the parent agreement. Thus the laws in these countries are in consonance with the parent agreement and all the legal provisions formulated by these countries and practise followed is subject to the WTO scrutiny. Thus the practise of other countries provides a fair guidance to the principles involved and methodologies that may be followed in the anti-dumping investigation.

10. Submissions by the Applicant Exporter:

- i. It is submitted that the applicants have provided all the information as and when sought by the Authority. The petitioners satisfy the requirements of Rule 22 and the same has already been examined by the Authority then only present investigation was initiated. The claims of the IJMA are baseless and vague.
- ii. The applicants hereby submit that they have filed the application for initiation of NSR investigation with the Authority on 22nd May 2017 as per Rule 22 for determination of individual dumping margin of anti-dumping duty imposed on dumped imports. Thereafter a deficiency letter was issued by the Authority dated 17th July 2017. The applicants have provided all the information vide letter dated 28th August 2017. The applicants have also filed supplementary information vide letter dated 26th December 2018 in response to a letter No. 7/9/2017-DGAD dated 7th December 2017 issued by the Hon’ble Designated Authority. Then the Authority, after examining all the information provided by the applicants, initiated the present investigation on 18th January 2018. The petitioners have also filed the required questionnaire responses as per new format with the Authority vide letter dated 11th February 2019. Thus, all the information available with the petitioners is provided to the Authority.
- iii. It is also submitted that IJMA is raising fingers at the wisdom of the Authority to initiate this investigation. This aspect has been examined in detail by the Authority before the initiation of the present investigation and this is not the right time to raise such baseless issues.
- iv. The trade notice, which IJMA is talking about was issued on 25th April 2018 stating that:
“4. All interested parties are required to follow the enclosed application format for filing any new request for initiation of New Shipper Review after the date of issuance of this notice”

- v. So, it is clear that the said trade notice is not applicable for the investigations initiated before 25th April 2018. Thus, the applicants are not required to file the revised application as per proforma provided in the trade notice. However, the applicants have filed all the requisite information with the Authority and are further willing to provide any information as required by the Authority to conclude the present investigation.

The word “commercial quantities” is not in consonance with the Rule 22 and Article 9.5 of the agreement. There is nothing provided in Rule 22 and Article 9.5 related to quantities, wherever, the agreement gives the quantity as criteria, it has specifically mentioned such as:

- For Calculation of Normal Value, 5% sufficiency test is prescribed.
- For Viability Test, 80-20% test is prescribed.
- For De-minimus qty, 3%,7% of the Import Volume is prescribed.
- For De-minimus dumping margin, 2% of the EP is prescribed.
- For Standing of the domestic industry, 25%, 50% of production of the domestic producers is required.

As per the Rules and the Agreement, there are no such guidelines. For determination of Export Price, no minimum quantity has been prescribed. Therefore, the word used as “Commercial Quantities” is not in line with the Rules and Agreement.

In any event, the Trade Notice shall be applicable to all NSR applications filed after the date of issue of the Trade Notice i.e. 29th January 2019. Thus, the same is not applicable on the present investigation.

- vi. The claim of IJMA that Rule 22 implies that the Designated Authority is not obliged to give dumping margin to the exporters on the basis of their own normal value and export price, is totally incorrect and unjustified. Rule 22 specifically required determination of individual dumping margin for the producer/exporter under review which can be determined only based on his Normal Value and Export Price and not based on some other entities’ Normal Value and Export Price. Reference to Rule 17 for a New Shipper Review also shows that the “***Designated Authority shall determine an individual margin of dumping for each known exporter or producer concerned of the article under investigation***” (para 3 of Rule 17). New shipper review is governed by Rule 22 and there is no reference to sampling in Rule 22.
- vii. New shipper review does not bar a producer/exporter from claiming a lower dumping margin than the one which was worked out for non-sampled cooperating producers in the original investigation.
- viii. Claim of IJMA that the same dumping margin as has been worked out for non-sampled cooperating exporters from Bangladesh is not in conformity with Article 9.5 of Anti-Dumping Agreement and Rule 22 of Anti-Dumping Rules.
- ix. The arguments raised by IJMA that in a situation where the individual dumping margin based on their own normal and export price, leading to lower dumping margin as compared to the anti-dumping duty suggested by IJMA can file a review and refund of anti-dumping duty under different provisions. This statement is self-contradictory. In case, IJMA does not recognize the rights of a new shipper under Rule 22, how can the same new shipper have rights under the refund provision when no separate dumping margin is determined for him in a new shipper review investigation?

- x. Article 9.5 of the WTO Agreement states that there is no mandatory requirement about minimum volume of exports to make a New Shipper eligible to get separate rate of anti-dumping duty. The low volume of export to India cannot be a reason for rejecting an NSR Application and not granting separate rate of dumping margin on this ground, volume of export can be a necessary condition to get a separate of duty in an NSR investigation.
- xi. Rule 22 of Anti-dumping Rules and the same does not prescribe any such volume restrictions. Hence, we are unable to understand the claim of the IJMA that volume of exports made by individual exporter is important parameter for determining individual dumping margin on the basis of questionnaire response of these exporters and their normal value and export price. Neither Anti-Dumping Agreement nor Rules prescribe/specify that an exporter can be eligible for filing questionnaire response and determination of individual dumping margin needs to show a specified volume of exports. Volume of exports by an exporter is not a criterion for its eligibility for determination of individual dumping margin.
- xii. In past, DGTR has concluded number of new shipper review investigations whereby, they have granted individual rate of anti-dumping duty (individual Dumping Margin). M/s Natural Jute Mill, Bangladesh and M/s Kreation Global LLC, USA, are hereby listing some of the New Shipper Review investigations concluded by DGTR in the past years:

S. No	Case Name	NSR Initiation	NSR Final Finding
1	New Shipper Review of anti-dumping duty imposed on the imports of “ <i>Clear Float Glass</i> ” originating in or exported from Pakistan, Saudi Arabia and UAE requested by M/s. Tariq Glass Industries Ltd., Pakistan (exporter) under Rule 22 of the Anti-Dumping	23.09.2015	10.04.2017
2	New Shipper Review under Rule 22 of Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 on the Anti-Dumping duty imposed on imports of “Acetone” from Chinese Taipei, as requested by M/s. Chang Chun Plastic Co., Ltd., Chinese Taipei	20.04.2011	17.04.2013
3	New Shipper Review (under Rule 22) of Antidumping duty imposed on imports of “Nylon Tyre Cord Fabric (NTCF)” originating in/or exported from China PR	11.07.2006	08.04.2008
4	New Shipper Review of Anti-Dumping duty imposed on imports of “Lead Acid Batteries” requested by M/s. Yuasa Battery Guangdong Co. Ltd. China PR	27.08.2002	27.04.2004

S. No	Case Name	NSR Initiation	NSR Final Finding
5	New Shipper Review (under Rule 22) of Anti-dumping duty imposed on imports of “Compact Fluorescent Lamps (CFL)” originating in/or exported from China PR	15.02.2005	12.11.2007
6	New Shipper Review (under Rule 22) of Antidumping duty imposed on imports of “Cathode ray Color Picture Tubes” from Korea RP	13.11.2009	19.07.2010

So, from it is clear that DGTR has accepted new shipper review applications and initiated the new-shipper review investigations and granted individual rates of anti-dumping duty. Thereby, DGTR should follow the past precedents and grant individual rates of anti-dumping duty to M/s Natural Jute Mill (Producer/Exporter), Bangladesh and M/s Kreation Global LLC (Exporter/Trader), USA.

- xiii. Arguments raised by the domestic industry are illogical and thus deviate from the normal DGTR practice and Anti-Dumping Laws. The same cannot be accepted and acceptance of the same will be in violation of Rule 22 of Anti-Dumping Rules and Rule 9.5 of Anti-Dumping Agreement. The Hon’ble Director General is requested to critically examine the same.
- xiv. It is submitted by way of rejoinder that M/s Natural Jute Mills is a proprietorship firm which was established during the first week of March 2017 with a view to produce Jute Yarn. During the period of investigation, the applicant has sold PUC in the domestic market and exported to India through Kreation Global LLC, USA.
- xv. Kreation Global LLC is limited liability company formed in State of Michigan in USA. It is not engaged in production of the Jute Yarn.
- xvi. The Trade Notice 01/2019 was issued on 29th January 2019 for streamlining the procedure for New Shipper Review (NSR) investigations wherein a new concept of “commercial quantities” is used by the Authority, read as under:

“c) The NSR application shall be entertained by the Authority only if the NSR applicant has undertaken actual exports to India in “commercial quantities” for the product concerned before making the application.

The use of word “commercial quantities” is not in consonance with the Rule 22 and Article 9.5 of the Agreement. There is nothing provided in Rule 22 and Article 9.5 related to quantities, wherever, the agreement gives the quantity as criteria, it has specifically mentioned such as:

- For Calculation of Normal Value, 5% sufficiency Test is prescribed.
- For Viability Test, 80-20% test is prescribed.
- For De-minimus qty, 3%,7% of the Import Volume is prescribed.
- For De-minimus dumping margin, 2% of the EP is prescribed.
- For Standing of the Domestic Industry 25%, 50% production of the domestic producers is required.

As per Rules and Agreement, there is no such guidelines. For determination of Export Price, no minimum quantity has been prescribed. Thus, the word used as “Commercial Quantities” is not in line with the Rules and Agreement.

In any event the Trade Notice shall be applicable to all NSR applications filed after the date of issue of the Trade Notice i.e. 29th January 2019. Thus, the same is not applicable on the present investigation.

- xvii. The applicant has filed complete application and response with the Authority and hereby requests the Hon’ble Director General to grant individual rate of duty

E. POST DISCLOSURE COMMENTS

- i. The applicant producer/exporter has not filed any comments.
- ii. The Domestic Industry has submitted that:-
 - a. The domestic industry considers that it is not necessary to raise any legal or factual issues in the present case. Since the Designated Authority has already held that the Designated Authority does not intend to determine dumping margin, and therefore any submissions by the domestic industry becomes unnecessary.
 - b. In case a considers necessary to determine individual dumping margin, the Authority is required to issue another disclosure statement, if the determination is proposed to be reversed as compared to the present disclosure statement
 - c. CESTAT in the matter of H & R Johnson (India) Limited Vs. Designated Authority held as follows:

The word “show” is not meant to prescribe just a formality of a bare assertion by the applicant that the applicant is not “related” but is meant to incorporate in Rule 22 an anti-circumvention measure by alerting the designated authority to examine first whether potentially circumventing relationship exists.
 - d. The above CESTAT decision has held that in order to prevent misuse of the imposition of anti dumping duty, the authority should ensure that the Rule 22 is not being misused.
 - e. In the present case, the applicants have provided nothing which can be construed to imply that the applicants have shown to the Designated Authority that they satisfied the requirement under Rule 22. The applicants have failed to provide evidence that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on the product, leave aside the evidences to establish the same. The requirement under the law is “to show”, i.e., “demonstrate” and not “claim” or “state”.
 - f. In NSR investigation, it needs to be shown that exports made by the new shipper applicant during the period of investigation in a new shipper review case is bona

fide commercial transaction, which is to be the basis for a dumping margin. The purpose was not to “ascertain the fair value of the merchandise, but examine each sale for its commercial reasonableness”.

- g. It is evident that the exporter has mocked the entire proceedings before by the Authority by first seeking new shipper review and now becoming non-cooperative.
- h. Further the fact that only three transactions have been undertaken despite having one complete year of prospective POI shows that the applicant exporter is not serious about the Indian market. The Authority has rightfully noted as follows:

*The **Authority therefore does not propose to accord individual Dumping Margin** to the applicant Producer/Exporter since both Normal Value and export price cannot be credibly established in view of the aforesaid limitations/deficiencies.*

F. EXAMINATION BY AUTHORITY

11. Rule 22 of the Anti-Dumping Rules provides as follows –

“22. Margin of dumping, for exporters not originally investigated.

(1) If a product is subject to anti-dumping duties, the designated authority shall carry out a periodical review for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country in question who have not exported the product to India during the period of investigation, provided that these exporters or producers show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on the product.

(2) The Central Government shall not levy anti-dumping duties under sub-section (1) of section 9A of the Act on imports from such exporters or producers during the period of review as referred to in sub-rule (1) of this rule:

Provided that the Central Government may resort to provisional assessment and may ask a guarantee from the importer if the designated authority so recommends and if such a review results in a determination of dumping in respect of such products or exporters, it may levy duty in such cases retrospectively from the date of the initiation of the review.”

12. Article 9.5 of the WTO Agreement states as under –

“9.5 If a product is subject to anti-dumping duties in an importing Member, the authorities shall promptly carry out a review for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country in question who have not exported the product to the importing Member during the period of investigation, provided that these exporters or producers can show that they are not related to any of the exporters or producers in the exporting country who are

subject to the anti-dumping duties on the product. Such a review shall be initiated and carried out on an accelerated basis, compared to normal duty assessment and review proceedings in the importing Member. No anti-dumping duties shall be levied on imports from such exporters or producers while the review is being carried out. The authorities may, however, withhold appraisal and/or request guarantees to ensure that, should such a review result in a determination of dumping in respect of such producers or exporters, anti-dumping duties can be levied retroactively to the date of the initiation of the review.”

13. In terms of the aforesaid Rule, provisions in the WTO Agreement and the past practice of DGTR, a New Shipper Review investigation is to be carried out under following circumstances for the purpose of determining individual dumping margin in respect of any exporter or producer from the subject country attracting ADD:
 - i. that the exporter or producer has not exported the product under consideration during the period of investigation, and
 - ii. that exporter or producer shows that they are not related to any of the exporter or producer in the exporting country who are subject to the anti-dumping duties on the product concerned.
14. In the instant case M/s Natural Jute Mill (Producer/Exporter), Bangladesh and M/s Kreation Global LLC (Exporter/Trader), USA has filed an application before the Authority seeking individual dumping margin on jute yarn and requested for initiating the new shipper review.
15. As regards the eligibility of the producer/exporter for claiming ‘NSR’, the Authority has correlated the claim made by the producer/exporter with respect to data/information filed by the producer/exporter in the original investigations. No interested party has provided evidence of non-fulfilment of condition by the producer/exporter for NSR by way of any substantive evidence. The Authority therefore considered the producer/exporter to be eligible for a New Shipper Review.

Determination of individual Dumping Margin for the applicant

16. The Authority notes that the applicant Producer/Exporter has exported only *** MT of Product Under Consideration i.e Jute Yarn during Period of Investigation to India, through two unrelated traders i.e M/s Sinochem Hebei Corporation (*** MT) and M/s Kreation Global LLC. (*** MT). While M/s Kreation Global LLC has filed corresponding Exporters Questionnaire Response, no response has been filed by M/s Sinochem Hebei Corporation Though The Producer/Exporter has therefore filed complete response only for *** MT out of the total of the total exports of *** MT. This export Quantity of *** MT constitutes not even 1% of the total exports of Product Under Consideration to India during Period of Investigation, which is too insignificant to be considered as Commercially representative Quantity to be adopted for according individual Dumping Margin to the applicant Producer/Exporter. The Authority notes that the producer/exporter has stated that there is no stipulation on minimum quantity to be exported in an New Shipper Review investigation. The Authority notes that even though there is no stipulation on the quantum of exports to be made by a New Shipper during the POI, to establish the export price to be representative during POI, the

quantum and spread of exports should be such that the export price can be established as representative, appropriate and reliable. In the instant case though one year of prospective POI was provided which enabled the New Shipper producer/exporter to export under bond, only three consignments were exported. For one of these transactions, no response has been filed by the associated exporter. The two export transactions amounting to *** MT can not justify establishment of the export price as representative.

17. As regards claim of Normal Value, the applicant Producer/ Exporter has reported sales of *** MT of Product Under Consideration in the domestic market during Period of Investigation. The domestic sales is though representative for Normal Value determination during POI, the cost data filed by Producer/Exporter for Product Under Consideration during the Period of Investigation required validation on the following aspects:
 - Audited Accounts for POI
 - Certification of costing formats by practicing accountant
 - Purchase register evidencing opening/closing stock and raw material consumption with evidence of sample bills
 - Details of production and sales (month wise), depreciation and clarification on finance cost
18. The producer/exporter despite requests from DGTR dated 22/3/2019 and 1/4/2019 did not provide the requested data and information. In event of this, the domestic sales cannot be verified to be in the ordinary course of trade. The Authority therefore has not accorded any individual Dumping Margin to the applicant Producer/Exporter since both Normal Value and export price cannot be credibly established in view of the aforesaid limitations/deficiencies.

G. Conclusions and Recommendations

19. The Authority therefore holds that under the given circumstances and facts of the case, the producer/exporter can not be accorded any individual rate of ADD. The existing ADD on the applicant producer/exporter levied under the residual category under S.Nos. 20 and 23 of the duty table in Customs Notification No. 11/2017-Customs (ADD) dated 3/4/2017 is recommended to be continued.

(Sunil Kumar)
Additional Secretary & Director General