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F. No. 4/11/2020-DGTR
Government of India
Department of Commerce Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building,
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Dated: 14th September, 2021

Notification

Final Findings

CASE NO. (AC) 07/2020

Subject: Final Findings in Anti-Circumvention investigation concerning alleged circumvention of Anti-dumping duty imposed on the imports of ‘Axle for Trailers’ originating in or exported from China PR.

1. F. No. 4/11/2020-DGTR- 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, the Designated Authority (hereinafter referred to as the Authority), in an antidumping investigation, vide its Final Findings Notification No 14/17/2015-DGAD dated 30.9.2016, had recommended the imposition of anti-dumping duty on the imports of “Axle for Trailers” originating in or exported from China PR (PUC or Subject goods), and the definitive anti-dumping duty was imposed by the Ministry of Finance, vide Customs Notification No. 54/2016-Customs (ADD), dated the 29.11.2016.

3. The Authority had initiated a case suo-motu based on the information received from the Commissioner of Customs (Imports) NS-V Jawaharlal Nehru Custom House, Nhava Sheva, Uran, District Raigarh, Maharashtra under rule 26(3) of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping on Dumped Articles and for Determination of Injury) Amendment Rules, 1995. While the importer identified in the Commissioner of Customs letter to DGTR did not file any response in the investigation, M/s. H.D. Trailers (an importer in the original investigation) filed a response which the Authority has analysed on various data aspect and legal submissions. The Authority has therefore, based its analysis on the data filed by the Domestic Industry and the importer as required under the relevant Anti-circumvention rules.
4. In view of the above Authority initiated the investigation under Rule 26 which states as below;

"26. Initiation of investigation to determine circumvention. –

(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 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 circumvention of anti-dumping duty in force."

5. WHEREAS, by taking cognizance of the information provided by the Commissioner of Customs as per sub rule 3 of Rule 26 of the Anti-dumping rules, the Authority initiated the subject anti-circumvention investigation vide Notification F. No. 4/11/2020-DGTR-dated 15th September, 2020 to determine the existence, degree and effect of the alleged circumvention of the Anti-dumping duties levied on the subject goods by way of import of Product Under Investigation (hereinafter referred to as PUI) and to consider recommendation of extension of existing antidumping duty also on such imports of PUC in CKD/SKD condition from China PR, in accordance with relevant AD Rules.

B. PROCEDURE

6. The procedure described herein below has been followed with regard to the subject investigation.

i. The Authority notified the Embassy of China PR about the Anti-Circumvention investigation in accordance with the Customs Tariff Act read with Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995.

ii. The Authority, issued a public notice dated 15th September, 2020 published in the Gazette of India Extraordinary, initiating anti-circumvention investigation concerning imports of PUI from China PR.

iii. The Authority forwarded a copy of the initiation notice to Embassy of China PR in India, all known exporters of PUC/PUI, importers in India as per the information available on records.

iv. The Authority wrote to the exporters/ producers of the PUC/PUI and requested them to file their responses in the prescribed questionnaire and make their views known in writing within the time limit prescribed. Copies of the letter and questionnaires sent to the exporters were also sent to the Embassy of China PR, along with a list of known exporters/ producers, with a request to advise the exporters/ producers to respond to the Authority within the prescribed time.

v. The Authority sent questionnaires to elicit relevant information to the following known producers/exporters in China PR in accordance with Rule 6(4) of the AD Rules:
a) Guangdong FUWA Engineering Manufacturing Co., Ltd.  
b) Guangdong FUWA Heavy Industries Co., Ltd.  
c) Shandong Jinsheng Axle Manufacturing Co., Ltd.  

vi. None of the producers/exporters from China PR have filed the exporter's questionnaire response/submissions. Accordingly, the producers/exporters from China PR are being treated as non-cooperative in this investigation.

vii. Questionnaires were also sent to the following known importers/users of the subject goods in India seeking necessary information in accordance with Rule 6(4) of the AD Rules.

   a) King Kaveri Trading Company  
   b) H.D. Trailers Pvt. Ltd.  
   c) Satrac Engineering Private Limited  
   d) Safetech Trailer Parts LLP  
   e) Synergic Trailer and Auto Solutions Pvt. Ltd  
   f) Shivam Motors Pvt. Ltd.  
   g) Black Diamond Motors Pvt. Ltd.  
   h) VandanaTrailors & Body MFG (P) Ltd  
   i) MS Trailer Parts LLP  

viii. In response to the initiation notification, following importers/users filed the response;

   a) H.D. Trailers Pvt. Ltd.  

ix. Initiation notification was also sent to the following known producers of the subject goods in India as per the records of the original investigation;

   b) M/s. Tata Motors Ltd  
   c) M/s. Ashok Leyland Ltd  
   d) M/s. JOST India Auto Component Pvt. Ltd.  
   e) M/s. G.S. Auto International Ltd.  

x. In response, M/s York Transport Equipment (India) Pvt. Ltd, claiming to be the largest producer of subject goods in India, supported the initiation and provided relevant information and requested the Authority to treat them as the domestic industry for all practical purposes of the present investigation. The other producers have neither supported nor opposed the present investigation.

xi. The Authority made available non-confidential version of the evidence presented by various interested parties to the other parties by way of directions to exchange the submissions via e-mail as physical verification of the Public File is not permissible on account of the ongoing pandemic. Submissions made by all the interested parties to the extent considered relevant have been taken into account in these final findings.
xii. Information provided by the interested parties on confidential basis was examined with regard to sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claim, wherever warranted and such information has been considered confidential and not disclosed to the other interested parties. Wherever possible, parties providing information on confidential basis were directed to provide sufficient non-confidential version of the information.

xiii. Further information was sought from interested parties to the extent deemed necessary.

xiv. Investigation was carried out for the period starting from April, 2019 to March, 2020 (12 months) (hereinafter referred to as the “period of investigation” or “POI”). The examination of trends, in the context of injury analysis covered the period from 2016-17, 2017-18, 2018-19 and the POI.

xv. Request was made to the Directorate General of Commercial Intelligence and Statistics (DGCI&S) to provide the details of imports of PUC and PUI during the last four years, including the period of investigation, and the same was received by the Authority. The Authority has used the DGCI&S import data for computation of the volume and value of imports and injury analysis.

xvi. In accordance with Rule 6(6) of the Anti-Dumping Rules, the Authority provided opportunity to the interested parties to present their views orally in a hearing held through Video Conferencing on 10th December, 2020. All the parties were requested to submit their written submissions and the rejoinder to the written submissions following the oral hearing. Due to a change in the Designated Authority, another oral hearing was held via Video Conferencing on 22nd February, 2021 and all the interested parties were given further opportunities to file written and rejoinder submissions, if any.

xvii. Wherever an interested party has refused access to, or has otherwise not provided necessary information during the course of the present investigations, or has significantly impeded the investigation, the Authority has recorded its observation on the basis of the facts available.

xviii. A Disclosure Statement was issued on 09.08.2021 disclosing essential facts under consideration of the Designated Authority to the interested parties and granting time up to 12.08.2021 to furnish comments, if any, on the Disclosure Statement. Post disclosure comments received from the interested parties have been examined and considered appropriately at relevant paras of these final findings.

xix. "****" in these final findings represents information furnished by an interested party on confidential basis, and so considered by the Authority under the Rules.

xx. Exchange rate considered for the POI for conversion of USD to Indian Rupees is 1USD=Rs. 71.65
C. PRODUCT UNDER CONSIDERATION/PRODUCT UNDER INVESTIGATION AND LIKE ARTICLE

C.1. Product Under Consideration

7. The product under consideration is the same as defined in the earlier investigation i.e. “Axle for Trailers” originating in or exported from China PR (hereinafter also referred to as PUC or Subject goods). It falls under Customs Tariff 87169010 of the First Schedule to the Customs Tariff Act 1975. The Anti-dumping duty on imports of PUC from China PR is in force till 28.11.2021.

8. The subject goods are manufactured and sold in different variants. However, the basic product characteristics and end use of all these variants remains the same and all such types of Trailer Axles have been covered in the scope of the PUC. All such variants essentially constitute a homogenous product under consideration with comparable basic characteristics and similar functions/uses.

C.2. Product Under Investigation

9. The Product Under Investigation (hereinafter also referred to as PUI) is the subject good in CKD (complete knock down)/SKD (semi knock down) conditions which is being imported by declaring it as ‘parts of trailer axles’ and which is allegedly circumventing the anti-dumping duty in force on imports of PUC from China PR.

C.3 Views of the Domestic Industry

10. The domestic industry has made following submissions with regard to the scope of product under consideration and the like article:

   a) PUC and PUI are well defined in the initiation and the facts of the case make it evident that PUI is nothing but mere imports of PUC in CKD/SKD condition.

   b) Axle for Trailers are getting imported in CKD (complete knock down)/SKD (semi knock down) condition by declaring it as parts of trailer axles with an intention to avoid ADD on ‘Axle for Trailers’ and the definition of PUI adopted fully reflects such practices being followed by some importers.

   c) The definition of PUC and PUI makes it evident that imports of PUI warrants ADD applicable at the time of imports of ‘Axle for Trailers’ to be extended to such imports of PUI.

   d) PUI are nothing but PUC in CKD/SKD condition. Such imports have no other justification other than evasion of ADD on PUC. PUI thereafter is assembled as PUC with very minimal value addition that the circumvention is very evident.
e) HD Trailers have been trying to justify circumvention by coining an argument that they have been importing single piece seamless beams which as per them is a superior product as the beams available in India are 3 piece welded beam. The contention has no basis or merit.

f) Single piece beam cannot be considered as a superior product in any manner and is a clearly competing product with the axles made in countries like India. Single Piece Beams are not used prominently in Global Market. It is only used by Chinese manufacturers. None of the Indian Truck manufacturers uses this single piece beam technology in India. Three piece welded beam are proven internationally. Also bigger OEMs like TATA Motors & Ashok Leyland are using these 3 piece welded beam in their commercial vehicle Non drive axles/ tag axles & also trailer axles. Thus, the motive of importing such product is still evasion of ADD and there are no other bona fide reasons for such imports. Import of seamless single piece beam no way justifies circumvention as being done in the present matter.

C.4 Views of the Opposing Interested Parties

11. The views of the opposing interested parties are summarised below:

a) It has been submitted by HD Trailers Pvt Ltd in their Importer Questionnaire Response that they import Axle Beam, Cam Shaft, Cam Set, Slack Adjuster, Hub Cap only.

b) The activity of H D Trailers Pvt Ltd is to assemble PUI imported along with local materials to produce PUC as submitted in their IQR.

c) The axle beam tube is a vital part for the axle. The tube used by the rest of the manufacturers is consisting of more than one part joined by welding. The tubes we import are seamless and thus have more strength. None of the Indian producers make the seamless tube. Likewise the hubcap of the imported material is of unique design which is far superior to that of the indigenous product. For these reasons the imported product is sold at a higher price than that of York.

C.5 Examination by the Authority

12. The present investigation is an anti-circumvention investigation concerning duties imposed on imports of ‘Axle for Trailers’ originating in or exported from China PR. Therefore, the scope of the product under consideration as defined in the last concluded anti-dumping investigation remains applicable for the present investigation also.

13. The product under consideration is the same as defined in the earlier investigation i.e. “Axle for Trailers” originating in or exported from China PR. It falls under Customs Tariff Head 87169010 of the First Schedule to the Customs Tariff Act 1975. The above-stated classification of the products under investigation, however, are indicative only and in no way binding on the scope of the present investigation. The Anti-dumping duty on imports of PUC from China PR is in force till 28.11.2021.
14. The subject goods are manufactured and sold in different variants. However, the basic product characteristics and end use of all these variants remains the same and all such types of Trailer Axles have been covered in the scope of the PUC. All such variants essentially constitute a homogenous product under consideration with comparable basic characteristics and similar functions/uses.

15. The Authority notes that the anti-dumping duty in force on imports of PUC from China PR is allegedly being circumvented by imports of PUC in CKD (complete knock down)/SKD (semi knock down) conditions and by declaring them as ‘parts of trailer axles.’ As per the import data, imports of PUI covers parts like Axle Beam, Cam Shaft, Cam Set, Slack Adjuster, Hub Cap, Brake Drum etc. It is noted from the information available that the said imported PUI are being assembled to manufacture PUC and that the parts alone have no other known uses. Since the purpose of imports of PUI are for such assemblage only and manufacture of PUC thereof, therefore it is leading to circumvention of the existing anti-dumping duties on the PUC.

16. The Authority notes from the information on records that the product under consideration produced by the domestic industry is “like article” to the goods imported from the subject country. The product under consideration produced by the Indian industry and imported from the subject countries are comparable in terms of technical specifications, functions or end-use product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable. The consumers are using the two interchangeably.

17. The Authority holds that the PUI as above getting imported from China PR are nothing but imports of ‘Axle for Trailers’ in CKD (complete knock down)/SKD (semi knock down) condition by declaring it as ‘parts of trailer axles.’

18. With regard to the contention of the opposing party that Axle Beam import is made out of a single seamless tube and is a superior product in comparison to the three-piece beam supplied by the Indian producers, the Authority notes from the available information that the said single piece beam cannot be considered as a different product from what is covered in the PUC. Axle for Trailers manufactured out of a single piece beam or a welded beam is comparable products and they can be used as a direct substitute for the other as per the submissions made by the Indian producer. Thus, the contention cannot be a ground to exclude single piece beam from the scope of PUC/PUI as a different product from the PUC which has been subjected to anti-dumping duties.

D. SCOPE OF DOMESTIC INDUSTRY & STANDING

D.1 Views of the Domestic Industry

19. M/s York Transport Equipment (India) Pvt. Ltd. has made following submissions with regard to domestic industry and standing,

   a. It is requested that M/s York Transport Equipment (India) Pvt. Ltd be treated as the domestic industry for the purposes of present investigation as it holds a major proportion of the Indian production of the subject goods and it fully supports the present investigation.
b. The Company was treated as the domestic industry in the original investigation also. The basis of estimate of total Indian production adopted by York is consistent with the original finding of the Authority and it would be apparent that York holds major share in Indian production of subject goods.

c. The Company has also certified that it did not import the subject goods from China PR along with declarations on related parties in India and China PR relevant for the present investigation. Details of any related parties in countries other than China PR are also available in the Annual Report of the Company though such detail has no relevance in the present investigation.

d. HD Trailers Pvt Ltd cannot be considered as part of domestic industry and bona fides of claims of HD Trailers Pvt Ltd. as domestic producer of PUC needs examination.

e. HD Trailers Pvt Ltd has been one of the largest importers who has resorted to rampant circumvention of ADD by starting an assembling facility and the nature of business of HD Trailers is clearly that they are engaged in the circumvention of the duty very openly.

f. The increase in import of PUI by HD Trailers Pvt. Ltd. shows such practice and it needs to be also noted that the imports of the PUC have become nil by the POI as declared by the aforementioned company.

g. It is incumbent on HD Trailers to prove that they did not engage in circumvention practices and until and unless the same is proved, they cannot be considered as part of domestic industry. The Company has claimed that they are in favour of extending the duties to PUI to ensure the benefits of duties are not vitiating. However, the response by HD Trailers shows that they have been importing major parts and in such case disproving circumvention shall be simply impossible.

h. To examine the genuineness of the claim of HD Trailers as Indian producer of the subject goods, the Authority must check and compare the capital investments made by York and HD Trailers to produce the subject product and details of plant and machinery and other details deployed by both the companies so that authenticity of the claims can be verified. As it stands, no such information is provided by HD Trailers apart from a list of machine names of which is not disclosed and we cannot offer any comments on the same.

i. The investment made by HD Trailers is apparently for an assembling unit and it has no capabilities to produce the subject goods like York and no such investments have been made by the company as a bona fide manufacturer of Axle for Trailers.

j. York satisfies the standing requirement and constitutes domestic industry within the meaning of the AD Rules.
D.2 Views of the other Interested Parties

20. The following submissions have been made by other interested parties with regard to standing and scope of domestic industry;

a) M/s York Transport Equipment (India) Ltd appears to be having business relationship with its own group companies having imports and exports between them. In addition to this, other entities also have joined with them and formed a consortium though legally such an arrangement is kept outside the legal requirement of declaration of such associations. This results in the import of parts in different names and utility of the same by other entities.

b) Calculation of axle requirement by applying the formula of 10%*1+80%*2+10%*3 is not correct. The formula to be applied is 1%*1+30%*2+69%*3. When this correct formula is applied, the share of York would considerably change.

c) 69% of the inputs of the product Trailer Axle manufactured by HD Trailers now are indigenous and hence we request that HD Trailers be considered as an Indian manufacturer and not as an importer.

d) H.D. Trailers Pvt. Ltd. has established its factory for the manufacture of trailer axles much earlier to the imposition of ADD on trailer axles and now around 69% of the components of the trailer axle are indigenous.

D.3 Examination by the Authority

21. Since the present investigation was initiated based on information from the Customs Authority, identification of domestic industry for the purpose of present investigation was not essential at the stage of initiation. However, the known producers of the subject goods in India based on the previous investigation were intimated about the investigation and relevant information was sought from such parties. It is noted that only M/s York Transport Equipment (India) Ltd has responded to the initiation notice and made request to treat them as the domestic industry for the purpose of the present investigation. The Company has also provided the required information. It is also noted that M/s York Transport Equipment (India) Ltd was determined as the domestic industry concerning the subject goods in previous investigation.

22. It is noted that rule 26 (1) and 26(3) of Anti-dumping rules read as under:

Rule 26(1): Except as provided here in below the designated authority may initiate an investigation to determine the existence and effect of any alleged circumvention of the anti-dumping duty levied under section 9A of the act upon receipt of a written application by or on behalf of the domestic industry,

Rule 26(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 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 circumstances pointing to circumvention of anti-dumping duty in force.
23. The Authority initiated the subject investigation suo-motu under Rule 26 (3) based on the information received from the Commissioner of Customs (Imports), Nhava Sheva.

24. With regard to the contention that the relation of M/s York Transport Equipment (India) Ltd. to the importers/exporters must be examined, the Authority notes that M/s York Transport Equipment (India) Ltd has certified that they did not import the subject goods from China PR themselves or through any of the related parties.

25. With regard to the claim of H.D. Trailers Pvt. Ltd to consider them in the scope of domestic industry, the Authority notes that no substantial information is provided by the Company to substantiate such claims. The Company has filed deficient information in the importer questionnaire format which shows the company have been importing PUI from China PR in the entire injury period. The conduct of the Company has been of an importer of PUI and in view of the same H.D. Trailers Pvt. Ltd cannot be considered in the scope of domestic industry.

26. With the regard to the contentions of M/s H.D. Trailers Pvt. Ltd. that the total Indian production claimed by the domestic producer and the method adopted to calculate such production is not correct, the Authority recalls its finding on such calculations adopted in the original investigation of this matter. The methodology then adopted is reproduced below and a similar approach has been adopted in the present matter also as there are no material facts adduced by any party to change the above methodology.

"It has also been observed that the information about total Indian production is not readily available in the public domain and the applicant has devised a methodology to estimate the total Indian production and the share of the applicant alone and with the supporter in such estimated total Indian production. It has relied upon production data of Prime Movers to which Trailers are attached wherein the subject goods are used which is published by the Society of Indian Automobile Manufacturers (SIAM) as a basis to derive the requirement of subject goods in India and to back calculate the probable domestic production in India. SIAM data has been made available for the entire POI. Out of the total number of productions of prime movers reported by SIAM, the applicant has considered about 10% as having requirement of 1 Axle in it and considered 80% as requiring 2 Axles and the remaining 10% having a requirement of 3 Axles. The number of Prime Movers considered for the POI involved various types of Trailers such as 35 Ton, 40 Ton etc....."

E. ASSESSMENT OF DUMPING – METHODOLOGY AN DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN

E.1. Determination of Normal Value, Export Price and Dumping Margin

E.1.1. Normal Value of PUI
27. As noted herein above, the PUI is nothing but imports of PUC in CKD/SKD condition. In such a scenario determination of dumping margin has been carried out for both PUI and PUC. None of the exporters from China PR have responded to the present initiation and the Authority is constrained to adopt best available information for the determination of Normal Value. Accordingly, the normal value is determined on the basis of estimates of cost of production in India, duly adjusted to include selling, general & administrative costs of the domestic industry by adding reasonable profits. The normal value so determined for PUI and PUC for China PR provided in the table below;

28. Under Section 9A(1)(c) of the Act, normal value in relation to an article means:

(i) the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either

(a) comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made under sub-section (6); or

(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

Market Economy status for Chinese producers

29. Article 15 of China’s Accession Protocol in WTO provides as follows:

"Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement") and the SCM Agreement shall apply in proceedings involving imports of Chinese origin into a WTO Member consistent with the following:

"a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:
(i) If the producers under investigation can clearly show that my conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;

(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.

b) In proceedings under Parts II, III and V of the SCM Agreement, when addressing subsidies described in Articles 14(a), 14(b), 14(c) and 14(d), relevant provisions of the SCM Agreement shall apply: however, if there are special difficulties in that application, the importing WTO Member may then use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate benchmarks. In applying such methodologies, where practicable, the importing WTO Member should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.

c) The importing WTO Member shall notify methodologies used in accordance with subparagraph (a) to the Committee on Anti-Dumping Practices and shall notify methodologies used in accordance with subparagraph (b) to the Committee on Subsidies and Countervailing Measures.

d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.”

30. It is noted that while, the provisions contained in Article 15(a)(ii) have expired on 11.12.2016, the provisions under Article 2.2.1.1 of the WTO read with obligation under 15 (a) (i) of the Accession protocols require criterion stipulated in para 8 of the Annexure I of the India’s Rules to be satisfied through the information/data to be provided in the supplementary questionnaire on claiming the market economy status. It is noted that since the producers/exporters from China PR have not responded and submitted response to the supplementary questionnaire in the form and manner prescribed, the normal value computation is required to be done as per provisions of para 7 of Annexure I of the Rules.

31. Accordingly, the normal value for all the producers/exporters from the subject country have been determined in accordance with para 7 of Annexure I of the Rules which reads as under.

*In case of imports from non-market economy countries, normal value shall be determined on the basis if the price or constructed value in the market economy*
third country, or the price from such a third country to other countries, including India or where it is not possible, or on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. An appropriate market economy third country shall be selected by the designated authority in a reasonable manner, keeping in view the level of development of the country concerned and the product in question, and due account shall be taken of any reliable information made available at the time of selection. Accounts shall be taken within time limits, where appropriate, of the investigation made in any similar matter in respect of any other market economy third country. The parties to the investigation shall be informed without any unreasonable delay the aforesaid selection of the market economy third country and shall be given a reasonable period of time to offer their comments.

32. The Authority notes that Normal Value for a country considered as a non-market economy is required to be computed in accordance with para 7 and 8 of Annexure-I of AD rules. In the instant case, none of the exporters have responded and filed any Exporter questionnaire response and therefore the Authority notes that options under para 7 of Annexure-I to AD rules need to be explored.

33. Para 7 lays down a hierarchy for determination of normal value and provides that normal value shall be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including India, or where it is not possible, on any other reasonable basis, including the price actually paid or payable in India for the like product, duly adjusted if necessary, to include a reasonable profit margin. Thus, the Authority notes that the normal value is required to be determined having regard to the various sequential alternatives provided under Annexure 7.

34. The domestic industry has claimed normal value on constructed basis by adopting the cost of the domestic industry for the purpose of determining dumping margin for PUI and also PUC. As an alternative basis, normal value based on import of PUI into India from other countries has also been proposed. It is noted in this regard that there was no significant import of PUI from other countries and import information is available only for a few components. Even the domestic industry did not provide any information on price or constructed value in a market economy third country, or the price from such a third country to other countries, including India.

35. The Authority has taken note of the arguments of various interested parties and notes that there is no sufficient information provided by any interested party to consider application of the first proviso of para 7 nor any information is available with the Authority for the same.

36. As regards the next proviso in para 7, the Authority notes from the import information as per DGCI&S data that the imports from countries other than China PR during the POI were only negligible and the import is not available for all the components. Imports of the subject products were primarily from China PR only. The Authority also notes
that there is no reliable information available on the price from a third country to other countries based on exports of subject goods from such a third country. Therefore, in absence of sufficient information on export of PUC to other country, the Authority cannot adopt option 3 of para 7 hierarchy.

37. The Authority, therefore, has considered the constructed normal value on the basis of Indian cost of production (COP) with appropriate modifications as the price actually paid or payable in India for the like product, duly adjusted to include a reasonable profit margin.

38. As regards to the hierarchy to be followed while determining normal value, the Authority has followed the following steps:

a) Neither the PUC nor the PUI has any dedicated customs classification. Hence, constructed normal value could not be derived based on exports from market economy third country by considering export data for any HS Codes. The same was also not possible as none of the interested parties in the current investigation has filed any data for the same.

b) Prices of PUI from third country to other country including India was examined and it was found that out of about 7 PUI types identified, imports were seen only for about 3 types and no imports were seen considering the remaining 4 types involved in PUI during the POI. Further, about 20% of such import was covered by a particular type of PUI from the other country and remaining 2 types constituted less than 0.25% of total imports. Reliance on such insignificant volume can result in distorting determination and cannot be used as a basis for normal value.

c) Since the initial two options cannot be adopted for want of reliable information, the Authority is bound to opt for the 3rd option that is price actually paid or payable in India for the like product, duly adjusted, if necessary, to include a reasonable profit margin.

E.1.2. Export Price of PUI

39. As noted herein above, the PUI is nothing but imports of PUC in CKD/SKD condition. In such a scenario determination of dumping margin has been carried out for both PUI and PUC. None of the exporters from China PR have filed the Response and provided any information/details of export price. The Authority has, therefore, determined the export price on the basis of the DGCI&S import data. The net export prices at ex-factory level in respect of all exporters from China PR is determined after making due adjustments for Ocean Freight, Insurance, Commission, Bank Charges, Insurance, Port Expenses and Inland Freight Charges on the basis of facts available to determine export price at ex-factory level. The net export price so determined for PUI and PUC is provided table below. The Normal Value (NV) is the value of average purchase and consumption price of PUI during POI.

40. Based on the above the dumping margin calculated for POI is tabulated as below.
<table>
<thead>
<tr>
<th>PUI</th>
<th>Volume (KG)</th>
<th>Net Export Price (Rs/KG)</th>
<th>NV (Rs/KG)</th>
<th>Dumping Margin (Rs/KG)</th>
<th>Dumping Margin-% Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beam</td>
<td>31,048</td>
<td>86.75</td>
<td>***</td>
<td>***</td>
<td>(10)-0</td>
</tr>
<tr>
<td>Break Drum</td>
<td>1,83,845</td>
<td>64.61</td>
<td>***</td>
<td>***</td>
<td>0-10</td>
</tr>
<tr>
<td>Brake Shoe</td>
<td>7,16,206</td>
<td>93.70</td>
<td>***</td>
<td>***</td>
<td>20-30</td>
</tr>
<tr>
<td>Brake Spider</td>
<td>60,272</td>
<td>170.59</td>
<td>***</td>
<td>***</td>
<td>10-20</td>
</tr>
<tr>
<td>Camshaft</td>
<td>2,83,486</td>
<td>99.18</td>
<td>***</td>
<td>***</td>
<td>20-30</td>
</tr>
<tr>
<td>Hub</td>
<td>81,767</td>
<td>51.79</td>
<td>***</td>
<td>***</td>
<td>60-70</td>
</tr>
<tr>
<td>Slack adjuster</td>
<td>3,35,934</td>
<td>89.81</td>
<td>***</td>
<td>***</td>
<td>10-20</td>
</tr>
<tr>
<td>Weighted average</td>
<td>16,92,558</td>
<td>91.27</td>
<td>***</td>
<td>***</td>
<td>15-20</td>
</tr>
</tbody>
</table>

41. Further, the Authority has initiated Sunset review investigation vide F. No. 7/7/2021-DGTR, Case No. AD(SSR)-7/2021 dt. 19.04.2021 for the PUC. Since the PUC is being manufactured from the assembly of PUI involving a value addition, therefore the Authority has taken CNV of the PUC and arrived at the CNV of the PUI by deducting a value addition of ***% and compared it with net export price of PUI as an alternative method of normal value. The same is tabulated below.

<table>
<thead>
<tr>
<th>CNV in SSR</th>
<th>Rs./KG</th>
<th>***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Add increase on account of RM cost during POI @ ***%</td>
<td>Rs./KG</td>
<td>***</td>
</tr>
<tr>
<td>Total Cost</td>
<td>Rs./KG</td>
<td>***</td>
</tr>
<tr>
<td>Less Value addition ***%</td>
<td>Rs./KG</td>
<td>***</td>
</tr>
<tr>
<td>CNV for PUI</td>
<td>Rs./KG</td>
<td>***</td>
</tr>
<tr>
<td>NEP for PUI</td>
<td>Rs./KG</td>
<td>91.27</td>
</tr>
<tr>
<td>Dumping Margin</td>
<td>Rs./KG</td>
<td>***</td>
</tr>
<tr>
<td>Dumping Margin</td>
<td>% Range</td>
<td>10-15</td>
</tr>
</tbody>
</table>

42. It can be seen that based on this methodology the dumping margin for PUI is also above de-minimis. Thus, by applying both the methodologies, it is seen that the PUI is being dumped.
F. ASSESSMENT OF CIRCUMVENTION AND ITS EFFECTS, IF ANY

F.1. EVIDENCE OF CIRCUMVENTION

F.1.1 Views of the Domestic Industry

43. The following submissions were made by the domestic industry:

i. York fully supports the present anti-circumvention initiation initiated by the Authority based on inputs from Commissioner of Customs (Imports) Nhava Sheva.

ii. The present investigation needs to be seen also in the back drop that an application for anti-circumvention investigation was filed on 12.10.2017 by York which was closed by the Authority on 10.04.2018 for want of further evidences. But the circumvention practices have become extremely rampant concerning the subject ADD over the years that the competent authorities themselves have started to take notice of such practices.

iii. PUC and PUI are well defined in the initiation and the facts of the case make it evident that PUI is nothing but mere imports of PUC in CKD/SKD condition.

iv. Axle for Trailers are getting imported in CKD (complete knock down)/SKD (semi knock down) condition by declaring it as parts of trailer axles with an intention to avoid ADD on 'Axle for Trailers' and the definition of PUI adopted fully reflects such practices being followed by some importers. The definition of PUC and PUI makes it evident that imports of PUI warrants ADD applicable at the time of imports of ‘Axle for Trailers’ to be extended to such imports of PUI and we pray for the same.

v. PUI are nothing but PUC in CKD/SKD condition. Such imports have no other justification other than evasion of ADD on PUC. PUI thereafter is assembled as PUC with very minimal value addition that the circumvention is very evident.

vi. The facts of the present case fulfil the requirements of an anti-circumvention investigation to warrant extension of ADD on PUC to PUI.

vii. The facts as below will show that the present case meets all the requirements under the AC Rule;

a) the operation started or increased after, or just prior to, the anti-dumping investigations and the parts and components are imported from the country of origin or country of export notified for purposes of levy of anti-dumping duty.

b) the value added to the inputs brought in, during the assembly or completion operation, is less than 35% of the manufacturing cost.

c) the imports of PUI which is nothing but PUC in CKD/SKD condition continues to be at dumped rates

d) the import of PUI by evading the duty has undermined the remedial effect of ADD imposed on PUC.

e) the imports of PUI was intended only to circumvent the duty in force
viii. Certain importers have started the practice of importing PUI instead of PUC to avoid ADD following the previous ADD investigation which is evident in the trend of imports of PUC and PUI as per DGCI&S which is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>PUC</th>
<th>PUI</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Quantity (kg)</td>
<td>Trend</td>
</tr>
<tr>
<td>2016-17</td>
<td>43,96,135</td>
<td>100</td>
</tr>
<tr>
<td>2017-18</td>
<td>34,26,319</td>
<td>78</td>
</tr>
<tr>
<td>2018-19</td>
<td>43,51,635</td>
<td>99</td>
</tr>
<tr>
<td>2019-20</td>
<td>22,27,747</td>
<td>51</td>
</tr>
</tbody>
</table>

ix. The imports as per DGCI&S show that while the imports of PUC declined from 4396135KG to 2227747KG, the imports of PUI increased from 1567164KG to 2558862KG which is a substantial increase and indicates a clear shift in imports from PUC to PUI. The increase in imports of PUI is very notable in the period after levy of ADD on 29.11.2016.

x. Details of imports as per IQR of HD Trailers Pvt Ltd shows that the imports of PUI which was 12963KG in the year 2015-16, which is prior to ADD, has increased to 342914KG in the POI which alone shows the shift in imports from PUC to PUI. As per the importer, imports of PUC by them have been Nil in the corresponding period.

xi. The facts show that the operation started or increased after, or just prior to, the anti-dumping investigations and the parts and components are imported from the country of origin or country of export notified for purposes of levy of anti-dumping duty instead of PUC only with an intention to avoid the applicable ADD.

xii. The value addition on PUI to make PUC after importation of PUI will not be more than 15-20% which is much below the value addition requirement stipulated in the Rule which mandates a minimum value addition of 35%. Major importer like HD Trailers has been importing all major parts from China PR and in that case the value addition cannot be more than 35% in any case.

xiii. HD Trailers have stated in their IQR that their “activity is to assemble PUI imported along with local material to produce the PUC” and it was further submitted that they import Axle Beam/Tube, Cam Shaft, Cam Set, Slack Adjuster and Hub Cap. What is important to be noted here is that Axle Beam/Tube consists of significant share of the raw material cost and also overall cost of the PUC and if such substantial part has been getting imported, then the chances of value addition of 35% in such assemblage is almost impossible practically.

xiv. York does not have access to any actual data of value addition by the importers. The response filed by HD Trailers appears grossly deficient and will not permit any determination of cost of PUC and also value addition details from PUI to PUC unless the party substantiates their response with all the details. We request the Authority to direct HD Trailers to share cost of production details for the POI along with complete details of parts imported and domestically procured to determine the cost of production of PUC and also value addition done by the Company from PUI stage to PUC stage.
xv. The imports of PUC continued to undercut the price of domestic industry and such price effects are caused by imports of PUC in CKD/SKD condition.

xvi. The market share of import of PUC remained very high in the POI as the PUC in in CKD/SKD condition i.e. the PUI continued to reach India. The increase in import of PUI signifies the fact that reduction in import of PUC did not help the DI to increase its market share as the PUC continued to reach India in CKD/SKD condition without any ADD. Thus, market share of the domestic industry was impacted.

xvii. As a result of import of PUC in CKD/SKD condition, the sales, production and capacity utilization of the domestic industry once again declined during the POI after some improvements between 2016-17 and 2018-19.

xviii. Even the price parameters of the domestic industry shows adverse situation created by imports of PUI. The profitability of the DI which has turned positive in 2017-18 from negative levels in the period 2016-17 once again become negative in the POI.

xix. Similar is the case of ROCE. ROCE which improved between 2016-17 and 2018-19 drastically fell in the POI to negligible levels in the POI and was in the range of 0-5%.

xx. The overall situation of the DI shows material injury in the POI and the cause of such injury is imports of PUC in CKD/SKD condition and the situation can be corrected by extending the duties applicable on PUC to the PUI also which is nothing but PUC is CKD/SKD condition.

xxi. H.D. Trailers had contended that they should be informed of how York accessed a letter concerning circumvention practices from Department of Revenue Intelligence (DRI). The intended insinuation of the Company is baseless and the letter submitted would show that the letter has been in normal course only.

xxii. The contentions of HD Trailers on the actions of Customs Commissioner are not of any merit. The Customs Commissioner rightly doubted circumvention and the claims to the contrary are self-serving.

xxiii. The request for copy of the letter from Customs Commissioner raised by HD Trailers has no legal sanctity. Rule 26 shows that the Authority is not bound to share the details forming the basis of suum motu initiation with the interested parties and it is only that the parties may be allowed to provide information as per Rule 6 upon initiation. Thus, the Authority is not legally bound to share the information received from Customs Commissioner with the parties.

xxiv. There is no basis for HD Trailers to say DRI letter submitted by York be given to other party or removed from records. The letter was received through proper means and should be considered as part of the records. The HD Trailer is apparently a company engaged in many practices of evasion of duties and they cannot get scot free by interpreting the law in their favour without any proper understanding of the same.

xxv. The submissions of HD Trailers that the permission for DGCI&S data prior to 1.1.2018 is not granted is only an alibi as it appears. The company has not collected and submitted any analysis for any period if they are serious about procuring DGCI&S data.

xxvi. The contention that requirement of dumping and injury is not met is a statement made without any basis by HD Trailers. Dumping and injury is not pari materia
in circumvention matter and requirement of a fresh case and circumvention is totally different.

xxvii. It is a baseless statement made by HD Trailers that York has imported from China PR. It has been submitted that the company or its related party did not import from China PR or any of its related party in China PR export the subject goods to India.

xxviii. The claim of York on pricing of PUI is incorrect and is without any basis. PUC is imported as PUI to evade the duties.

xxix. The contention that York's data concerning material handling and financial aspects are contradicting each other and requires forensic audit is a baseless contention. The audited financial reports are amenable to verification by the Authority as per rule and York has no objections to any such verification.

F.1.2. Views of the Opposing Interested Parties

44. The opposing interested parties have made the submissions as under:

i. H.D Trailers Pvt Ltd submitted that their activity is to assemble PUI imported along with local materials to produce PUC.

ii. M/s H.D. Trailers Pvt. Ltd. has established its factory for the manufacture of trailer axles much earlier to the imposition of ADD on trailer axles and now around 70% of the components of the trailer axle are indigenous.

iii. HD Trailers are not importing all the parts such as drums, brake shoe assembly etc.

iv. The cost sheet furnished by H.D Trailers Pvt Ltd would show value addition of more than 69% which is much higher than the threshold of 35% provided in the Rule.

v. The value addition has to be arrived at by deducting the cost of imported raw materials from the cost of the assembled, complete or finished article.

vi. The axle beam tube is a vital part for the axle. The tube used by the rest of the manufacturers is consisting of more than one part joined by welding. The tube imported are seamless and thus have more strength. None of the Indian producers make seamless tube. Likewise the hub cap imported is a superior product.

vii. H.D Trailers Pvt. Ltd. should be considered as domestic producer and not importer as the value addition is more than 69%.

viii. HD Trailers Pvt. Ltd. requested for permission to access the import data from DGCI&S from 01.04.2015 to till date. The said data is available with DGCI&S only up to September 2020. But DGTR permitted the aforesaid company to access the import data from January 2018 only. Hence, M/s HD Trailers Pvt. Ltd. could not access the part of the necessary data which it required.

ix. The initiation notification of the DGTR dt. 15.09.2020 referred to the information received from Commissioner of Customs (Imports), Nhava Sheva as the basis for investigation. The request of the company for being provided with a copy of the said letter could not get any response.

x. M/s H.D. Trailers Pvt. Ltd. contested that York had access to the letter from DRI. However, its request to DGTR in this regard failed to evoke a reply.
xi. Two of the prime requirements for initiation of the investigation are the dumping and the injury which is not met in the present matter as can be seen from the submissions of York.

xii. As to the letter of the Commissioner of customs, Nhava Sheva, had they analysed the issue in the right perspective, they themselves could have found that the imports by M/s HD Trailers Pvt. Ltd are adding up to only 31% of the cost of an axle and thus there is no question of circumvention. Had these facts been taken up for consideration, the situation would not have resulted in the initiation of the present investigation.

xiii. Commissioner of Customs, Nhava Sheva ought to have realised that HD Trailers Pvt Ltd is not circumventing but the imports are well beyond the limits prescribed for consider the circumvention criteria.

xiv. M/s H.D. Trailers Pvt. Ltd.’s requests for supply of the letter of the Commissioner of Customs, Nhava Sheva has not been acceded to. Hence, the company is deprived of making an effective representation vis-a-vis the justification for the initiation of the inquiry.

xv. Either the letter of the DRI should have been furnished to M/s H.D. Trailers Pvt. Ltd. or the same should be deleted from the material to be considered in the investigation.

xvi. The company’s request for supply of import data from 1.4.2015 has been truncated and only data from 1.1.2018 was permitted. Thus, it was prevented from analysing the import data for the relevant periods.

xvii. M/s York has made incorrect submissions. York has imported from China PR during the relevant period and the same can be verified by calling the data from DGCI&S.

xviii. York’s submissions about the pricing of PUI are incorrect and not supported by any evidence. At least they could have furnished their cost data to establish their doubts.

xix. York’s data when it comes to the material handling and the financial aspects are contradicting each other. Thus, a forensic audit is necessary to see whether their declarations are correct.

xx. HD Trailers Pvt Ltd had 69% of the parts domestically hence the company should be treated as DI. None of the Indian producers make seamless tube hence it is imported.

**F.2. Examination by the Authority**

45. The Authority notes the submissions made by various interested parties and the relevant provision of the Act/Rules as under:

*Section 9A(1A) of the Customs Tariff Act-

Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article subject to such anti-
dumping duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an article originating in or exported from such country, as the case may be.”

Rule 25 of AD Rules-

“25. Circumvention of anti-dumping duty.- (1) Circumvention shall be considered as a change in the pattern of trade between any country and India or between individual companies in any country subject to measures and India, as a result of a practice, process or work for which there is insufficient cause or economic justification other than the imposition of the duty; and where there is evidence of injury or that the remedial effects of the duty are being undermined in terms of the prices or quantities or both of the like product; and where there is evidence of dumping in relation to the normal values previously established for the like product, if necessary with appropriate changes or adjustments or in accordance with the provisions of rule 10.

(2) The practice, process or work referred to in the sub-rule (1) includes, inter alia,-

(a) where an article subject to anti-dumping duty is imported into India from any country including the country of origin or country of export notified for the purposes of levy of anti-dumping duty, in an unassembled, unfinished or incomplete form and is assembled, finished or completed in India or in any other country, such assembly, finishing or completion shall be considered to circumvent the anti-dumping duty in force if,-

(i) the operation started or increased after, or just prior to, the anti-dumping investigations and the parts and components are imported from the country of origin or country of export notified for purposes of levy of anti-dumping duty;

and

(ii) the value added to the inputs brought in, during the assembly or completion operation, is less than 35% of the manufacturing cost:

Provided that for calculation of value addition, expenses on account of procurement of technology, such as patents, copyright, trademark, royalty, technical know-how, consultancy charges, etc., shall not be included in the value of the parts brought in.

Explanation I. - ‘Value’ means the cost of assembled, complete or finished article less value of imported parts or components.

Explanation II. - For the purposes of calculating the ‘value’, expenses on account of payments relating to intellectual property rights, royalty,
technical know-how fees and consultancy charges, shall not be taken into account.

(b) where an article subject to anti-dumping duty is imported into India from country of origin or country of export notified for the levy of anti-dumping duty after being subjected to any process involving alteration of the description, name or composition of an article, such alteration shall be considered to circumvent the anti-dumping duty in force if the alteration of the description or name or composition of the article subject to anti-dumping duty results in the article being altered in form or appearance even in minor forms regardless of the variation of tariff classification, if any;

(c) where an article subject to anti-dumping duty imported into India through any exporter or producer or country not subject to anti-dumping duty, such exports shall be considered to circumvent the anti-dumping duty in force if the exporters or producers notified for the levy of anti-dumping duty change their trade practice, pattern of trade or channels of sales of the article in order to have their products exported to India through any exporter or producer or country not subject to anti-dumping duty;

(d) any other manner whereby the anti-dumping duty so imposed is rendered ineffective

46. For the purposes of examination of imports of both PUC and PUI, the Authority has considered transaction wise import data as provided by DGCI&S. With respect to allegation of circumvention of duties imposed on PUC by importing PUC in CKD/SKD condition as PUI, the Authority has examined specifically the said form of circumvention in this investigation.

47. The Authority notes that the producers/exporters or exporters from China PR have not filed any questionnaire response in this matter. The Authority further notes that the AD measure is producer/exporter specific and in an Anti-Circumvention investigation, producers/exporters subjected to an AD investigation need to provide data so that the shift in trade pattern specifically by them post levy of a measure can be evaluated. Also, the value addition related to conversion of PUI to PUC is also computed. The Authority notes that none of the producers/exporters from China PR has responded in the present investigation as mentioned in the foregoing paras.

48. The contentions of the interested parties are ipso facto addressed at relevant portions in these final findings and hence the same are not being addressed separately. However, with regard to the contention of HD Trailers Pvt. Ltd. that the information received from Commissioner of Customs, Nhava Sheva which formed the basis of current initiation is not shared with them, the Authority notes that the obligation of the Authority under the Anti-Dumping Rules initiating an investigation is to equip the interested parties with necessary information so as to enable them to have a fair and reasonable opportunity to file their submissions and protect their interest and due
cognizance has been taken by Initiation notice which contained the specific details forming the basis of the present investigation and all the interested parties were given the opportunities to provide their views and evidences as required under the Rule. It has been contended by HD Trailers that the case does not meet the conditions of dumping and injury. However, it is noted that such a requirement is not a part of anti-circumvention investigation. In addition, it is also noted that M/s HD Trailers have been granted necessary permissions to procure the DGCI&S data for better appreciation of the imports of PUI forming prime consideration on the conclusions of the current case.

49. Further, one of the importers of the PUI in India namely H.D Trailers Pvt Ltd have filed some information and it is noted that the information provided the company is grossly deficient and cannot be relied upon to determine the cost of finished goods and also value addition from PUI to PUC stage.

50. In view of the absence of cooperation from producers/exporters/importers, the Authority considered the trade pattern shift and the value addition in converting PUI to PUC on the basis of best available information. While import data procured from DGCI&S have been used for trade pattern shift, data provided by the cooperating domestic producer of subject goods have been used for purposes including value addition from PUI to PUC. The Authority has examined the stipulated criteria on shift in trade pattern, value addition threshold of PUI to PUC, whether change in trade pattern is stemming from an economic justification or is on account of circumvention to effect the levy of ADD, in accordance with Rule 25(1).

F.2.1 Change in Pattern of Trade

51. The Authority has examined the stipulated criteria on shift in trade pattern to PUI from PUC, whether change in trade pattern is stemmed from an economic justification or is on account of circumvention to effect the levy of ADD, in accordance with Rule 25(1).

52. The change in pattern of trade has been analysed from 2016-17 to the POI, by analysing the volume of imports of the PUC and PUI. The trend of import of PUC and PUI is noted as follows as per the DGCI&S data;

<table>
<thead>
<tr>
<th>Year</th>
<th>PUC</th>
<th></th>
<th>PUI</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Quantity (MT)</td>
<td>Trend</td>
<td>Quantity (MT)</td>
<td>Trend</td>
</tr>
<tr>
<td>2016-17</td>
<td>4,396</td>
<td>100</td>
<td>1,527</td>
<td>100</td>
</tr>
<tr>
<td>2017-18</td>
<td>3,426</td>
<td>78</td>
<td>3,513</td>
<td>230</td>
</tr>
<tr>
<td>2018-19</td>
<td>4,352</td>
<td>99</td>
<td>5,007</td>
<td>328</td>
</tr>
<tr>
<td>2019-20</td>
<td>2,228</td>
<td>51</td>
<td>1,779</td>
<td>117</td>
</tr>
</tbody>
</table>

53. It is noted that imports of the PUC from China PR declined from 4396 MT in the base year to 2228 MT by the POI whereas the imports of PUI which was 1527MT in the base year increased to 1779 MT in the POI which is a substantial increase even though there was a decline in imports of PUI during the POI viz. the immediate previous year.
54. Thus, it is noted that there is a change in the pattern of trade of PUC from China PR post levy of Anti-dumping duties.

**Shift in Trade Pattern**

55. Imports of PUC and PUI have been considered based on the transaction wise import data provided by DGCI&S. It is very apparent from the import data concerning PUC and PUI that imports of PUI commenced or increased after imposition of ADD on PUC. In the present case, ADD on PUC have been in effect from 2016 and the imports of PUI commenced or increased thereafter confirming shift in trade pattern. Coincided with an increase in import of PUI, there has been a fall in import of PUC.

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Imports from China -PUC (MT)</strong></td>
<td>4,917</td>
<td>4,433</td>
<td>3,066</td>
<td>6,600</td>
<td>6,300</td>
<td>4,371</td>
<td>3,426</td>
<td>4,352</td>
<td>2,228</td>
</tr>
<tr>
<td><strong>Imports from China -PUI (MT)</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1,527</td>
<td>3,513</td>
<td>5,007</td>
<td>1,779</td>
</tr>
<tr>
<td><strong>Total Imports PUC&amp;PUI-MT</strong></td>
<td>4,917</td>
<td>4,433</td>
<td>3,066</td>
<td>6,600</td>
<td>6,300</td>
<td>5,898</td>
<td>6,939</td>
<td>9,358</td>
<td>4,007</td>
</tr>
<tr>
<td><strong>Import PUC %</strong></td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>74</td>
<td>49</td>
<td>46</td>
<td>56</td>
</tr>
<tr>
<td><strong>Import PUI%</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>26</td>
<td>51</td>
<td>54</td>
<td>44</td>
</tr>
</tbody>
</table>

| **Demand in India-MT** | 16,902 | 13,923 | 8,785 | 16,684 | 24,375 | 28,735 | 42,832 | 40,191 | 15,418 |
| **Sales of Domestic Industry-MT** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| **Sales of other Indian Producers-MT** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| **Sales of Indian producers-MT** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| **Market share of Indian producers-%** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
| **Market share of DI-%** | *** | *** | *** | *** | *** | *** | *** | *** | *** |
56. It is seen that the imports of PUC alone were taking place till 2015-16 and the same started to decline after imposition of ADD in November, 2016. Similarly, imports of PUI which was NIL till 2015-16 commenced and started to increase post imposition of ADD on PUC. Consequently, market share of Indian producers as a whole which has been on an increasing trajectory and reached a level of 98.76% post imposition of ADD in the year 2016-17, once again started declining after commencement of imports of PUI and as a result market share of the Indian producers once again declined to a level of 74.01% during the POI.

F.2.3 Justification, Economic or Otherwise, Other than Imposition of Anti-Dumping Duty

57. The Authority notes that none of the producers/exporters from China PR have responded in the present investigation and the participating importers have also failed to provide appropriate information to establish any justification, economic or otherwise other than imposition of Anti-Dumping Duty to justify the shift in trade pattern from PUC to PUI.

58. It is also noted from the response of one of the importers namely H.D Trailers Pvt Ltd that they import parts of Axle for trailers as a business activity and the party contended that majority of their production of subject goods now comprises parts produced domestically. As noted, the PUI in the present matter is PUC in CKD/SKD condition. The PUI is assembled into the PUC after imports and in the process the applicable ADD is apparently evaded. It is seen from the information on record that PUI, which is part of Axle for Trailers in CKD/SKD condition, as such has no standalone application and has utility in the production of PUC only. Therefore, it is seen that the assembly of PUI into PUC is not any substantial production activity and it is noted that the production activity undertaken to assemble the PUI into PUC is minimal and incremental and below the value addition prescribed under Rule 25 of the AD Rules.

59. The domestic industry has provided information on gross investment, value addition from PUI to PUC, employment, sales value and raw material cost. As per the information provided, it is seen that plant & equipment, production process & technology and manufacturing activities are majorly involved in the production of PUC and no such process is apparent in the mere assembly undertaken for converting PUI to PUC.

F.2.4. Value Addition

60. The Rule 25 of AD Rules requires that “the value added to the inputs brought in, during the assembly or completion operation, is less than 35% of the manufacturing cost”. Since, there is no meaningful cooperation from the exporters/importers, the value addition is determined based on the best available information.

61. M/s H.D. Trailers Pvt. Ltd. participated in the current investigation and filed importers questionnaire response. They claimed that they do 69% value addition in India, however no data/ documents were filed by them to substantiate this contention. Authority vide letter dated 17th June 2021 requested the importer to file a cost sheet in the prescribed format with supporting documents. The importer filed the same vide their mail dated 29th June, 2021. On scrutiny of the same it was found that the data
submitted by them was not reconciled with the Audit report for 2019-20 as submitted by them. Therefore, the Authority was bound to construct the value addition based on the facts available and using the audited annual report of the importer. Based on the same the value addition is tabulated as below.

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>2016-17</th>
<th>2017-18</th>
<th>2018-19</th>
<th>2019-20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of Raw material Consumed</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Total Cost</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Less RM Cost</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Less Purchase of Trading goods</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Less Change in stock</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Value Addition</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Dedicated Manufacturing Expenses</td>
<td></td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Depreciation</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Other Direct Expenses</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Repair &amp; Maintenance</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Total Dedicated Expenses for Manufacturing</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Common Expenses</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Share of Common Exp. To Manufacturing</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Value addition for Manufacturing</td>
<td>Rs.Lakhs</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Value addition %</td>
<td>% Range</td>
<td>15-25</td>
<td>10-20</td>
<td>10-20</td>
<td>15-25</td>
</tr>
</tbody>
</table>

62. It is seen that in none of the years under consideration, the value addition has been more than 25%.

63. The Authority notes that the change in pattern of trade seems to be aimed at evading the applicable ADD on PUC by importing PUC as PUI.
G. ASSESSMENT OF EFFECT OF CIRCUMVENTION ON EXISTING ANTI-DUMPING MEASURES AND DOMESTIC INDUSTRY.

64. The manner in and the extent to which the circumvented products are undermining the duty imposed and thereby rendering such duty as redundant is important to be analysed. The Authority has examined whether the remedial effects of anti-dumping duties have been undermined in terms of market share, price effects and adverse effects on key economic parameters due to impact of shift in trade by increased imports of PUI from the subject country.

G.1 Market share assessment and effects of circumvention on market share of the domestic industry

65. The Authority has examined market share of domestic industry and imports of PUC in the Indian demand and have seen the same in view of the imports of PUI;

<table>
<thead>
<tr>
<th>Market Share in Demand</th>
<th>Unit</th>
<th>2016-17</th>
<th>2017-18</th>
<th>2018-19</th>
<th>POI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales of Domestic Industry</td>
<td>MT</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Sales of Other Indian Producers</td>
<td>MT</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Imports from Subject Country-PUC</td>
<td>MT</td>
<td>4,396</td>
<td>3,426</td>
<td>4,325</td>
<td>2,228</td>
</tr>
<tr>
<td>Imports from Subject Country-PUI</td>
<td>MT</td>
<td>1,527</td>
<td>3,513</td>
<td>5,007</td>
<td>1,779</td>
</tr>
<tr>
<td>Demand</td>
<td>MT</td>
<td>28,735</td>
<td>42,832</td>
<td>40,191</td>
<td>15,418</td>
</tr>
<tr>
<td>Trend</td>
<td>Indexed</td>
<td>100</td>
<td>149</td>
<td>140</td>
<td>54</td>
</tr>
<tr>
<td>Sales of Domestic Industry</td>
<td>%</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Trend</td>
<td>Indexed</td>
<td>100</td>
<td>117</td>
<td>140</td>
<td>177</td>
</tr>
<tr>
<td>Other Indian Producers</td>
<td>%</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Trend</td>
<td>Indexed</td>
<td>100</td>
<td>97</td>
<td>62</td>
<td>26</td>
</tr>
<tr>
<td>Imports from Subject Country-PUC</td>
<td>%</td>
<td>15.30</td>
<td>8.00</td>
<td>10.76</td>
<td>14.45</td>
</tr>
<tr>
<td>Trend</td>
<td>%</td>
<td>100</td>
<td>52</td>
<td>70</td>
<td>94</td>
</tr>
<tr>
<td>Imports from Subject Country-PUI</td>
<td>MT</td>
<td>5.31</td>
<td>8.20</td>
<td>12.46</td>
<td>11.54</td>
</tr>
<tr>
<td>Trend</td>
<td>Indexed</td>
<td>100</td>
<td>154</td>
<td>234</td>
<td>217</td>
</tr>
</tbody>
</table>
66. It is noted that the demand as determined includes both PUC and the volume of imports of PUI. It is further noted that market share of both domestic industry and China PR have increased in the POI. As noted earlier, PUI is used in the production of PUC only and it does not have any standalone usage. It is noted from the above Table that while the share of PUC remained at similar levels, the share of imports of PUI kept on increasing over the injury period which prevented further increase in the market share of the domestic industry.

G.2 Effect of circumvention on Net Sales Realization of the DI during the POI

67. With regard to the effect of imports of PUI on prices, it is required to be analysed whether there has been a significant price undercutting by the circumvented imports as compared to the price of the like products in India. The Authority considers the same as under.

<table>
<thead>
<tr>
<th>Price Undercutting</th>
<th>Unit</th>
<th>2016-17</th>
<th>2017-18</th>
<th>2018-19</th>
<th>POI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Import volume of PUC</td>
<td>MT</td>
<td>4,396</td>
<td>3,426</td>
<td>4,352</td>
<td>2,228</td>
</tr>
<tr>
<td>Import volume of PUC</td>
<td>MT</td>
<td>1567.16</td>
<td>3646.43</td>
<td>5294.57</td>
<td>2558.86</td>
</tr>
<tr>
<td>Landed price of imports of PUC</td>
<td>Rs/Kg</td>
<td>109.46</td>
<td>113.09</td>
<td>126.01</td>
<td>121.28</td>
</tr>
<tr>
<td>Net Sales Realization (NSR)</td>
<td>Rs/Kg</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Price undercutting</td>
<td>Rs/Kg</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Price undercutting</td>
<td>%</td>
<td>***</td>
<td>***</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Price undercutting</td>
<td>% Range</td>
<td>20-30</td>
<td>10-20</td>
<td>0-5</td>
<td>5-15</td>
</tr>
</tbody>
</table>

68. Since the landed price of imports of PUI cannot be directly compared with the NSR of subject goods, the landed price of PUC is compared with NSR of the subject goods. It is seen that imports of PUC have been undercutting the NSR of the domestic industry throughout the injury period and the undercutting increased during the POI over the immediate previous year. Landed price of imports of PUC being below the selling price of the domestic industry signifies the situation that imports of PUI have also been at undercutting levels as the PUI is nothing but imports of PUC in CKD/SKD condition.

69. The Authority holds that the above price undercutting of PUC through circumvention phenomena has in fact adversely impacted the pricing of the domestic industry.

Landed Price of PUC and PUI and Price effects

70. Landed price of PUC and PUI have been worked out based on transaction wise import data as provided by DGCI&S. The table below shows the calculation of landed value.
<table>
<thead>
<tr>
<th>Particulars</th>
<th>Unit</th>
<th>PUC</th>
<th>PUI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landed Value</td>
<td>Rs./Kg</td>
<td>#132.74</td>
<td>122.51</td>
</tr>
<tr>
<td>Net Sales of Realisation of the domestic Industry</td>
<td>Rs./Kg</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Price Undercutting</td>
<td>Rs./Kg</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Price Undercutting</td>
<td>%</td>
<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Price Undercutting</td>
<td>% Range</td>
<td>0-5</td>
<td>5-10</td>
</tr>
</tbody>
</table>

# Landed value of PUC includes anti-dumping duty in force.

71. PUC landed in India after payment of applicable anti-dumping duties, whereas PUI were imported without any anti-dumping duties. It can be noted that while PUC landed in India at a price of Rs. 132.74/- per Kg, PUI landed in India at a price of Rs. 98.79/Kg and considering a value addition thereafter of about ***%, the landed price of assembled PUI remained at Rs.122.51/Kg. Such difference in landed price of PUC and PUI shows the effect of evasion of anti-dumping duties and circumvention of applicable anti-dumping duties is evident due to such price differences. Further, such activities by the importers have undermined the efficacy of the ADD measures.

H. POST DISCLOSURE COMMENTS

72. Following submissions have been made by the domestic industry:

a) The facts as disclosed clearly show that the PUI which have been getting imported from China PR are nothing but imports of ‘Axle for Trailers’ in CKD/SKD condition by declaring it as ‘parts of trailer axles’. The Authority may confirm its observations on the PUC and the PUI in the final finding.

b) Only York have come forward and cooperated with the Authority in this matter as a producer of subject goods. York clearly satisfies standing requirements as it hold a major proportion in the total Indian production and York should please be confirmed as the eligible domestic industry concerning this investigation in the final finding.

c) The facts as disclosed proves that there was a notable shift in the pattern of trade from the import of the PUC to the PUI and such shift was to circumvent the duties and there are no economic justifications for such shifts other than evasion of applicable duties.

d) The facts of the present case make it evident that ADD on the PUC is being circumvented by importing the same in CKD/SKD condition defined as the PUI and it is just and fair that duties on the PUC is made applicable on imports of the PUI also.

e) It is very evident that the process of circumvention started or intensified after the imposition of ADD to evade such duties and as a result of the circumvention, the remedial effects of the duties are highly undermined in this matter. The circumvention clearly prevented more gain in market share by the domestic industry and landed price of such imports at undercutting levels prevented fair price increases by the domestic industry which would have taken place otherwise.
f) The facts as disclosed clearly show that the value addition has been much lower than the statutory threshold of 35% and it is also clear that the imports of the PUI were taking place at dumped levels. The circumventing imports were undercutting the price of the domestic industry to significant levels that the price injury created by the circumvention is clear.

g) The benefit of duties in force were clearly undermined as the dumped and circumvented material reached India at a price below the NSR of the domestic industry even after including the applicable ADD in force.

h) It is evident from the factual disclosure that M/s HD Trailers Pvt Ltd have clearly failed to cooperate with the Authority meaningfully and the party merely resorted to making unsubstantiated claims. The facts clearly show that HD Trailers Pvt Ltd could not prove its claims with supporting evidences and we request the Authority to consider best available information for the purpose of final finding also by rejecting the unsubstantiated claims of the said importer wherever warranted.

i) It is clear from the facts that the case meets all the requirements to recommend for circumvention duty since a) the product under investigation started or increased after, or just prior to, the anti-dumping investigation and the parts and components are imported from the country of origin or the country of export notified for purposes of levy of anti-dumping duty, b) the value added to the inputs brought in, during the assembly or completion operation, is less than 35% of the manufacturing cost, c) the imports of the PUI which is nothing but the PUC in CKD/SKD condition continues to be at dumped rates, d) the import of the PUI by evading the duty has undermined the remedial effect of ADD imposed on the PUC and e) the imports of the PUI was intended only to circumvent the duty in force.

j) In view of the facts as disclosed, which demonstrates circumvention and its adverse effects on the domestic industry, the Authority may recommend for extension of ADD on the PUC also onto imports of the PUI from China PR.

73. Following submissions have been made by M/s H.D. Trailers Pvt Ltd.

a) The submissions of M/s H.D. Trailers Pvt Ltd asking for specific investigation as well as consideration have not been looked into. The details and the documents requisitioned by M/s H.D. Trailers Pvt Ltd have been denied and thus effectively blocking it from making a true and effective representation of the case. However, averments of M/s York Transport Equipment have been taken without any proof.

b) The forensic audit requested for the books of York has not been taken into consideration. It has been pointed out that the books of York are manipulated. Also, the imports by York and its related parties have not been investigated.

c) The formula adopted for ascertaining the production and the consumption of axle by York is faulty.
d) York is adopting manufacturing activity which is similar to what H D Trailers Pvt Ltd has been adopting.

e) As to the alleged variations from work sheet and the balance sheet figures of M/s H.D. Trailers Pvt Ltd, the confusion is solely due to the failure on Authority’s part in understanding the nature of the activities of the company. The Authority appears to have proceeded with the facts without asking clarification.

f) M/s H.D. Trailers Pvt Ltd not only manufactures trailer axle but is also manufacturing suspension, which is totally away from the scope of ADD. Likewise, the goods imported are not just the PUC and the PUI but include parts of the suspension. The confusion arose because the Authority have taken manufacturing details given in the balance sheet as that of Trailer axle and the import figures as the import of only the PUI.

g) As regards the issue of value addition, the ‘value’ as given in clause (ii) in Rule 26 defines the value as the cost of assembled or finished article less value of imported parts or components. Thus, this rule stipulates the consideration of cost of assembled, complete or finished article and the value of the imported parts or components.

h) In case of M/s H.D. Trailers Pvt Ltd, the value addition to the imported goods has to be considered as the difference between the total cost of the assembled article and that of the cost of the imported goods, which works out to Rs. 859.00 lakhs (difference between 1855.87 and 996.87). Thus, the amount of Rs. 859.00 lakhs when taken as a % of the cost of imported components works out to be 86.17% which is far above the threshold of 35%. Hence the question of circumvention does not arise.

i) The issue in hand is whether there is circumvention of the anti-dumping duty imposed on trailer axles imported into India and the examination should not be narrowed down to M/s H.D. Trailers Pvt Ltd. only.

**EXAMINATION OF THE AUTHORITY**

74. The Authority notes that most of the submissions made by the domestic industry and the other interested party are repetitive in nature. These submissions have already been examined at appropriate places in these final findings. Further, the Authority has examined additional/new relevant submissions of all the interested parties as under:

a) With regard to the contentions of M/s H.D. Trailers Pvt. Ltd. that their submissions were not considered and requisitioned documents by them were not provided, the Authority notes that the contentions have no merit. The Authority have considered and addressed all submissions supported with evidence as required under the Rules and contentions not supported by facts or law alone have been rejected. Interested parties have been asked to exchange the non-confidential version of their submissions with the other interested parties and in view of the same, the contention that the Authority has denied access to documents is also rejected.
b) The Authority notes that while York was found to be the domestic industry in the original investigation, M/s H.D. Trailers Pvt. Ltd. registered itself as an importer of the PUC and filed an importer questionnaire response. However, in the present anti-circumvention case, M/s H.D. Trailers Pvt. Ltd. has contested that it is carrying out the manufacturing activity similar to what York, which is the domestic industry in the present case, is adopting for the production of PUC.

c) In view of the comments received from the interested parties, the Authority carried out a discussion cum verification of M/s H.D. Trailers Pvt. Ltd. through Digital Video conferencing in the wake of COVID-19 in order to understand the contentions made and the manufacturing process being undertaken by it. It emerged from the discussions that the nature of activity carried out by M/s H.D. Trailers Pvt. Ltd. during the POI is more of an importer though in the ongoing sunset review of the existing anti-dumping duties on the imports of PUC, the company has claimed itself to be a producer/manufacturer. Despite several submissions the party could not place on record any conclusive evidence to establish themselves as manufacturers of the PUC during the period of investigation. It is further noted that the legal representative of the company also admitted that the company is gradually shifting towards manufacturing activity which is beyond the scope of this anti-circumvention investigation. In view of the above, the contention of M/s H.D. Trailers Pvt. Ltd. that the manufacturing activity carried out by them is similar to York cannot be accepted.

d) With regard to the contention that forensic audit of the books of York has not been taken into consideration, the Authority notes that the submissions made, and documents submitted by the domestic industry and the other opposing parties have been taken into consideration only after due examination and verification as per the practices followed by the Authority. Further, the scope of the investigation is to establish whether circumvention has taken place to undermine the efficacy of existing anti-dumping duties.

e) With regard to the contention that the formula adopted for ascertaining the total Indian production of axle by York is faulty, the Authority notes that the formula adopted in the present investigation to calculate the total axle requirement based on SIAM data pertaining to the production of Prime Movers was found reasonable and adopted even in the original investigation. There are no evidences adduced by the opposing party to show that such formula is totally irrational. It is further noted that even if a formula of 80%*2.5 axles and 20%*3 axles is considered as a conservative approach, still York alone holds a major proportion of 76% in the total Indian production based on the SIAM data relied upon by them. SIAM data per se is not disputed by the opposing parties.

f) With regard to the contention of HD Trailers that the alleged variations in its work sheet and the balance sheet figures are due to the confusion of the Authority, it is noted that the requirements in various formats prescribed is very specific to help the parties to provide the relevant information in line with their audited books and the Authority has considered and analysed the information as submitted by the interested parties. Hence, the contention that the Authority getting confused with the information is not correct. The Authority appropriately considered the information pertaining to the PUI and others from the records submitted by the party.
g) With regard to the contention of M/s HD Trailers Pvt. Ltd. that the calculation of value addition adopted in the disclosure statement is not correct either legally or factually, the Authority notes that how to calculate value addition in the context of an anti-circumvention investigation is explicitly provided in the Anti-Circumvention Rule and the same has been adopted by the Authority. Thus, the facts disclosed with regard to value addition in the disclosure statement reflected the correct legal position. The Authority has also examined the factual rebuttals by HD Trailers on the value addition calculation and notes that the facts disclosed earlier do not warrant any modifications as HD Trailers could not submit any new facts to justify the modifications in the earlier calculations.

h) With regards to the contention of M/s HD Trailers Pvt. Ltd. that the examination of circumvention should not be narrowed down to only HD Trailers Pvt Ltd, the Authority notes that the outcome of the present anti-circumvention investigation would be applicable on all the circumventing imports of the PUC and not just restricted to any particular importer.

i) With regard to the claims of the domestic industry, the Authority notes that the submissions are repetition of their earlier claims and therefore has not been addressed separately.

I. CONCLUSIONS

75. Having initiated the present investigation based on inputs from the Commissioner, Nhava Sheva and after examining the contentions of the domestic industry and the other interested parties and on the basis of the analysis as above, the Authority concludes as under:

a) There has been a change in the pattern of trade in the case of import of the PUC and the PUI from China PR post imposition of Anti-dumping duties on the PUC.

b) The value addition in converting the PUI (Axle for Trailers in Completely Knock Down/Semi Knock Down condition) into the PUC (Axle for Trailers) is significantly less than the prescribed threshold in the Anti-circumvention Rules.

c) Imports of the PUI from China PR have been entering at dumped prices.

d) The import of the PUI has undermined the remedial effects of existing Anti-dumping measure on PUC imposed vide Custom Notification No.54/2016-Customs (ADD) dated 29th November, 2016.

J. RECOMMENDATIONS

76. The Authority in view of the aforesaid factual matrix;

a) Recommends extension of the existing Anti-Dumping Duty on imports of Axle for Trailers, originating in or exported from China PR imposed by Central Government vide Notification No. 54/2016-Customs (ADD) dated 29th November, 2016 on import of the PUI also originating in or exported from China PR. (Duty tabulated
in the Custom Notification No. 54/2016-Customs (ADD) dated 29th November, 2016 is enclosed at Annexure-A).

b) The validity of Anti-dumping Duty on the PUI would be from the date of notification of the duty by Central Government and shall be co-terminus with the duty on Axle for Trailers originating in or exported from China PR.

K. FURTHER PROCEDURE

77. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

(Anant Swarup)
Designated Authority
[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. 54/2016-Customs (ADD)

New Delhi, the 29th November, 2016

G.S.R. (E).—Whereas, in the matter of “Axle for Trailers” (hereinafter referred to as the ‘subject goods’), falling under tariff item 8716 90 10 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the ‘Customs Tariff Act’), originating in, or exported from People’s Republic of China, (hereinafter referred to as the ‘subject country’), and imported into India, the designated authority in its final findings published in the Gazette of India, Extraordinary, Part I, Section 1, vide notification number 14/17/2015-DGAD, dated the 30th September, 2016, has come to the conclusion that—

(a) the subject goods have been exported to India from the subject country below their associated normal values;
(b) the domestic industry has suffered material injury;
(c) the material injury has been caused by the dumped imports of the subject goods from the subject country,

and has recommended imposition of definitive anti-dumping duty on imports of the subject goods, originating in, or exported from the subject country and imported into India, in order to remove injury to the domestic industry;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), exported from the countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), exported by the exporters as specified in the corresponding entry in column (7), imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (8), in the currency as specified in the corresponding entry in column (10) and as per unit of measurement as specified in the corresponding entry in column (9) of the said Table, namely :-
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<td>2.</td>
<td>8716 90 10</td>
<td>Axle for Trailers</td>
<td>People's Republic of China</td>
<td>People's Republic of China</td>
<td>Guangdong FUWA Heavy Industries Co. Ltd.</td>
<td>Guangdong FUWA Heavy Industries Co. Ltd.</td>
<td>0.16</td>
<td>Kg</td>
<td>United States Dollar</td>
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<td>4.</td>
<td>8716 90 10</td>
<td>Axle for Trailers</td>
<td>People's Republic of China</td>
<td>People's Republic of China</td>
<td>Any combination other than S. No. 1 to 3 above</td>
<td>Any combination other than S. No. 1 to 3 above</td>
<td>0.46</td>
<td>Kg</td>
<td>United States Dollar</td>
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<td>5.</td>
<td>8716 90 10</td>
<td>Axle for Trailers</td>
<td>Any country other than People's Republic of China</td>
<td>Any country other than People's Republic of China</td>
<td>Any</td>
<td>Any</td>
<td>0.46</td>
<td>Kg</td>
<td>United States Dollar</td>
</tr>
<tr>
<td>6.</td>
<td>8716 90 10</td>
<td>Axle for Trailers</td>
<td>Any country other than People's Republic of China</td>
<td>People's Republic of China</td>
<td>Any</td>
<td>Any</td>
<td>0.46</td>
<td>Kg</td>
<td>United States Dollar</td>
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2. The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be paid in Indian currency.
Explanation.- For the purposes of this notification, rate of exchange applicable for the purpose of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act, 1962.

[F.No. 354/178/2016-TRU]

(Anurag Sehgal)
Under Secretary to the Government of India