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**F. No. 6/38/2020-DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Trade Remedies  
4th Floor, Jeevan Tara Building,  
5, Parliament Street, New Delhi -110001**

Dated: 10<sup>th</sup> April, 2022

**FINAL FINDINGS**

**Case No. AD (OI) – 33/2020**

**Subject: Anti-dumping investigation concerning imports of “Decor Paper” originating in or exported from China PR.**

**F. No. 6/38/2020-DGTR-** Having regard to the Customs Tariff Act, 1975, as amended from time to time 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, thereof:

**A. BACKGROUND OF THE CASE**

2. The Designated Authority (hereinafter also referred to as the “Authority”) received an application from M/s ITC Limited Paperboards and Specialty Papers Division (hereinafter also referred to as the “applicant” or the “petitioner” or the “domestic industry” or the “DI”) in accordance with 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” or the “AD Rules”) for the imposition of the anti-dumping duty on the imports of “Decor Paper” (hereinafter also referred to as the “product under consideration” or the “PUC” or the “subject goods”) originating in or exported from China PR (hereinafter also referred to as the “subject country”).
3. And whereas, in view of a duly substantiated application filed by the applicant, showing prima facie dumping of the subject goods originating in or exported from the subject country and consequent injury to the domestic industry, the Authority had issued a public notice vide Notification No. 6/38/2020-DGTR dated 30<sup>th</sup> September, 2020, published in the Gazette of India, Extraordinary, initiating an anti-dumping investigation into the imports of the product under consideration originating in or exported from the subject country in accordance with the Rules to determine the existence, degree and effect of any alleged dumping of the subject goods and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the alleged injury to the domestic industry.

4. Having initiated and conducted the investigation into dumping, injury and the causal link in terms of the provisions laid down under the Anti-Dumping Rules and having regard to the contentions raised, information provided and the submissions made by the domestic industry and the other interested parties and the facts available before it, the Authority had issued its final findings notification No. 6/38/2020-DGTR dated 28th September, 2021, followed by corrigendum notification No. 6/38/2020-DGTR dated 8th October, 2021 to the final findings notification No. 6/38/2020-DGTR dated 28th September, 2021, recommending to the Central Government the imposition of the anti dumping duty on the subject goods originating in or exported from the subject country. The Central Government (Department of Revenue, Ministry of Finance) accepted the said recommendations and issued notification No. 77/2021-Customs (ADD) dated 27th December, 2021, imposing the anti dumping duty on the subject goods originating in or exported from the subject country.
5. In its final findings notification No. 6/38/2020-DGTR dated 28th September, 2021, the Authority had recorded that the following producers/exporters from the subject country had responded and participated in the investigation:
  - i. Kingdecor (Zhejiang) Company Limited, China PR
  - ii. Qifeng New Material Limited, China PR
  - iii. Shandong Boxing Ouhua Special Paper Company Limited
  - iv. Xianhe Company Limited
  - v. Zhejiang Xianhe New Materials Sales Company Limited
  - vi. Zibo OU-MU Special Paper Company Limited
6. Further, in its final findings notification No. 6/38/2020-DGTR dated 28th September, 2021, the Authority had also recorded that the following importers/users had responded and participated in the investigation:
  - i. Aica Laminates India Private Limited
  - ii. Deco Mica Limited
  - iii. Fakirsons Papchem Private Limited
  - iv. JKS Decor Paper LLP
  - v. Match Graphics Private Limited
  - vi. Saraf Sales Corporation
7. After the issuance of the final findings notification No. 6/38/2020-DGTR dated 28th September, 2021, an exporter of the subject goods from China PR, namely, Hangzhou Huawang New Material Technology Co., Ltd. (Hangzhou Huawang) and an Indian importer of the subject goods from China PR, namely, Fakirsons Papchem Private Limited, preferred a Special Civil Application No. 16555 of 2021 on 18.10.2021 before the Hon'ble High Court of Gujarat at Ahmedabad, against the Department of Commerce (Respondent No. 1), Department of Revenue (Respondent No. 2) and the Designated Authority (Respondent No. 3), challenging the final findings notification No. 6/38/2020-DGTR dated 28th September, 2021. The principal ground of challenge raised in the petition, as observed by the Hon'ble Court, was that the writ applicant Hangzhou Huawang had been treated as a non-cooperative exporter though according to the writ applicant, it had submitted the required information and data as called for by the Authority vide its e-mail dated 15.11.2020. The writ applicant Hangzhou Huawang contested that whereas it had

filed exporters' questionnaire response and related documents to the Authority, its name did not appear in the list of exporters from China PR who had filed exporters' questionnaire responses in the final findings notification No. 6/38/2020-DGTR dated 28.09.2021 and thus Hangzhou Huawang had been declared non-cooperative in the investigation, consequently liable for higher anti-dumping duty in comparison to the other similarly placed exporters from China PR. According to the writ applicant, non-consideration of the data submitted by the applicant resulted in a situation whereby the Authority imposed the anti dumping duty of an amount of USD 116 per metric tonne and USD 110 per metric tonne in respect of similarly situated producers, while the products of the writ applicant were subjected to anti-dumping duty of USD 542 per metric tonne since his case was considered similar to that of other non-cooperative exporters. The writ applicants, therefore, raised the contention before the Hon'ble High Court that the impugned final findings were in complete violation of the principles of natural justice and prayed to the Hon'ble High Court to issue the order or direction declaring the impugned final findings notification No. 6/38/2020-DGTR dated 28.09.2021 being arbitrary, discriminatory, unreasonable and violative of Articles 14 and 19(1)(g) to the Constitution of India and ultra vires the provisions of the Tariff Act and Anti-Dumping Rules.

8. On the other hand, the Authority filed its counter reply, contesting, inter-alia, that it had followed the principles of natural justice, conducted the proceedings in a just and fair manner and considered all valid submissions and responses submitted by all the interested parties during the course of the investigation before reaching a final conclusion of recommending the anti-dumping duties vide final findings notification No. 6/38/2020-DGTR dated 28.09.2021. The Authority also gave its counter arguments as to why and under which circumstances the exporter questionnaire response of Hangzhou Huawang could not be accepted and taken on record and further as to why Hangzhou Huawang had been treated non-cooperative in the investigation, consequently liable for higher anti-dumping duty.
9. During the course of the arguments, the Hon'ble High Court observed that the whereas the writ applicants raised the contention before the Court that the impugned final findings were in complete violation of the principles of natural justice, on the other hand, the Respondent-Union of India argued that the writ applicant ought to make a representation to the Central Government/ Designated Authority in respect of its grievances and should furnish the required details and data as may be called for by the Authorities and further contending that the same would be duly taken into account and necessary findings in respect of the applicant's products and recommendation/decision regarding levy of Anti-Dumping Duty would be placed before this Court, after considering the representations of the writ applicant and after affording an opportunity of hearing. After hearing the parties and particularly, considering the stance of the Respondent-Union of India, the Hon'ble High Court was pleased to pass an order dated 11.01.2022, stating, inter-alia, that "The writ applicant will make a representation along with all supporting documents/ details they seek to rely upon and the applicant shall supply additional data/information as may be called for by the respondent authorities and thereafter, the respondent-authorities shall take a decision in relation to the Anti-Dumping Duty to be imposed in respect of the applicant's products and place the same for consideration of this Court."

## **B. PROCEDURE FOLLOWED**

10. In pursuance of the court order, the Authority allowed Hangzhou Huawang New Material Technology Co., Ltd., China PR and Fakirsons Papchem Private Limited to submit their relevant information and documents pertaining to the investigation in the subject matter in which the final findings notification No. 6/38/2020-DGTR dated 28th September, 2021 was issued.
11. Hangzhou Huawang New Material Technology Co., Ltd., China PR and Fakirsons Papchem Private Limited filed their submissions before the Authority. Due to the worldwide outbreak of COVID-19 and consequent restrictions on physical movement imposed, the Authority had directed the writ applicants, the domestic industry and the other interested parties to circulate the non-confidential version of their submissions to the other interested parties by email. The non-confidential versions of the submissions were exchanged amongst the parties.
12. The Authority also conducted an oral hearing through video conferencing on 24th February, 2022 to provide an opportunity to the writ applicants, the domestic industry and all the other registered interested parties who had participated in the earlier oral hearing dated 16th June, 2021 conducted by the Authority in this investigation to present their views orally before the Authority in accordance with the AD Rules.
13. The parties who attended the above-mentioned oral hearing were advised to file the written submissions of the views expressed orally, followed by the rejoinders, if any. The Authority also directed the writ applicants, the domestic industry and the other interested parties to circulate the non-confidential version of their submissions to the other interested parties by email. The non-confidential versions of the submissions were exchanged amongst the parties.
14. The information provided by the interested parties on confidential basis was examined with regard to the sufficiency of the confidentiality claim. On being satisfied, the Authority has accepted the confidentiality claim wherever warranted and such information has been considered as confidential and not disclosed to the other interested parties. Wherever possible, the parties providing information on confidential basis were directed to provide the sufficient non-confidential version of the information filed on confidential basis.
15. A disclosure statement containing the essential facts in this investigation which would have been formed the basis of the final findings was issued to the writ applicants, the domestic industry and the interested parties on 04.04.2022 and the parties were allowed time to comment on the same. The comments on the disclosure statement received from them have been considered, to the extent found relevant, in this final findings notification.
16. The submissions made by the interested parties, arguments raised and the information provided by the various interested parties during the course of the investigation, to the extent the same are supported with evidence and considered

relevant to the present investigation, have been appropriately considered by the Authority in these final findings.

17. '\*\*\*\*' in this final findings notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.
18. The exchange rate remains the same as was adopted by the Authority for the subject investigation, i.e., 1 US\$ = Rs. 71.65.

## **C. MISCELLANEOUS ISSUES**

### **C.1. Submissions by the writ applicants**

19. The writ applicants have made the following miscellaneous submissions:
  - a) As regards the contention of the domestic industry that the legal representative of the exporter has refrained from signing the declaration, it is submitted that the petitioner had already filed its questionnaire response at the initial phase of the investigation. The recent information submitted as per the directions of the Authority are supplemental in nature and there is no provision to certify each and every information by the legal representative.
  - b) Hangzhou Huawang Import and Export Co., Ltd. was formed in 2016 as a 100% subsidiary of Huawang Group company. It was a domestic trading company for wood pulp and hence not related to the product under consideration. The name of Hangzhou Huawang Import and Export Co., Ltd. was changed to Huawang New Material (Hangzhou) Co., Ltd. on 19.04.2021 and this company got its Exports Licence as a Foreign Trade Operator in 2021. Thus, the said company is in no way involved with the import and export of the PUC during the POI.
  - c) Grand Way Holding Pte Ltd, Singapore is a 100% subsidiary of Huawang Group, but the company is a dormant company and no business has been carried out in that company since 2017. Also, the company's previous business was not related to product under consideration and hence in no way it interferes with the investigation.
  - d) Having taken the supplementary questionnaire response filed by Hangzhou Huawang on record, DGTR, vide its communication dated 11.02.2022, invited sample export documents from Hangzhou Huawang for verification purpose. The required documents were submitted by Hangzhou Huawang on 18.02.2022.
  - e) The oral hearing conducted by the Authority was not warranted in view of the specific directions of the Hon'ble Courts in its order dated 11.01.2022.

### **C.2. Submissions by the domestic industry**

20. The domestic industry has made the following miscellaneous submissions:

- a) There has been gross negligence and a series of lapses on the part of the exporter itself. Instead of acknowledging its lapses and negligence, the exporter has sought to shift the blame to the Authority.
- b) The instructions given in the initiation notification were not followed by the exporter as the response was shared only with one officer of the investigating team.
- c) The Authority had also clearly instructed in the initiation notification that the interested parties should keep a check on the DGTR website. However, the exporter failed to follow the instruction of the Authority to keep a watch on the website. As a result, it was not able to participate in the investigation and exercise its rights.
- d) The exporter did not raise any objections to the list of interested parties and the revised list.
- e) The legal maxim *Vigilantibus Non Dormientibus Jura Subveniunt* which translates to the “law will assist only those who are vigilant about their rights and not those who sleep over them” squarely applies to the present investigation. The Hon’ble Supreme Court in a recent judgment of *Sagufa Ahmed V. Upper Assam Plywood Products Private Limited* observed the said maxim and held that the law assists those that are vigilant with their rights and not those that sleep thereupon.
- f) The interim order passed by the Hon’ble High Court does not indicate by any means that the Authority is not authorized to conduct an oral hearing or take into account submissions made by the other interested parties including the domestic industry.
- g) The exporter has failed to disclose the fact that it has a related entity engaged in the sale of the subject goods. In the questionnaire response, it has stated Hangzhou Huawang Industry Group Co., Ltd. and Hangzhou Linan Huawang Thermal Energy Co., Ltd. as related entities. Further, it has stated that its shareholders are not related to any entity engaged in the production or sale of the product under consideration. However, as per the website of the company, Hangzhou Huawang Import & Export Co., Ltd. is a related trader / exporter of the product under consideration. This implies that the said entity is engaged in the sale of the product under investigation. The exporter has also not disclosed that Grand Way Holding Pte. Limited is also a related company of the exporter.

### **C.3 Submissions by the other interested parties**

21. The other interested parties have not made any new miscellaneous submissions.

### **C.4 Examination by the Authority**

22. The Authority has examined the miscellaneous submissions as under:

- a) The Authority notes that it had filed its counter reply, contesting, inter-alia, that it had followed the principles of natural justice, conducted the proceedings in a just and fair

manner and considered all valid submissions and responses submitted by all the interested parties during the course of the investigation before reaching a final conclusion of recommending the anti-dumping duties vide final findings notification No. 6/38/2020-DGTR dated 28.09.2021. The Authority also gave its counter arguments as to why and under which circumstances the exporter questionnaire response of Hangzhou Huawang could not be accepted and taken on record; that the instructions given in the initiation notification were not followed by the exporter as the response was shared only with one officer of the investigating team; that the non-confidential version was not shared by the exporter with the other interested parties; that the Authority had also clearly instructed in the initiation notification that the interested parties should keep a check on the DGTR website but the exporter failed to follow the instruction of the Authority to keep a watch on the website and that it is the reason why Hangzhou Huawang had been treated non-cooperative in the investigation, consequently liable for higher anti-dumping duty.

- b) The Authority notes that all these facts and arguments of the Authority were before the Hon'ble High Court of Gujarat but the Hon'ble High Court was pleased to pass an order dated 11.01.2022, stating, inter-alia, that "The writ applicant will make a representation along with all supporting documents/ details they seek to rely upon and the applicant shall supply additional data/information as may be called for by the respondent authorities and thereafter, the respondent-authorities shall take a decision in relation to the Anti-Dumping Duty to be imposed in respect of the applicant's products and place the same for consideration of this Court." In pursuance of the Court order, the Authority has re-examined the matter and allowed the writ applicants to submit fresh exporter questionnaire and other related documents to decide their case on merit.
- c) Regarding the contention that the fresh oral hearing conducted by the Authority on 24th February, 2022 was not warranted in view of the specific directions of the Hon'ble Courts in its order dated 11.01.2022, the Authority notes that the principle of natural justice demanded a fresh oral hearing with all those who had registered themselves in the original investigation.
- d) The Authority notes that the writ applicants have clarified that Hangzhou Huawang Import and Export Co., Ltd. was formed in 2016 as a 100% subsidiary of Huawang Group company and that it was a domestic trading company for wood pulp and hence not related to the product under consideration. The name of Hangzhou Huawang Import and Export Co., Ltd. was changed to Huawang New Material (Hangzhou) Co., Ltd. on 19.04.2021 and this company got its Exports Licence as a Foreign Trade Operator in 2021. Thus, the said company is in no way involved with the import and export of the PUC during the POI. The Authority concludes that as per the evidence produced by the writ applicants, it is satisfied with the response of the writ applicants.

#### **D. CONFIDENTIALITY**

##### **D.1. Submissions by the writ applicants**

23. No comments have been made by the writ applicants on the issue of confidentiality.

## **D.2. Submissions by the domestic industry**

24. The non-confidential version was not shared by the exporter with the other interested parties.

## **D.3 Submissions by the other interested parties**

25. The other interested parties have not made new submissions on confidentiality.

## **D.4 Examination by the Authority**

26. The Authority has considered the claims of confidentiality made by the writ applicant, the domestic industry and the opposing interested parties, wherever it has been raised, and on being satisfied about the same, the Authority has allowed the claims on confidentiality. The Authority has also noted that the writ applicant has shared the non-confidential version of its responses with the domestic industry and the other interested parties.

## **E. DETERMINATION OF NORMAL VALUE, EXPORT PRICE AND DUMPING MARGIN**

### **E.1. Submissions by the writ applicants**

27. Hangzhou Huawang New Material Technology Co., Ltd., China PR and Fakirsons Papchem Private Limited, the writ applicants, have made the following submissions:

- a) Limited mandate is given by the Hon'ble Court, as the proceedings are limited to determination of the dumping and injury margins.
- b) The questionnaire response filed by the exporter earlier was duly received by DGTR and no deficiency was raised or additional data was called for, and the data and other information submitted by the party was presumed to be in order for determination of their dumping and injury margins.
- c) However, despite filing the EQR in time, the Authority has, apparently due to inadvertence, ignored the EQR and failed to determine the individual dumping and injury margins for this cooperative exporter. Thus, this cooperative exporter has been, by default, treated as a non-cooperative exporter and consigned to the residual duty category in the final findings.
- d) But the counter affidavit filed by the Authority nowhere mentions that the EQR filed by this exporter was considered and rejected because of the above reasons. If it was so, the name of this exporter and the fact of rejection of the EQR would have appeared in the disclosure statement as well as the final findings. Further, while the Authority did admit that the EQR was received in one email ID notified, it is not known what prevented the Authority to forward the same to all other concerned officers and what prevented the Authority to ask the exporter to file the NCV and also to circulate the same to other interested parties.



- e) The DGTR has failed to take cognizance of the EQR filed by the petitioner, apparently because of an inadvertent omission, and that needs to be rectified by a fresh determination as directed by the Hon'ble Court.
- f) It is not understood how the domestic industry got access to the EQRs filed by the petitioners as it was alleged earlier that the NCV of the first EQR filed by the petitioner was not circulated to other interested parties.
- g) The claim of MET is a prerogative of the exporter and he can withdraw it at any time. There are ample number of cases where the exporters have withdrawn the MET claim even at the stage of verification and the Authority has accepted that position. Further, if the exporter does not press for grant of MET, at best the Authority can only reject the MET claim and proceed to determine the normal value as per the provisions of para 7 of Annexure I of the Rules. That cannot be a ground for rejecting the EQR of the responding exporter.
- h) The PCN wise information filed now is bound to differ from the questionnaire response filed earlier. Had this information been called by the Authority through a deficiency letter at the earlier occasion also, similar variation in data would have happened.
- i) No deficiency letter was issued at the earlier occasion and only as per the orders of the Hon'ble Court the opportunity was given to them to file supplementary and additional information.
- j) The arguments of the domestic industry that the Court has directed for only a 'representation' is only to mislead the Authority.
- k) As regards the contention of the domestic industry that the information filed by the exporter regarding the source of procurement of steam is contradictory, it is submitted that steam is captively produced as well as procured from the market. Nevertheless, this issue is no more relevant as the petitioner exporter has not claimed MET and the cost of production is not an issue in the current determination to be carried out.
- l) The huge gap between the cooperative and residual duty recommended by the Authority and imposed by the Central Government has led to the creation of an exclusive cartel consisting of the domestic industry and few privileged Chinese exporters and their Indian agents.
- m) No comments have been received by Hangzhou Huawang from any of the interested parties on the non-confidential version of the exporter questionnaire response.

## **E.2. Submissions by the domestic industry**

28. The domestic industry has made the following submissions:

- a) The interim order of the Hon'ble High Court, in no manner casts an obligation on the Authority to consider the response and determine a dumping margin for the exporter

without first deciding whether at all the exporter is entitled to individual dumping margin.

- b) The orders passed by the Hon'ble High Court are interim orders, which itself makes it clear that the direction to the Authority is to consider what is filed by the exporter and not a direction to determine the anti-dumping duty without taking into consideration any other submissions. In case the direction of the order would have been to determine the individual anti-dumping duty based on the response of the exporter, the same would have been the final order and not the interim order.
- c) There was failure to file comments on PCN as well as PCN-wise data by the exporter.
- d) The Authority is required to, after examining all relevant facts, first conclude whether the exporter deserve an individual dumping margin. In this regard, reliance is placed on the final findings in the anti-dumping investigation concerning imports of Caustic Soda from Japan, Iran, Oman and Qatar. The Authority found it appropriate to reject a response owing to delay in filing and incompleteness of information, even after calling for verification documents.
- e) The exporter is not permitted to file new or modified questionnaire or try to improve the submissions already made. Having seen the outcome of the proceedings on the issuance of notification levying antidumping duty, the exporter shall not be allowed to improve his case and contentions at this stage.
- f) Initially the exporter claimed market economy treatment. However, in the response circulated to the interested parties, the exporter has stated that it is not claiming normal value based on its own data.
- g) The exporter itself annexed the market economy treatment response filed by it during the original investigation in the writ which was shared with all the respondents including the domestic industry.
- h) The information filed by the exporter is contradictory to each other. At one place, the exporter has submitted that it has a related entity which supplies steam. However, while responding to another question in the exporter's questionnaire response, the exporter has submitted that steam is captively produced.

### **E.3. Submissions by the other interested parties**

29. The other interested parties have made the following submissions:

- a) No questionnaire response was filed on behalf of Hangzhou Huawang New Material Technology Co., Ltd. by M/s World Trade Consultants & Advocates. Only the injury submission on behalf of China National Forest Products Industry Association was filed by M/s World Trade Consultants & Advocates. Thus, the assumption of the petitioner with regard to consideration of Hangzhou Huawang New Material Technology Co., Ltd. as an interested party being represented by M/s World Trade Consultants & Advocates is completely wrong.

- b) The non-confidential version of the exporter's questionnaire response failed to provide complete data, which is in violation of Trade Notice No. 11/2018 dated 10th September, 2018, which states that the interested party is obliged to file the questionnaire response in the prescribed format within the timeline prescribed by the Authority. DGTR has provided adequate opportunities and various extensions from time to time to file the documents. In view of the foregoing, it is urged to the Authority to reject the exporter's questionnaire response filed by Hangzhou Huawang. Acceptance of such response will set bad precedence and such participation should not be encouraged.

#### **E.4. Examination by the Authority**

30. The Authority notes that whereas the domestic industry and the other interested parties had raised the point, inter-alia, that since the non-confidential version of the exporter's questionnaire response failed to provide complete data, which was in violation of Trade Notice No. 11/2018 dated 10th September 2018, the Hon'ble Court had passed the order that the writ applicants will make a representation along with all supporting documents/details they seek to rely upon and the applicants shall supply additional data/information as may be called for by the respondent authorities and thereafter, the respondent-authorities shall take a decision in relation to the Anti-Dumping Duty to be imposed in respect of the applicant's products and place the same for consideration of this Court. The Authority also observed that in pursuance of the said Court order, it had called for the PCN wise information/data from the writ applicants; shared the non-confidential version of the response of the writ applicants with the domestic industry and the other interested parties for their comments; carried out the desk verification of the data of the writ applicants and had decided to accepted their questionnaire response. Regarding the issue of steam, the Authority notes the exporter has withdrawn its MET claim.

#### **I. Determination of Normal Value for Hangzhou Huawang New Material Technology Co., Ltd., China PR (Hangzhou Huawang)**

31. The Authority notes that during the investigation conducted earlier in this matter leading to the issuance of the final findings notification No. 6/38/2020-DGTR dated 28th September, 2021, none of the producers/exporters from China PR had filed the supplementary questionnaire response to rebut the presumptions as mentioned in para 8 of Annexure – I of the Rules and under these circumstances, the Authority had proceeded in accordance with para 7 of Annexure – I of the Rules and determined the normal value for the product under consideration imported from China PR into India “on any other reasonable basis”.

32. The Authority also notes that as far as Hangzhou Huawang New Material Technology Co., Ltd., China PR (Hangzhou Huawang) is concerned, earlier it had filed its exporter questionnaire response, including the supplementary questionnaire response claiming market economy treatment, and other documents vide its mail dated 15.11.2020 to the Authority but the Authority had not accepted the exporter questionnaire response as it was not filed as per the laid down procedure and treated Hangzhou Huawang as non-cooperative in the final findings notification No. 6/38/2020-DGTR dated 28th September, 2021. However, in pursuance of the order

dated 11.01.2022 of the Hon'ble High Court stating, inter-alia, that the writ applicant will make a representation along with all supporting documents/ details they seek to rely upon and the applicant shall supply additional data/information as may be called for by the respondent authorities and thereafter, the respondent-authorities shall take a decision in relation to the Anti-Dumping Duty to be imposed in respect of the applicant's products and place the same for consideration of this Court, the Authority has accepted the exporter questionnaire response filed by Hangzhou Huawang vide its mail dated 15.11.2020 to the Authority. In this regard, the Authority notes that now in its fresh submissions post the Hon'ble High Court direction, Hangzhou Huawang has withdrawn the supplementary questionnaire response claiming market economy treatment that was filed earlier vide its email dated 15.11.2020. In this regard, the Authority accepts the fresh response without the MET claim as in any case, the Authority will apply the CNV in such cases. Therefore, the Authority has adopted the same normal value methodology as was applied earlier in the investigation leading to the issuance of the final findings notification No. 6/38/2020-DGTR dated 28th September, 2021. The same is shown in the Dumping Margin Table below.

**II. Determination of Export Price for Hangzhou Huawang New Material Technology Company Limited, China PR (Hangzhou Huawang)**

33. During the POI, Hangzhou Huawang New Material Technology Co., Ltd., China PR (Hangzhou Huawang) has directly exported \*\*\* MT of the PUC to India. Hangzhou Huawang has claimed the adjustments on account of ocean freight, insurance, inland transportation, port and other related expenses and packing cost, which have been allowed by the Authority. Accordingly, the net ex-factory export price for Hangzhou Huawang New Material Technology Co., Ltd., China PR has been determined and same is shown in the Dumping Margin Table below.

**Dumping Margin**

34. The normal value, the export price and the dumping margin determined for Hangzhou Huawang New Material Technology Co., Ltd. in the present investigation are as follows:-

**Dumping Margin Table**

SN	Producer/Exporter	PCN	Normal Value (USD/MT)	Export Price (USD/MT)	Dumping Margin (USD/MT)	Dumping Margin (%)	Dumping Margin (Range)
<b>China PR</b>							
1)	Hangzhou Huawang New Material Technology Co., Ltd.	1C1	***	***	***	***	40-50
		2C1	***	***	***	***	25-35
		2C2	***	***	***	***	15-25
		2U1	***	***	***	***	20-30
		2U2	***	***	***	***	20-30
		3C1	***	***	***	***	5-15

		3C2	***	***	***	***	70-80
		3U1	***	***	***	***	15-25
		3U2	***	***	***	***	5-15
	Total Weighted Average		***	***	***	***	20-30

## **F. ASSESSMENT OF INJURY AND CAUSAL LINK**

### **F.1. Submissions by the writ applicants**

35. Hangzhou Huawang New Material Technology Co., Limited, China PR and Fakirsons Papchem Private Limited, the writ applicants, have not made any major submissions on injury.

### **F.2. Submissions by the domestic industry**

36. The domestic industry has made the following submissions:

- a) The exporter has not furnished the information in several appendices, stating “not applicable”. The company has not filed costing or third country data along with the response. It has merely stated that it is not claiming normal value based on its domestic selling price and hence, such data is irrelevant. However, it is not upon the exporter to decide whether such information is relevant but it is the role of the Authority to do so.
- b) ITC Limited is one of the three producers in the country and thus, there cannot be a monopoly in the Indian market even in the absence of imports from all sources. There is enough fair competition in the market as two groups from China PR have been granted individual duties and thus, a monopolistic situation cannot arrive in India. Also, there are imports of the product under consideration from other countries including European Union on which the anti-dumping duty has not been imposed.

### **F.3. Submissions by the other interested parties**

37. The other interested parties have not made any new submissions on injury.

### **F.4. Examination by the Authority**

38. The Authority notes that in its final findings notification No. 6/38/2020-DGTR dated 28th September, 2021, it has already concluded that the domestic industry has suffered material injury and there exists a causal link between the dumped subject goods and the injury to the domestic industry.

39. As far as contention of the writ applicants that the domestic producers are not in a position to meet the demand in India and there is a wide gap in demand and supply, leading to import of the subject goods, the Authority is of the opinion that the demand-supply gap is not a justification for dumping in India and that even if there

is a demand-supply gap in the country, it is necessary that the product is available at fair prices.

40. The Authority is also of the view that the imposition of the anti-dumping duty will not hamper the availability of the product under consideration but will ensure that the same is available at the fair prices and that the re-establishment of fair competition in the market may encourage further investment, which would help further bridge the demand-supply gap.
41. As far as contention of the writ applicants that the production and quality of the subject goods manufactured by the domestic industry is not adequate to meet the demand in the domestic industry, the Authority notes that as per the data available on record, the sales of the domestic industry have increased, which indicates that the goods sold by the domestic industry are of the requisite quality and further that the user industry has not furnished any information regarding the parameters in which the products produced by the domestic industry do not match the imported products.
42. As far as contention of the writ applicants that it is imperative that in order to boost the construction, building, furniture and laminate industry, the import of the said product is not subjected to any anti-dumping duty, the Authority is of the view that on the contrary, the imposition of the anti-dumping measures would remove the unfair advantages gained by the dumping practices, prevent the decline in the performance of the domestic industry and help maintain the availability of a wider choice to the consumers of the subject goods.
43. The landed value, NIP and injury dumping margin determined for Hangzhou Huawang New Material Technology Co., Ltd. in the present investigation are as follows:-

**Injury Margin Table**

SN	Producer/Exporter	PCN	Landed Value (USD/MT)	NIP (USD/MT)	Injury Margin (USD/MT)	Injury Margin (%)	Injury Margin (Range)
	<b>China PR</b>						
1)	Hangzhou Huawang New Material Technology Co., Ltd.	1C1	***	***	***	***	60-70
		2C1	***	***	***	***	40-50
		2C2	***	***	***	***	30-40
		2U1	***	***	***	***	40-50
		2U2	***	***	***	***	35-45
		3C1	***	***	***	***	20-30
		3C2	***	***	***	***	90-100
		3U1	***	***	***	***	30-40
		3U2	***	***	***	***	40-50
	<b>Total Weighted Average</b>		***	***	***	***	40-50

## **G. POST DISCLOSURE STATEMENT COMMENTS**

44. The Authority has examined the post disclosure submissions made by the domestic industry and the other interested parties and notes that the comments are mostly reiterations which have already been examined suitably and addressed adequately in the relevant paras of the findings.

### **G.1. Submissions by the writ applicants**

45. Hangzhou Huawang New Material Technology Co., Limited, China PR and Fakirsons Papchem Private Limited, the writ applicants, have made the following post disclosure statement submissions:

- a) The factual position of the matter as stated by the Authority that Hangzhou Huawang had earlier filed its exporter questionnaire response vide its mail dated 15.11.2020 to the Authority but the Authority had not accepted the exporter questionnaire response as it was not filed as per the laid down procedure and thus treated Hangzhou Huawang as non-cooperative in the final findings notification No. 6/38/2020-DGTR dated 28th September, 2021 is incorrect. The factual position is that the Authority had inadvertently failed to take cognizance of the response filed by Hangzhou Huawang and that is why the name of this exporter did not appear in the finding anywhere. Had the Authority taken cognizance of the response and dealt with it in accordance with the Rules and practice and issued necessary deficiency letter, as may have been required, the name of Hangzhou Huawang would have appeared in the Finding at least as a responding party, if not a cooperative party. Non-cognizance of the response filed by the exporter and denial of further opportunity throughout the investigation was a serious violation of the principles of natural justice. The said EQR was duly received by the concerned case officer in DGTR, and no deficiency was raised or additional data was called for. Despite receipt of the EQR, the Authority failed to take cognizance of the same and completely ignored the EQR (neither accepted nor rejected) and failed to determine individual dumping and injury margins for this cooperative exporter. As a result, this cooperative exporter has been, by default, treated as a non-cooperative exporter (without naming them anywhere in the finding) and consigned to the residual duty category.
- b) The Authority has failed to disclose whether the Authority has determined the Constructed Normal Values with regard to all PCNs exported by Hangzhou Huawang. Since the PCN-wise Normal values have been determined based on facts available and do not reflect any confidential information of any particular party, the final PCN-wise Constructed Normal Values should have been disclosed by the Authority.
- c) The Authority has also not disclosed the methodology adopted for PCN-wise comparison of the Constructed Normal Values with the corresponding Net Export Prices and how the weighted average has been computed. The current disclosure statement has also failed to disclose whether the Authority has determined the NIP with regard to all PCNs exported by Hangzhou Huawang and the methodology adopted for PCN-wise comparison of the NIPs with the corresponding Landed Values of the writ petitioner and how the weighted average has been computed. The Authority is, therefore, requested to give a full disclosure with regard to the methodologies.
- d) The writ petitioners submit that they have fully cooperated with the Authority and filed the required information as per the directions of the Authority pursuant to the

orders of the Hon'ble High Court of Gujarat, and the same has been duly verified and accepted by the Authority. Therefore, the writ applicants request the Authority to make a just and fair final determination and provide a full disclosure of the methodologies adopted for such determinations to enable the petitioners a meaningful understanding of the same.

## **G.2. Submissions by the domestic industry**

46. The domestic industry has made the following post disclosure statement submissions.

- a) The domestic industry reiterates all the facts, contentions, averments and statements presented in the petition and other documents filed with the Authority and requests that such submissions be deemed to be incorporated herein.
- b) The domestic industry requests the Authority to examine certain facts. Before the High Court, the Authority had argued that it had followed the principles of natural justice and placed its submissions regarding the need for rejection of response by the exporter. However, the Hon'ble High Court passed the order dated 11th January, 2022 directing the Authority to take a decision regarding anti-dumping duty to be imposed in respect of exports by the exporter after looking into representation made by it. The domestic industry strongly disputes and submits that this is not the order of the Hon'ble High Court. The Authority has allowed the exporter to submit a fresh questionnaire response. The domestic industry submits that filing of fresh questionnaire response is in excess of the mandate given by the Hon'ble High Court. The order of the Hon'ble High Court only stated that the Authority will look into the representation made by the exporter and may ask for "additional" documents. Acceptance of a new questionnaire response is beyond the order dated 11th January 2022.
- c) Hangzhou Huawang Import and Export Company Limited was a domestic trading company and was not involved in exports of product under consideration during the period of investigation as it received export license in 2021. The domestic industry is unclear the factual basis which supports this contention. As far as export license is concerned, it is given every year and therefore does not in itself imply that the company could not have exported prior to that.
- d) The Authority has accepted the response of the exporter after calling for PCN-wise information, without sharing of non-confidential version of such information with other interested parties and undertaking desk verification. However, the fact is that the company has filed fresh questionnaire response, made material factual changes in the fresh questionnaire response, did not serve NCV of all the submissions onto other interested parties, including the domestic industry, all of which are in violation of the Rules and in excess of the order of the Hon'ble High Court.
- e) The exporter has withdrawn its market economy claim post the order of the Hon'ble High Court. The normal value for the exporter has been constructed based on the cost of production of subject goods in India, with an addition of selling, general and administrative expenses and reasonable profits. These are beyond the mandate given



by the Hon'ble High Court. Further, there is no NCV served onto the domestic industry on these submissions and claims made by the company.

- f) The domestic industry had made detailed submissions that were in addition to what has been taken up by the Authority before the Hon'ble High Court. Thus, the Hon'ble High Court has not considered all the lapses on the part of the exporter before passing the interim order.
- g) The order issued by the Hon'ble High Court directed that the exporter shall submit additional data / information as desired by the Authority. The order refers to a "representation" and not "questionnaire response". Thus, the Authority was not directed by the High Court to accept a new response. The only instruction was to look into the response already filed. Thus, filing and accepting of a new response is beyond the purview of the order passed by the Hon'ble High Court. Therefore, the interim order of the High Court, in no manner, casts an obligation on the Authority to consider the response and determine a dumping margin for the exporter without first deciding whether at all the exporter is entitled to individual dumping margin. Accordingly, the Authority should reject the response filed by the exporter post issuance of the order by the Hon'ble High Court and determine the need for individual duties based on the original response filed by the exporter.
- h) The Hon'ble High Court has "only observed" at this stage that the Authority should take the appropriate decision, having regard to grounds raised by the exporter. The use of the phrase "only observe" makes it clear that the High Court has been conscious as to not cast any obligation on the Authority to determine the duty, or otherwise act in any particular manner. Thus, the Authority has the discretion to determine whether an individual rate of duty should be conferred on the exporter.
- i) Further, the orders passed by the Hon'ble High Court are interim orders, which itself makes it clear that the direction to the Authority is to consider what is filed by the exporter and not a direction to determine the anti-dumping duty without taking into consideration any other submissions. In case the direction of the order would have been to determine the individual anti-dumping duty based on the response of the exporter, the same would have been the final order and not the interim order.

### **G.3. Submissions by the other interested parties**

47. The other interested parties have made the following post disclosure statement submissions:

- a) Kingdecor submits that they have already filed comments dated 16th February, 2022 on the exporter's questionnaire response of Hangzhou Huawang circulated by the Authority dated 9th February, 2022 and the same may be taken into consideration at the time of issuing final findings.
- b) The non-confidential version of the exporter's questionnaire response of Hangzhou Huawang circulated on 9th February, 2022 failed to provide complete data, which is in violation of Trade Notice No. 11/2018 dated 10th September, 2018, which states that the interested party is obliged to file the questionnaire response in the prescribed format

within the timeline prescribed by the Authority. DGTR had provided adequate opportunities and various extensions from time to time to file the documents whereas Hangzhou Huawang was sleeping throughout the investigation and there was a failure on part of applicants. In view of the foregoing, Kingdecor urges the Authority to reject the exporter's questionnaire response filed by Hangzhou Huawang as acceptance of such response will set bad precedence and such participation should not be encouraged.

#### **G.4 Examination of the Authority**

48. The Authority has examined the post disclosure submissions made by the writ applicants, the other interested parties and the domestic industry and notes that most comments are reiterations which have already been examined suitably and addressed adequately in the relevant paras of the findings. Still, the Authority has examined the issue raised as under:
- a) The Authority notes that whereas the domestic industry and the other interested parties have raised the point, inter-alia, that since the non-confidential version of the exporter's questionnaire response failed to provide complete data, which was in violation of Trade Notice No. 11/2018 dated 10th September 2018, the Hon'ble Court had passed the order that "The writ applicant will make a representation along with all supporting documents/details they seek to rely upon and the applicant shall supply additional data/information as may be called for by the respondent authorities and thereafter, the respondent-authorities shall take a decision in relation to the Anti-Dumping Duty to be imposed in respect of the applicant's products and place the same for consideration of this Court." The Authority is of the opinion that the order dated 11.01.2022 of the Hon'ble High Court is very clear that the writ applicant was allowed to make a representation along with all supporting documents/details they sought to rely upon. This order in no way limits the scope of the Authority to examine only the information/documents already filed. Rather, it has allowed the writ applicants to make a representation along with all supporting documents/details they seek to rely upon which according to the opinion of the Authority includes additional evidence/documents in continuation of the exporter questionnaire response filed earlier. Therefore, the contention of the domestic industry that filing of fresh questionnaire response is in excess of the mandate given by the Hon'ble High Court is wrong.
  - b) The contention that the Authority has accepted the response of the exporter after calling for PCN-wise information; without sharing of non-confidential version of such information with other interested parties and undertaking desk verification is also wrong and not in excess of the order of the Hon'ble High Court. Since the Hon'ble Court has allowed the writ applicants to make a representation along with all supporting documents/details they seek to rely upon, the Authority had shared the non-confidential version of the response of the writ applicants with the domestic industry and the other interested parties for their comments; carried out the desk verification of the data of the writ applicants and had decided to accept their questionnaire response.
  - c) The contention that the use of the phrase "only observe" in the order makes it clear that the High Court has been conscious as to not cast any obligation on the Authority to determine the duty, or otherwise act in any particular manner, the Authority is of the view that it has the discretion to determine whether an individual rate of duty should be conferred on the exporter.

- d) The contention that the order passed by the Hon'ble High Court is an interim order, which itself makes it clear that the direction to the Authority is to consider what is filed by the exporter and not a direction to determine the anti-dumping duty without taking into consideration any other submissions is also wrong. The order of the Hon'ble Court states inter-alia, that ".....and thereafter, the respondent-authorities shall take a decision in relation to the Anti-Dumping Duty to be imposed in respect of the applicant's products and place the same for consideration of this Court." Makes it amply clear that the Authority can decide on merit to determine whether an individual rate of duty should be conferred on the exporter.

## **H. CONCLUSION**

49. The Authority notes that it has already issued its final findings notification No. 6/38/2020-DGTR dated 28th September, 2021, wherein it has already made a detailed assessment of the volume and price effect of the dumped imports; impact of the dumped imports on all the relevant economic factors and indices having a bearing on the state of the industry and concluded that the dumping margin is positive and significant; the domestic industry has suffered material injury; the injury to the domestic industry has been caused by the dumped imports from the subject country and based on its recommendations for imposition of the anti dumping duty on the subject goods originating in or exported from the subject country, the Central Government has already issued its notification No. 77/2021-Customs (ADD) dated 27th December, 2021, imposing the anti dumping duty on the subject goods originating in or exported from the subject country. However, the need to issue the present final findings notification arose because after the issuance of the final findings notification No. 6/38/2020-DGTR dated 28th September, 2021, an exporter of the subject goods from China PR, namely, Hangzhou Huawang New Material Technology Co., Ltd. (Hangzhou Huawang) and an Indian importer of the subject goods from China PR, namely, Fakirsons Papchem Private Limited, preferred a Special Civil Application No. 16555 of 2021 on 18.10. 2021 before the Hon'ble High Court of Gujarat at Ahmedabad, against the Department of Commerce (Respondent No. 1), Department of Revenue (Respondent No. 2) and the Designated Authority (Respondent No. 3), challenging the final findings notification No. 6/38/2020-DGTR dated 28th September, 2021, on the principal ground that the writ applicant Hangzhou Huawang had been treated as a non-cooperative exporter though according to the writ applicant, it had submitted the required information and data as called for by the Authority and the Hon'ble High Court gave the direction on 11.01.2022, stating, inter-alia, that "The writ applicant will make a representation along with all supporting documents/ details they seek to rely upon and the applicant shall supply additional data/information as may be called for by the respondent authorities and thereafter, the respondent-authorities shall take a decision in relation to the Anti-Dumping Duty to be imposed in respect of the applicant's products and place the same for consideration of this Court." In pursuance of the Hon'ble High Court's direction, the Authority has examined the issues raised by the writ applicants, the other interested parties and the domestic industry and come to the conclusion that individual duty should also be calculated for the producer-exporter Hangzhou Huawang New Material Technology Co., Ltd. in respect of the imports of the subject goods originating in or exporter from the subject country.

50. The Authority has also decided that since in this investigation the response of the exporter Hangzhou Huawang New Material Technology Co., Limited, China PR, has been examined, this investigation is taken as a standalone case and the decision taken in this final findings notification will not become a precedence for other cases.

## I. RECOMMENDATIONS

51. Having regard to the lesser duty rule followed by the Authority, the Authority recommends the imposition of the anti-dumping duty equal to the lesser of the margin of dumping and the margin of injury so as to remove the injury to the domestic industry, in respect the imports of the subject goods, originating in or exported from the subject country, made by Hangzhou Huawang New Material Technology Co., Ltd., China PR. Since the Authority has already issued the final findings in the above-mentioned investigation vide Notification No. 6/38/2020-DGTR dated 28th September, 2021, the Authority recommends to substitute the Duty Table in Para 107 of the said Notification as under.

**Duty Table**

SN	Heading	Description	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9
1.	48059100, 48022090	Decor Paper*	China PR	Any country including China PR	Kingdecor (Zhejiang) Co., Ltd.	116	MT	US\$
2.	48059100, 48022090	Decor Paper*	China PR	Any country including China PR	Shandong Boxing Ouhua Special Paper Co., Ltd.	110	MT	US\$
3.	48059100, 48022090	Decor Paper*	China PR	Any country including China PR	Zibo OU-MU Special Paper Co., Ltd.	110	MT	US\$
4.	48059100, 48022090	Decor Paper*	China PR	Any country including China PR	Hangzhou Huawang New Material Technology Co., Ltd.	297	MT	US\$
5.	48059100, 48022090	Decor Paper*	China PR	Any country including China PR	Any other than SN. No. 1., 2., 3. and 4.	542	MT	US\$
6.	48059100,	Decor	Any	China PR	Any	542	MT	US\$

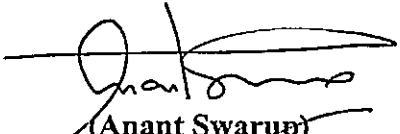
	48022090	Paper*	country other than China PR					
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*\*uncoated paper in reel form of 40-130 GSM, having klemm absorbency of at least 12 mm per 10 minutes, wet tensile strength of 6-12 N/15 mm, and gurley porosity of 10-40 sec / 100 ml, containing titanium dioxide or pigments as filler. It includes base paper for high pressure (HPL) or low-pressure (LPL) decorative laminates, also known as decor paper, decorative base paper, decorative paper for high-pressure or low-pressure laminates, coating base paper and print base paper, but excluding printed ready-to-use decor paper. The product under consideration includes various types of decor paper, such as surfacing paper (white/off-white), liner (white / off-white), barrier paper, shuttering base, overlay paper and print base paper (color / white). It may be imported as base paper for waxing, coating and impregnation; base paper for printing; base paper for use in decorative industry and barrier paper, and may come in various sizes as 95 cm, 96 cm, 102 cm, 123 cm, 123.5 cm, 124 cm, 124.5 cm, 125 cm, 131 cm, 132 cm, 183 cm, 184 cm and 185 cm.*

52. The landed value of the imports for this purpose shall be the assessable value as determined by the Customs under Customs Act, 1962 and applicable level of the custom duties except duties levied under Section 3, 3A, 8B, 9, 9A of the Customs Tariff Act, 1975.

**J. FURTHER PROCEDURE**

53. An appeal against the order of the Central Government that may arise out of this recommendation shall lie before the appropriate Forum.

  
 (Anant Swarup)  
 Designated Authority