

## **Anti-dumping Duty to Apply only for Five Years – No Collection even where Notification does not give Expiry Date**

### **Charging Section to Lapse Five Years after Notification Date of Issue**

*Subject: Collection of Anti-dumping duty beyond the validity period-regarding.*

28-CBEC        Representations have been received  
08.07.2011    from the trade that, in some cases,  
(DoR)         field formations are collecting anti-  
                     dumping duty even after the expiry of

the statutorily prescribed period of levy. It has been reported that the basis for such a practice could be that the notification providing for levy of anti-dumping duty does not specify the end date.

2. In this regard, attention is drawn to the Section 9A (5) of The Customs Act, 1975, which reads as under:

“(5) The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:

Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension.

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.”

3 From a plain reading of this provision it is evident that definitive/final anti-dumping duty can be collected only for a period of five years from the date of its imposition. Generally by virtue of Sub-section (2) of Section 9A of the Customs tariff Act, 1975, the anti dumping levy notified in pursuance of final findings of the Director General (AD) is effective from the date of imposition of provisional duty and therefore the period of five years is to be computed from such date. Collection beyond that period is permissible only when the said levy is extended by a notification either for further period of five years (in pursuance of the final findings of the Designated Authority in a Sun Set Review) or for one year (during the pendency of Sun Set Review). Thus, a definitive/final anti-dumping duty can be collected beyond the stipulated period only when a notification extending the levy has been issued, before the expiry of the parent notification. Unless such revalidation or extension is carried out by a fresh notification, the collection of final anti-dumping duty should cease on the completion of five years as mentioned above. Where the findings in a review are notified after the lapse of the parent notification, the notification in such cases would be effective prospectively from the date of issue of such notification.

4. The above position may be brought to the notice of formations under your charge, for strict compliance.

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