

# THE CUSTOMS TARIFF (SECOND AMENDMENT) ACT, 1982

No. 52 OF 1982

[21st October, 1982.]

An Act further to amend the Customs Tariff Act, 1975.

Enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

Short  
title and  
com-  
mence-  
ment.

1. (1) This Act may be called the Customs Tariff (Second Amendment) Act, 1982.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-  
ment of  
section 9.

2. In section 9 of the Customs Tariff Act, 1975 (hereinafter referred to as the principal Act),—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where any country or territory pays, or bestows, directly or indirectly, any bounty or subsidy upon the manufacture or production therein or the exportation therefrom of any article, then, upon the importation of any such article into India, whether the same is imported directly from the country of manufacture, production or otherwise, and whether it is imported in the same condition as when exported from the country of manufacture or production or has been changed in condition by manufacture, production or otherwise, the Central Government may, by notification in the Official Gazette, impose,—

(i) if the article is not otherwise chargeable with duty under the provisions of this Act, a duty; or

(ii) if the article is otherwise so chargeable, an additional duty,

not exceeding the amount of such bounty or subsidy:

Provided that the Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the amount of such bounty or grant, impose a duty or additional duty under this sub-section

not exceeding the amount of such bounty or subsidy as provisionally estimated by it and if such duty or additional duty exceeds such bounty or subsidy as so determined,—

(a) the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such duty or additional duty; and

(b) refund shall be made of so much of such duty or additional duty which has been collected as is in excess of the duty or additional duty as so reduced.”;

(b) in sub-section (2),—

(i) for the words “net amount of any such bounty or grant”, the words “amount of any such bounty or subsidy” shall be substituted;

(ii) for the words “additional duty”, the words “duty or additional duty, as the case may be,” shall be substituted.

3. After section 9 of the principal Act, the following sections shall be inserted, namely:—

Insertion  
of new  
sections  
9A and 9B.

‘9A. (1) Where any article is exported from any country or territory (hereafter in this section referred to as the exporting country or territory) to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose,—

Antidump-  
ing duty.

(a) if the article is not otherwise chargeable with duty under the provisions of this Act, a duty; or

(b) if the article is otherwise so chargeable, an additional duty,

not exceeding the margin of dumping in relation to such article:

Provided that the Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the normal value and the margin of dumping in relation to any article, impose on the importation of such article into India a duty or additional duty under this sub-section on the basis of a provisional estimate of such value and margin and if such duty or additional duty exceeds the margin as so determined,—

(a) the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such duty or additional duty; and

(b) refund shall be made of so much of such duty or additional duty which has been collected as is in excess of such duty or additional duty as so reduced.

*Explanation.*—For the purposes of this section,—

(a) “margin of dumping”, in relation to an article, means the difference between the price at which such article is exported and its normal value;

(b) "normal value", in relation to an article, means—

(i) the comparable price in the ordinary course of trade for the said article or like article when meant for consumption in the exporting country or territory as determined under sub-section (2); or

(ii) where such comparable price cannot be ascertained because of the particular market situation or for any other reason, such value shall be either—

(A) the highest comparable price for the said article or like article from the exporting country or territory to any third country in the ordinary course of trade as determined under sub-section (2); or

(B) the cost of production of the said article or like article in the country of origin along with reasonable addition for selling and any other cost, and for profits, as determined under sub-section (2).

(2) Subject to any rules made under sub-section (3), the Central Government shall, after making due allowance in each case for differences in conditions and terms of sale, for differences in taxation and for other differences affecting price comparability, and, after such inquiry as it may consider necessary, determine, for the purposes of sub-section (1), the export price and the normal value of, and the margin of dumping in relation to, any article.

(3) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for any duty or additional duty under sub-section (1) may be identified, and for the manner in which the export price and the normal value of, and the margin of dumping in relation to, such articles may be determined and for the assessment and collection of such duty or additional duty.

(4) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.

9B. (1) Notwithstanding anything contained in section 9 or section 9A, the Central Government shall not levy any duty or additional duty under either of those sections on the import into India of any article from any country or territory to which this section applies unless that Government, after making investigation in accordance with the rules made under sub-section (3), declares, by notification in the Official Gazette, that the import of such article into India causes or threatens material injury to any industry established in India or materially retards the establishment of any industry in India.

(2) This section applies to every country or territory which is specified by the Central Government by notification in the Official Gazette to be a country or territory which, by reason of its being a party to the General Agreement on Tariff and Trade or by reason of any agreement between it and India for giving the most-favoured

No levy under section 9 or section 9A in certain cases in the absence of injury to industry in India.

nation treatment or for any other reason, levies duty or additional duty of the nature referred to in section 9 or section 9A on articles imported from India only when such import causes or threatens any material injury to any industry established in such country or territory or materially retards the establishment of such industry in such country or territory.

(3) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which any investigation may be made for the purposes of sub-section (1), the factors to which regard shall be had in any such investigation and for all matters connected with such investigation.

(4) Every notification issued under sub-section (1) or sub-section (2) shall, as soon as may be after it is issued, be laid before each House of Parliament.

*Explanation.*—For the purposes of this section, “industry”, in relation to any article, includes the manufacture or production of like articles, any activity connected therewith and the persons engaged in such production, manufacture or activity.