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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 26th March, 2025

+ **W.P.(C) 6758/2022**

UNION OF INDIA

.....Petitioner

Through:

versus

ASSOCIATION OF SYNTHETIC FIBRE INDUSTRY

.....Respondent

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Shubham Kr., Mr. Vipul Kr. And Ms. Garima Kr., Advocates.

13

+ **W.P.(C) 1395/2023**

UNION OF INDIA

.....Petitioner

Through:

versus

STERLITE TECHNOLOGIES LTD.

.....Respondent

Through: Mr. Rishabh Chandok and Mr. Keshav Krishnan, Advocates.

Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Shubham Kr., Mr. Vipul Kr. And Ms. Garima Kr., Advocates.

14

+ **W.P.(C) 2180/2023 & CM APPL. 8293/2023**

UNION OF INDIA

.....Petitioner

Through:

versus

M/S AUTOMOTIVE TYPREMANUFACTURERES ASSOCIATION
4TH FLOOR PHD HOUSE OPP ASIAN GAMES VILLAGE RD.
SIRIFORT INSTITUTIONAL AREA HAUZ KHAS NEW DELHI



110016

.....Respondent

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Shubham Kr., Mr. Vipul Kr. And Ms. Garima Kr., Advocates.

16

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W.P.(C) 4813/2023

UNION OF INDIA THROUGH SECRETARY MINISTRY OF FINANCE

.....Petitioner

Through:
versus

M/S HINDUSTAN ORGANICS CHEMICALS LTD &ANR.

.....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Shubham Kr., Mr. Vipul Kr. And Ms. Garima Kr., Advocates.

17

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W.P.(C) 5286/2023

UNION OF INDIA

.....Petitioner

Through:

versus

M/S RELIANCE INDUSTRIES LIMITED

.....Respondent

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Shubham Kr., Mr. Vipul Kr. And Ms. Garima Kr., Advocates.

19

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W.P.(C) 7274/2023

BRIDGESTONE INDIA PVT. LTD.

.....Petitioner

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Shubham Kr., Mr. Vipul Kr. And Ms. Garima Kr., Advocates.

versus

M/S AUTOMOTIVE TYRE MANUFACTURERS ASSOCIATION &ANR.

.....Respondents



Through: Mr. R. Venkat Prabhat, SPC with Ms. Kamna Behrani, Mr. Ansh Kalra and Mr. Divyanshu Sinha, Advocates for R-2.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 8292/2023 (for exemption) in W.P.(C) 2180/2023
CM APPL. 18541-42/2023 (both for exemption) in W.P.(C) 4813/2023
CM APPL. 28292/2023 (for exemption) in W.P.(C) 7274/2023

2. Allowed, subject to all just exceptions. Applications are disposed of.

W.P.(C) 6758/2022
W.P.(C) 1395/2023
W.P.(C) 2180/2023 & CM APPL. 8293/2023
W.P.(C) 4813/2023 & CM APPL. 18543/2023
W.P.(C) 5286/2023 & CM APPL. 20611/2023
W.P.(C) 7274/2023

3. This hearing has been done through hybrid mode.

4. The Respondents in these petitions who are stated to be the domestic industry, had filed their respective applications before the Directorate General of Trade Remedies (hereinafter “DGTR”) praying for imposition of Anti-Dumping Duty (hereinafter “ADD”) in terms of the Customs Tariff Act, 1975 (hereinafter “the Act”) and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 in respect of the following products:



Sr. No.	Writ Petition No.	Party Name	Product Name	Country of Origin
1.	W.P.(C) 6758/2022	Union of India vs. M/s Association of Synthetic Fibre Industry	All fully drawn or fully oriented yarn/ flat yarn of polyester	Thailand
2.	W.P.(C) 1395/2023	Union of India vs. Sterlite Technologies Ltd.	Single Mode optical yarn	Japan and Malaysia
3.	W.P.(C) 2180/2023	Union of India vs. M/S Automotive Tyre Manufacturers Association 4 th Floor PHD House OPP Asian Games Village RD. Sirifort Institutional Area Hauz Khas New Delhi 110016	New pneumatic radial tyres of rubber for buses and lorries with or without tubes and/or flaps	Thailand
4.	W.P.(C) 4813/2023	Union of India Through Secretary Ministry of Finance vs. M/S Hindustan Organics Chemicals Ltd. & Anr.	Phenol	European Union and Singapore
5	W.P.(C) 5286/2023	Union of India vs M/s Reliance Industries Limited	Styrene Butadiene Rubber	Korea
6.	W.P.(C) 7274/2023	Bridgestone India Pvt. Ltd. vs. M/S	New pneumatic	Thailand



		Automotive Tyre Manufacturers Association & Anr.	radial tyres of rubber for buses and lorries with or without tubes and/or flaps	
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5. Findings were issued in the respective applications by the Designated Authority, DGTR recommending imposition of ADD on the concerned import of goods from certain countries. Thereafter, final findings were also submitted recommending imposition of ADD. The ADD was then imposed *vide* respective notifications issued in various cases.

6. After the imposition of the ADD, a sunset review was undertaken by the Designated Authority, DGTR in order to examine the effect of the imposition of ADD. Final findings were rendered in the sunset review, wherein the Designated Authority, DGTR came to the conclusion that the ADD deserves to be continued.

7. However, the Central Government, on this occasion, did not accept the recommendations of the DGTR and hence the ADD was set aside in the respective cases. Office Memoranda were issued by the Central Government not to continue the ADD, which were challenged before Customs, Excise & Service Tax Appellate Tribunal (hereinafter “CESTAT”). The CESTAT set aside the said Office Memoranda.

8. The challenge in these petitions, is to the respective orders of CESTAT, which set aside the respective Office Memoranda, by which the ADD was not accepted by the Central Government.

9. The question of law that was raised by the Petitioners in these cases is whether an Office Memorandum is capable of being assailed before CESTAT.



10. It is submitted by the Id. Counsels for the parties today that similar petitions in respect of certain other products were filed by the Union of India before the Supreme Court seeking quashing of the order passed by CESTAT setting aside the respective Office Memorandums.

11. In that case, being *SLP (C) Diary No. 31452/2023* titled as *Union of India vs. Plastics Machinery Manufacturers Association of India through its Director and Ors.*, the Supreme Court passed the following order on 9th December, 2024:

“It is pointed out by the learned counsel for the petitioner that the domestic industries have given up their right in terms of the recommendation made by the designated authority, as well as, their claims on the basis of the order passed by the Customs, Excise and Service Tax Appellate Tribunal, Principal Bench, New Delhi.

In view of the statement made, the special leave petition is dismissed as infructuous.”

12. In terms of the submissions made before the Supreme Court, Id. Counsel for the domestic industries who are the Respondents in these cases, submit that they have already written to the Government that they do not press their rights in terms of the recommendation given by the Designated Authority, DGTR.

13. In effect therefore, the domestic industry no longer presses for imposition of ADD. The respective Office Memoranda, therefore, are no longer challenged by the domestic industry and the CESTAT order is rendered infructuous.

14. The question of law raised by the Union of India *i.e.*, as to whether



CESTAT has jurisdiction to set aside an Office Memorandum or not, would therefore become moot in this background.

15. Under these facts and circumstances, the stand of the Respondents, i.e., the domestic industry is accepted. The present writ petitions are disposed of as having been rendered infructuous, in view of the stand of the Respondents-domestic industry.

16. The legal issues raised in these petitions are, however, kept open for adjudication in an appropriate case.

17. All the pending applications, if any, are disposed of.

18. The interim orders in all these matters, if any, shall stand vacated.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 26, 2025/nd