**BY E-MAIL / COURIER**

**File No.15/2024-Opinion**

26.01.2024

M/s. Sastha Senior Building Products,

No.34, Spurtank Road,

Chetpet,

Chennai – 600 031.

Attn.: Mr. Ravi Balakrishnan <balakrishnan\_ravi@yahoo.co.in>

Sir,

**Sub.:  Representation to Ministry of Commerce & Industry with regard to levy of Anti-Dumping Duty on Plain Gypsum Boards.**

1.         With regard to the discussions we had on the above, please find attached draft of the representation.

2.         Also, find attached our bill towards professional charges for the consultation and drafting of the above representation. Kindly arrange for payment.

Yours faithfully,

**S. MURUGAPPAN**

Attached: as above.

C.C.:   M/s. Thirumalai & Co.,

New No.9, Old No.5, First Floor,

Errabalu Chetty Street,

Parrys, Chennai – 600 001.

  Attn.: Mr. B. Dhananjayan, Managing Partner <thirumalaicha@gmail.com>

sm/ss

**Draft Representation:**

**Sub.: Representation with regard to levy of Anti-dumping Duty by Customs authorities on Plain Gypsum Boards under Notification No.16/2023 dated 26.12.2023.**

1. We are manufacturers and exporters of Regular Gypsum Boards, Fire Resistance Gypsum Boards, Moisture Resistance Gypsum Boards as well as Laminated Gypsum ceiling tiles to various countries, including India. Our plant is located in Oman. We are enclosing our product catalogue covering the range of our products as **Annexure-A** to this representation.

2. Recently in terms of Notification No.16/2023-Cusotms (ADD) dated 26.12.2023 issued by the Ministry of Finance, Government of India, anti-dumping duty has been imposed on gypsum boards/tiles with lamination at least on one side exported by various countries, including Oman and imported into India. A copy of the notification is attached as **Annexure -B.**

3. Our Indian buyers have represented to us that though anti-dumping duty in terms of the subject notification is only for gypsum board/tiles with lamination, the Customs authorities are proposing levy of anti-dumping duty even in respect of regular gypsum boards which do not have any lamination.This has caused great hardship to our buyers in India.

4. In our view, this interpretation adopted by the customs authorities in India to levy of anti-dumping duty on regular gypsum boards supplied by us, by treating them as within the scope of the above notification will be technically and legally wrong on account of the following.

A) Levy of anti-dumping duty in terms of the Notification issued by the Ministry of Finance is based on the Final Findings dated 29.09.2023 given by the Designated Authority in the Ministry of Commerce and Industry. A copy of the above final findings is attached as **Annexure-C.** The product under consideration is defined in Clause-C of the above findings as mentioned below.

“**C. PRODUCT UNDER CONSIDERATION (PUC) AND LIKE ARTICLE**

4. At the stage of initiation, the product under consideration was defined as:

*4. The product under consideration in the present application is* ***“Gypsum Board / Tiles with lamination at least on one side”. Typically, PVC, Wax Paper and other similar materials are used for lamination on one side.*** *Materials such as Metalized Polyester Film are used for lamination on the other side essentially to prevent moisture.*

*5. The subject goods are environment friendly, lightweight, high-quality decorative ceiling tiles that are also fire resistant. The subject goods are predominantly used for ceilings in auditoriums, conference rooms & educational institutes, offices, boutiques, shops, commercial and residential buildings, etc. The subject goods are also known as PVC Gypsum Tiles, Gypsum Ceiling Tiles, Ceiling tiles etc. PVC laminated gypsum ceiling tiles are strong and long-lasting.”*

 Again, in the same findings in para 9, the Designated Authority has made the following observations.

*“9. In relation to the request for clarification related to mineral fiber boards, it is noted that the subject goods defined by the domestic industry clearly state that the product under consideration* ***does not include non-laminated gypsum boards.*** *Further, perforated tiles and other types of tiles not made from gypsum are outside the purview of the product under consideration and investigation.”*

B) The product for which the customs authorities proposed levy of anti-dumping duty is Gypsoman RB which is a regular gypsum plaster board manufactured by us. In this product the core is made of high purity natural gypsum with paper liner of ivory and grey paper. Its edges are designed to accommodate taping and jointing. It is intended for use as interior partitions and ceilings in residential and commercial applications. The product brochure for Gypsoman RB is attached as **Annexure-D**. These boards essentially consist gypsum as the core and surface with paper bonded to the core. The production of any regular gypsum board is with gypsum core and paper as bonding lining material. Such a paper liner is not to be confused with lamination and it appears that the customs authorities have interpreted this as laminated board, which is technically wrong. Without paper liners/paper backing on both sides, the core alone cannot exist as a product.

C) The expression used in the Final Findings is “Lamination typically with PVC, **Wax** Paper and other similar materials”. **Plain** paper backing is not within the scope of lamination as per the above definition. Further, as per the well-known Legal Maxim, “**Noscitur A Sociis**”, the meaning of a word is to be judged by the company it keeps According to Maxwell this rule means that, “when two or more words which are susceptible of analogous meaning are coupled together, they are understood to be used in their cognate sense. They take as it were their colour from each other, that is, the ‘more general’ is restricted to a sense analogous to a ‘less general’.” In

 the present case the references are to PVC, Wax Paper etc. and therefore plain paper backing is not within the scope of lamination.

D) Earlier in the year 2013, anti-dumping duty was imposed in respect of plain gypsum plaster boards originating in or exported from various countries including United Arab Emirates and imported into India. During that investigation submissions were made by the producers/ exporters/ importers that certain types of gypsum boards including fire boards, heat boards etc. should be excluded from the scope of investigation. In the Final Findings dated 15.01.2013 the Designated Authority after considering the submissions made by the interested parties defined that the product under consideration in that investigation as mentioned below in para 17 of the report.

“17. Keeping in view the submissions made by the interested parties and the examination of the submissions, as above, the Authority holds that the product under consideration in the present investigation is “Plain Gypsum Plaster Boards of all thicknesses and dimensions”, excluding the following:-

* Gypsum Boards having water absorption up to and including 5% (Moisture Resistant Boards)
* Gypsum Boards having a minimum breaking load of 24 neutrons in the transverse direction and 50 neutrons in the longitudinal direction per millimeter of thickness (Impact Resistant Boards or Fire Resistant Board)
* Fire Boards
* Fire Heat Boards
* Impact Boards
* Gypsum Ceiling Boards with Moisture Barrier
* ECHO Boards
* Heat Boards
* Anti-mold Boards or Weather Boards
* Thermal Boards
* Gypsum Ceiling Boards with Aluminium Edges Sealed in White Film.
* Ceiling Tiles

E) Thus, it can be seen that the investigation earlier with regard to levy of anti-dumping duty on plain gypsum board clearly excluded ‘Ceiling Tiles’, which are also known as PVC Gypsum Tiles, Gypsum Ceiling Tiles etc. A copy of the above findings is attached as **Annexure-E.**

F) A sample invoice covering supply of such tiles by us in 2021 to an Indian buyer is attached to this representation as **Annexure-F.** In that case, the supply was of Gypsum Ceiling Tiles with various designs.Thus, it can be seen that, as a product category, they were clearly excluded from the scope of levy of ADD on plain gypsum boards in the year 2013.

G)Indian Standards for Gypsum Boards themselves make a distinction between plain gypsum boards and coated/laminated gypsum boards. IS 2095(part 1):2023 covers standards for plain gypsum plaster boards. A copy is attached as **Annexure -G.** In this standard under raw materials, it is clearly mentioned as i. gypsum plaster ii. By product gypsum and iii paper liner. For coated/laminated board, the applicable standard is IS2095(part 2): 2023 This standard refers to the following raw materials. i. gypsum plaster ii. Fibres iii. Additives vi laminating/coating materials. A copy of the standard is attached as **Annexure -H.** The laminating materials referred to in the standard are wood vineers, plastic films, paper etc. It is to be noted that plain paper cannot act as a laminating material because of its characteristics, whereas ‘wax paper’ is a laminating material. That is why in the final findings rendered in 2023, reference is made to wax paper as one of the laminating materials

H) The regular gypsum boards supplied by us meet the standards of ASTM C1396. These standards refer to plain or regular gypsum boards without any lamination. The bonding of core with paper liner is part of manufacturing process of gypsum board and that does not amount to lamination of the board already manufactured. In this connection, the Abstract from ASTM C1396 Standard is enclosed as **Annexure-I**. In this abstract it is clearly indicated that gypsum board shall consist of non-combustable core, essentially gypsum surfaced with paper bonded to the core.

5. Considering all the above, in our view, any attempt by the Customs authorities to bring in these regular gypsum boards within the purview of the present Notification for levy of anti-dumping duty will be technically as well as legally unsustainable.

6. As the supplies made by us to various buyers in India are held up because of doubts entertained by the customs authorities with regard to levy of ADD, forcing our buyers to incur huge detention and demurrage charges, we would request you to issue appropriate clarification to the authorities concerned at the earliest clarifying the scope of the above Notification, for which action, we will be ever grateful.

Thanking you,

Yours faithfully,

for Global Gypsum Board Co LLC

Authorised Signatory

Encl.: Annexures A to F as above.