

Reserved On : 01/07/2026

Pronounced On : 07/07/2026

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD  
R/SPECIAL CIVIL APPLICATION NO.8794 of 2026**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE A.S. SUPEHIA**

**Sd/-**

**and**

**HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**

**Sd/-**

Approved for Reporting	Yes	No
	✓	

LANXESS BELGIUM N. V.

Versus

UNION OF INDIA & ORS.

Appearance:

MR. MIHIR JOSHI, SENIOR ADVOCATE, WITH TANAY VYAS WITH SHAREEN GUPTA WITH MRINAL BHATNAGAR for the Petitioner

MR ANKIT SHAH FOR MR PRADIP D BHATE for Respondents No.1-2

MR SAURABH SOPARKAR, SENIOR ADVOCATE, WITH MR. RAJESH SHARMA WITH GARGI R VYAS WITH SALONI JAIN for Respondent No.3

**CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

**HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**

**CAV JUDGMENT**

**(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)**

1. In the present writ petition filed under Article 226 of Constitution of India, the petitioner has prayed for quashing and setting aside by questioning the legality and validity, of the Final Findings dated 20.03.2026, bearing Case No.AD(OI)-49/2024 and Impugned Notification No.11/2026-Customs (ADD) dated 19.06.2026.

**BRIEF FACTS :**

2. The petitioner is a Company incorporated under the laws of Belgium and the European Union, having its registered office at Haven 1992, Ketenislaan, 9130 Kallo, Belgium. The petitioner is, *inter alia*, engaged in the manufacture of Sulphenamides Accelerators, which constitute an essential input in the manufacture of rubber products.

3. It is the petitioner's case that the manufacture of the product under consideration is governed by the manufacturing standards, quality-control protocols and commercial policies prescribed by its group company situated in Europe. Consequently, the product under consideration exported by the petitioner conforms to stringent European quality standards, resulting in a comparatively higher export price to India than the price at which the corresponding product is supplied by respondent No.3.

4. Respondent No.3 filed an application before respondent No.2 under Rule 5 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for

Determination of Injury) Rules, 1995 ("the Anti-Dumping Rules"), alleging that the product under consideration was being dumped into India.

5. It is the petitioner's grievance that, without undertaking the mandatory pre-initiation scrutiny contemplated under the Anti-Dumping Rules or satisfying itself as to the accuracy, adequacy and sufficiency of the information furnished by respondent No.3, respondent No.2 proceeded to initiate the anti-dumping investigation solely on the basis of the application submitted by respondent No.3 by issuing the Initiation Notification dated 31.12.2024. According to the petitioner, the initiation of the investigation was thus undertaken without proper verification of the factual assertions and supporting material furnished by respondent No.3.

6. Pursuant to the issuance of the Initiation Notification, respondent No.2, by Notice dated 10.02.2025, determined the final scope of the product under consideration by adopting the Product Control Number (PCN) methodology.

**SUBMISSIONS ON BEHALF OF THE PETITIONER :**

7. Learned Senior Advocate Mr.Mihir Joshi submitted that respondent No.2 failed to disclose the working, computation, methodology and underlying basis adopted for determining the exporter-specific dumping margin and injury margin applicable to the petitioner.

8. While referring to Rule 16 of the Anti-Dumping Rules, it is submitted that Rule 16 of the Anti-Dumping Rules mandates respondent No.2 to disclose the essential facts under consideration before recording the final findings so as to afford the interested parties a real, effective and meaningful opportunity to defend their interests. It is contended that the failure to disclose the detailed computation and working of the dumping margin and injury margin deprived the petitioner of the opportunity to identify and point out factual, methodological and computational errors before the issuance of the final recommendation, thereby vitiating the entire decision-making process on account of violation of the principles of natural justice.

9. Learned Senior Advocate referred to the Landed Value of imports and has contended that it

is lower for the imports originating from the People's Republic of China as compared to those originating from the European Union. It was contended that, under Rule 11 of the Anti-Dumping Rules read with Annexure-I and Annexure-II thereto, the Injury Margin is determined as the difference between the Non-Injurious Price (NIP) and the Landed Value of the imported goods, namely: Injury Margin = Non-Injurious Price (NIP)-Landed Value. It was submitted that where the Non-Injurious Price remains constant or is uniformly determined for the domestic industry, a lower Landed Value must, as an inevitable mathematical consequence, result in a higher Injury Margin, whereas a higher Landed Value must necessarily result in a correspondingly lower Injury Margin.

10. Reference is made to the provision of Section 9A(1) of the Customs Tariff Act, 1975 (for short "the Act") read with Rule 17(1)(b) of the Anti-Dumping Rules, and it is submitted that the anti-dumping duty cannot exceed the margin of dumping and, in consonance with the lesser duty rule recognised under the Indian anti-dumping framework, the duty recommended is ordinarily

restricted to the lower - (i) the dumping margin, and (ii) the injury margin. It is submitted that the impugned final findings are *ex-facie* contrary to the statutory framework governing anti-dumping investigations. Respondent No.2 has failed to determine the export price in accordance with Section 9A of the Act read with Clause 5 of Annexure-I to the Anti-Dumping Rules, thereby vitiating the determination of the dumping margin and, consequently, the entire exercise culminating into the impugned final findings.

11. It was further submitted that Rule 5(3) of the Anti-Dumping Rules embodies a mandatory jurisdictional pre-condition requiring respondent No.2, before initiating an anti-dumping investigation, to examine the accuracy and adequacy of the material placed before it so as to satisfy itself that sufficient *prima facie* evidence exists regarding - (i) dumping, (ii) injury to the domestic industry, and (iii) the causal nexus between the two. According to the learned advocate, the failure to undertake such mandatory scrutiny renders the very initiation of the investigation without jurisdiction and vitiates all the consequential proceedings.

12. Learned advocate for the petitioner placed reliance on the following judgments of the Apex Court in the cases of – (i) Reliance Industries Ltd. vs. Designated Authority, [2006 (9) TMI 180]; (ii) Automotive Tyre Manufacturers Association vs. Designated Authority, [2011 (1) TMI 7], wherein it has been held that final findings issued in violation of the prescribed statutory methodology and principles of natural justice are liable to be set aside.

13. According to the learned Senior Advocate for the petitioner, such an anomalous and irreconcilable outcome could arise only if there exists a fundamental error in the computation of the Landed Value, the determination of the Non-Injurious Price, the calculation of the Injury Margin, or the application of the lesser duty rule. Any such error, it was submitted, strikes at the very foundation of the impugned determination and renders the final findings legally unsustainable.

14. With regard to resorting to the alternative remedy under Section 9C of the Act, it is contended that it does not operate as a bar to the exercise of the extraordinary jurisdiction of

this Court under Article 226 of the Constitution, particularly when the impugned final findings have been rendered in flagrant violation of the principles of natural justice and in complete disregard to the mandatory procedure prescribed under the Customs Tariff Act and the Anti-Dumping Rules. It was submitted that the present case squarely falls within the well-recognised exceptions to the rule of alternative remedy as enunciated by the Apex Court in the case of Whirlpool Corporation vs. Registrar of Trademarks, Mumbai & Ors., (1999) 8 S.C.C. 1, and reiterated in paragraph No.27 of Radha Krishna Industries vs. State of Himachal Pradesh, (2021) 6 S.C.C. 771.

**SUBMISSIONS ON BEHALF OF THE RESPONDENTS :**

15. Opposing the present petition and foregoing submissions, learned Senior Advocate Mr.Soparkar appearing for respondent No.3 and learned Senior Standing Counsel Mr.Ankit Shah, at the outset, have submitted that the present petition may not be entertained in view of availability of an efficacious alternative remedy to the petitioner of filing an appeal under the provisions of Section 9C of the Act. In support of the submissions, reliance is placed on the decision

of the Supreme Court in the case of Nitco Tiles Ltd. vs. Gujarat Ceramic Floor Tiles Manufacturer Association and Ors., (2005) 12 S.C.C. 454 and in the case of Designated Authority and others vs. SanDisk International Limited and Ors., (2018) 13 S.C.C. 402. They have also submitted that one of the parties i.e. Automotive Tyre Manufacturers Association, has already approached the Customs, Excise and CESTAT Tribunal, New Delhi, challenging the impugned final findings and the Notification, and, thus, it is urged that any observations made by this Court in the present petition would have direct impact on the proceedings before the CESTAT, New Delhi.

16. It is contended that the petitioner, by alleging violation of the principle of natural justice, has sought to invoke the jurisdiction of this court under Article 226 of the Constitution of India, whereas in fact, there is no violation of principle of natural justice as canvassed by the petitioner. Reference is made to the various observations made by the competent authority i.e. respondent No.2 in the impugned findings dated 20.03.2026 as well as the disclosure statement dated 12.03.2026.

17. It is contended that the respondents have only questioned the determination of the anti-dumping duty and the injury margin by alleging that the same is not appropriately arrived at looking to the domestic sales of the industry and volume of dumped imports. It is submitted that all these aspects can be considered by the appellate authorities and it is argued that this Court may not examine the magnitude of the injury margin, as determined by respondent No.2, after the same is determined by appreciating the submissions advanced by the all the stakeholders, including the petitioner and the respondents.

**ANALYSIS AND OPINION :**

18. The issue, which falls for deliberation, is that whether in the facts of the case, the petitioner can be relegated to avail the alternative efficacious remedy of filing an appeal, under Section 9C of the Act for challenging the impugned final findings dated 20.03.2026, as well as the Notification No.11/2026 dated 19.06.2024 issued by respondent No.2 or not.

19. The provisions of Customs 9C of the Act reads as under :-

*"9C. Appeal.—*

*1[(1) An appeal against the order of determination or review thereof shall lie to the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Appellate Tribunal), in respect of the existence, degree and effect of—*  
*(i) any subsidy or dumping in relation to import of any article; or*  
*(ii) import of any article into India in such increased quantities and under such condition so as to cause or threatening to cause serious injury to domestic industry requiring imposition of safeguard duty in relation to import of that article.]*

*[(1A) An appeal under sub-section (1) shall be accompanied by a fee of fifteen thousand rupees.*

*(1B) Every application made before the Appellate Tribunal,—*

*(a) in an appeal under sub-section (1), for grant of stay or for rectification of mistake or for any other purpose; or*

*(b) for restoration of an appeal or an application, shall be accompanied by a fee of five hundred rupees.]*

*(2) Every appeal under this section shall be filed within ninety days of the date of order under appeal:*

*Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.*

*(3) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against.*

*(4) The provisions of sub-sections (1), (2), (5) and (6) of section 129C of the Customs Act, 1962*

*(52 of 1962) shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Customs Act, 1962 (52 of 1962).*

*(5) Every appeal under sub-section (1) shall be heard by a Special Bench constituted by the President of the Appellate Tribunal for hearing such appeals and such Bench shall consist of the President and not less than two members and shall include one judicial member and one technical member.]”*

20. Thus, it is not in dispute that the petitioner is having an alternative efficacious remedy of filing an appeal, challenging the impugned final findings before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). Upon examination of the provision of Section 9C of the Act, it is manifest that there is nothing that prevents the CESTAT from examining the legality and validity of the disclosure statement and final findings and the Notification issued under Section 9A of the Act. However, we are also conscious of the well-settled legal precedent that the extraordinary powers of High Court under Article 226 of the Constitution cannot be eclipsed or restricted even if an alternative efficacious remedy is available to the parties.

21. The law in this regard is well-settled in the case of Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai and Ors., (1998) 8 S.C.C. 1, and thereafter followed in series of the judgements.

22. Thus, it is a settled legal precedent that if there is gross violation of principles of natural justice or violation of statutory provisions governing the process of law, or lack of jurisdiction, the High Court, while exercising its extraordinary powers conferred under Article of the 226 Constitution can always interfere with such action even if there exists an alternative efficacious remedy.

23. The petitioner has emphasized on the blatant violation of principles of natural justice, by alleging that the mandatory disclosure under Rule 16 of the the Anti-Dumping Rules read with Rules 6, 7, 11 and 17 of the Anti-Dumping Rules are violated. It is also alleged that the injury margin determined by respondent no.2 is mathematically impossible, and respondent no.2 fell in error in determining the injury margin since there is inconsistency in comparing the landed value of imports and Non-Injurious Price

(NIP). The petitioner has attempted to build its case by comparing the erroneous export price and landed value, which is contrary to Rule 11 of the Anti-Dumping Rules. It is contended that the NIP remains constant across all exporting countries or is determined on a uniform basis for the domestic enquiry, lower landed value must invariably result in a higher injury margin and conversely, a higher landed value must result in a lower injury margin. It is alleged that the valuation adopted by respondent No.2 and the duty recommended in the statement of impugned findings are inconsistent since the country of lower value, landed value, has been recommended a lower duty, whereas a country with higher landed value has been recommended higher duty, when arithmetically it must have a lower injury margin. Thus, it is alleged that there is fundamental error, in the computation of landed value, or in the computation of NIP, or in the determination of injury margin, or in the application of lesser duty, which goes to the root of the determination.

24. Thus, the case of the petitioner is premised on the recommendation made in final findings,

determined on an incorrect or faulty determination.

25. As far as the allegations about adopting an erroneous and a flawed methodology is concerned, this Court cannot venture into the determination or the valuation, adopted by respondent No.2, in the anti-dumping investigation concerning imports of sulfenamides accelerators. The disclosure statement, which is produced on record, reveals that respondent No.2 has in fact extensively, considered all the aspects along with the submissions of all the stakeholders, including the opposing interested parties. In paragraph No.38, while taking care of the arguments advanced by the interested parties relating non-sharing of the import data, it is recorded that *"the applicant before the authority, has submitted that it has relied upon market intelligence to compute the total volume and value of imports from all countries and the same has been made available to other interested parties"*. So far as the transaction-wise data is concerned, which is procured by the authority, is confidential in nature and is not shared by Government of India. The same has not been

disclosed to any interested party, including the domestic industry. The authority has shared the information of volume and price of imports which is relevant under the Anti-Dumping Rules, the information collected from the Directorate General of Commercial Intelligence and Statistics (DGCI&S). It is further recorded that the interested parties have been provided enough of opportunity to defend their interest on the information relevant to the investigation and determination.

26. While referring to Rule 6 (7) and Rule 7 of the Anti-Dumping Rules, it is also recorded in paragraph No.39 that the authority has made available the non-confidential version of the information provided by various parties to all other interested parties as per Rule 6(7) of the Anti-Dumping Rules.

27. In paragraph No.40 of the disclosure statement, the authority has taken care about the submissions made by the domestic industry and the participating exporters concerning confidentiality, on information such as production, capacity, capacity utilization, sales volumes, market share, stocks, selling

price etc. It is further recorded that wherever information is for injury period, the same has been provided on an indexed basis. The authority has also maintained the business-related sensitive information, as confidential. After sharing all the data, as required under the Anti-Dumping Rules, respondent No.2 has determined the normal value, export price and dumping margin for the subject countries as per the Anti-Dumping Rules, more particularly Rule 9A(1)(c) of the Anti-Dumping Rules.

28. The normal value and export prices for the petitioner is also determined, as mentioned in paragraph No.52 to 61.

29. In paragraph No.63, the dumping margin has been determined, which has been doubted by the present petitioner. The designated authority while assessment of injury and causal link in paragraph 64 has recorded the submissions of interested parties, and has accordingly recorded its findings. The determination of dumping margin on the extensive scrutiny of data has been shared among the interested parties. The High Court in a writ petition, cannot venture into *terra incognita* by doubting the methodology/valuation,

since the same falls within the domain of the designated authority who is an expert in the subject. The analysis or scrutiny on the confidential information is impermissible by the High Court, in wake of the fact interested parties have maintained the confidentiality. The aspect of the procedure adopted by respondent No.2 and the magnitude of injury margin, as determined below paragraph No.119 cannot be delved and examined by this Court, by High Court, while exercising its extraordinary jurisdiction under Article 226 of the Constitution of India and the appropriate authority would be the Tribunal.

30. We shall now deal with the alleged breach of Rules 6, 7, 11 and 17 of the Anti-dumping Rules. Rule 6 regulates the principles governing investigation. The petitioner has alleged violation of sub-rule (6) of Rule 6, which prescribes that, *"the designated authority may allow an interested party or its representative to present the information relevant to the investigation orally, but such oral information shall be taken into consideration by the designated authority."* On scrutiny of the

disclosure statement, we find that the provisions of neither Rules 6(6), 7, 11 nor Rule 17 have been violated. The interested parties, including the petitioner, have been given sufficient opportunity of hearing. The disclosure statement mentions that all the relevant data and information have been shared with the interested parties, and if it is the case of the petitioner that the necessary information has not been shared, the same can be examined by the Tribunal, since we do not find that the petitioner has been exclusively denied the information. Similarly, we also do not find that there is any violation of Rule 7 relating to confidential information, as the designated authority has maintained full confidentiality and has maintained the confidentiality of the information on the request of the interested parties and has followed the provisions of Rule 7. Likewise, as regards Rule 11, which mentions the determination of injury, and Rule 17, which stipulates the limitation and recommendation of amount of duty after recording the reasons leading to conclusion are concerned, we find that the petitioner is questioning the methodology/ valuation adopted by respondent No.2, in determining the injury which cannot be

scrutinized by this Court unless it is in gross violation of Rules or principles of natural justice.

31. In case the petitioner is deprived of some information, it is always open to the petitioner to point out the same before the fact-finding authority i.e. the Tribunal. The Court cannot, in the writ petition, delve into such aspects.

32. There is an additional ground which prevents us from interfering with the Final Findings and the Notification, i.e. the pendency of an application before the CESTAT, New Delhi. The impugned Final Findings dated 20.03.2026 are challenged by the Automotive Tyre Manufacturers Association by filing an application being Diary No. 51523/2026 before the CESTAT. The petitioner can adopt the same course.

33. Thus, we are not inclined to interfere with the impugned final findings recorded by respondent No.2 and the Notification in exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India, particularly in the absence of any gross violation of the principles of natural justice, any violation of

the statutory provisions governing the process of law, or any lack of jurisdiction. Hence, the writ petition fails and the same is **dismissed**. The petitioner may avail of the remedy of filing an appeal before the CESTAT, challenging the impugned findings as well as the impugned Notification.

**Sd/- .**  
**(A.S.SUPEHIA, J)**

**Sd/- .**  
**(VAIBHAVI D. NANAVATI, J)**

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*Bhavesh-[PPS]\* - Mahesh-[PS]\**