

CHAPTER 8 CUSTOM TARIFF ACT 1975

Illustration 1

When shall the safeguard measures under section 8B of the Customs Tariff Act, 1975 be not applied? Discuss briefly. (Exam Question Nov. 2013, MTP 1, May 2015) (ICAI)

Solution

The safeguard measures under section 8B of the Customs Tariff Act, 1975 is not applied on the import of the following types of articles:

1. Articles originating from a developing country, so long as the share of import of that article from that country **does not exceed 3% of the total imports** of that article into India;
2. Articles originating from more than one developing countries, so long as the aggregate of imports from developing countries each **with less than 3% import share taken together does not exceed 9% of the total imports** of that article into India;
3. **Articles imported by a 100% EOU or units in a Special Economic Zone** unless the duty is specifically made applicable in such notification or to such undertaking or unit.

Illustration 2

During the year 2018, the customs authorities have noticed that there is an increased quantity of Product XYZ being imported, into the country. Determine whether the Central Government should consider levying safeguard duty or anti - dumping duty with appropriate reasons. Also enumerate any exemptions / reliefs available from such duty. (CA Final Nov 19 Exam) (ICAI Material)

Solution

In the given case, since Product XYZ is being imported into the country in increased quantity, Central Government should consider levying safeguard measures and not antidumping duty. Anti - dumping duty is imposed when any article is exported from any country to India at less than its normal value, which is not the case here. However, safeguard measures can be applied only when Central Government is satisfied that such increased importation is causing / threatening to cause serious injury to the domestic industry.

Exemption / reliefs:

- (a) Safeguard measures shall not be applied on articles originating from developing country if the share of imports of that article from that country $\leq 3\%$ of the total imports of that article into India.
- (b) Safeguard duty shall not be applied on articles originating from more than one developing country if the aggregate of imports from developing countries each with less than 3% import share taken together $\leq 9\%$ of the total imports of that articles into India.
- (c) Safeguard measures shall not be applied on articles imported by a 100% EOU / SEZ unit unless specifically made applicable;

- (d) Safeguard measures shall not be applicable on articles imported by a 100% EOU / SEZ unit less the article imported is either cleared as such / used in the manufacture of any goods that are cleared, into DTA.
- (e) Central Government may exempt notified quantity of any article, when imported from any country into India, from whole / part of the safeguard measures.