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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 03.12.2018

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W.P.(C) 102/2018 & CM APPL 432/2018

VYNOVA WILHELMSHAVEN GMBH Petitioner

versus

THE DESIGNATED AUTHORITY DIRECTORATE GENERAL
OF ANTI-DUMPING AND ALLIED DUTIES, DEPARTMENT OF
COMMERCE & ANR. ... Respondents

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W.P.(C) 137/2018 & CM APPL 588/2018

VYNOVA BELGIUM NV(FORMERLY KNOWN AS VYNOVA
TESSENDERLO NV), Petitioner

versus

THE DESIGNATED AUTHORITY DIRECTORATE GENERAL
OF ANTI-DUMPING AND ALLIED DUTIES DEPARTMENT OF
COMMERCE & ANR.. Respondents

Present:

Mr. Balbir Singh, Senior Advocate with Mr. Aashish
Gupta, Mr. Aditya Mukherjee, Mr. Anirudh Lekhi,
Advocates for the petitioners.

Mr. Anurag Ahluwalia, CGSC for UOI with Ms.
Tejaswita Sachdeva, Ms. Albeena Wali, Advocate for
respondent UOI.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A.K. CHAWLA

S.RAVINDRA BHAT, J. (ORAL)

1. The two petitioner companies, i.e. Vynova Wilhelmshaven Gmbh (known "VWG") and VYNOVA BELGIUM NV- hereafter "VB" (previously "Vynova Tessenderlo NV") were earlier known by different names- Inovyn Chlorvinyls Ltd. was earlier known as Ineos Chlorvinyls

Ltd.; Inovyn Svergie AB was known as Ineos Sverige AB; Vynova Tessenderlo NV (now known "VB") was known as Ineos Chlorvinyls Belgium NV and Vynova Wilhelmshaven GMBH was known as Ineos Vinyls Deutschland GMBH and Ineos Vinyls Sales GMBH. The said two petitioners today (VWG and VB) are aggrieved by the refusal of the Designated Authority (DA) to accede to their request to record them as a successor in interest of their previous corporate entities. If the DA were to accede to their request, the petitioners would benefit to the extent that a lower rate of anti-dumping duty would be applicable to it.

2. After certain legal proceedings and corporate restructuring, a reorganization - accompanied by corporate re-christening occurred, of the previous entities. Also the shareholding pattern of two companies, i.e. Inovyn Sverige AB and Inovyn Chlorvinyls Ltd. to the extent of 50% was transferred to Solvay SA. The other 50% shareholding remained, with Ineos AG. Ineos AG was the original holding company of all these four companies. After reorganization, the shareholding of Inovyn Sverige AB and Inovyn Chlorvinyls Ltd. was completely that of a joint venture company - Inovyn JV. The shareholding of this joint venture company was equally held by Ineos AG and Solvay SA.

3. The four companies had faced investigations for anti- dumping which culminated in final findings dated 04.04.2014 and the notification dated 13.06.2014 whereby all these four entities were treated as belonging to one group and anti-dumping duty at the rate of US\$ 39.65 per MT was imposed. For the other manufacturers/importers to India, i.e. other companies, they recommended and finally imposed rate of duty as US\$ 189.99 per MT. Solvay SA, at the relevant time did not participate in the investigations which led to the final report and the notification and thus had

to suffer a higher rate of anti-dumping duties for the exports to Indian markets. The petitioners had approached this Court earlier complaining that their application for apprising the Designated Authority about the name change pursuant to re-organization had been rejected. The Court had by its order dated 02.06.2016 directed the authority to consider the application and pass appropriate orders. The DA, by its order dated 28.06.2016 finally rejected the application [in W.P.(C) 7603/2016]. The DA's reasoning was that although the INEOS group of companies participated and co-operated with it by filing exporter questionnaire response, Solvay did not participate in the investigation and thereby remained non-cooperative. It was commented by the DA that the dumping margin and injury margin for INEOS group were determined on weighted average basis by treating them as a single entity. On the basis of this analysis as well as injury margins considered, a lesser single duty was recommended and imposed by the Central Government. The DA felt that Rule 23 (1) and (1A) mandated that the duty recommended had to remain in force "*so long as and to the extent necessary, to counteract dumping, which is causing injury*" and that ;

"The various entities of the INEOS group were individually examined for the determination of dumping and injury margins and a determination was made, on weighted average basis, to arrive at a common anti-dumping duty for the INEOS group as a whole. Since the ownership of the subsidiary companies are now transferred to different holding companies, this now warrants determination of fresh individual dumping and injury margins for each entity separately through a review investigation.

13. During the hearing and through subsequent submissions, the petitioners requested to unbundle the weighted average injury margin determined for the four subsidiaries as a single entity and recommend duties for the petitioner companies on the basis of injury margin already computed for them by the Authority in the original investigation.

14. In view of the facts and circumstances explained above and keeping in view the relevant legal provisions, the Authority notes that the request of the petitioners to amend the names of the concerned companies in the duty table simply vide a corrigendum notification is not feasible. Moreover, after issuing final findings, the Designated Authority becomes functus officio and it is not legally permissible to revisit the findings and the recommendations without initiating and undertaking a review investigation as per the Anti-Dumping Rules."

4. In the earlier round of litigation, this court recorded as follows:

"It was pointed on behalf of the petitioner that Solvay SA had, in the meanwhile, restructured and divested itself of the shareholding in the joint venture company, i.e. Inovyn JV, and that this transaction was approved by the concerned regulatory body on 08.06.2016. It relies upon the copy of the order of the Directorate General, Competition European Commission.

7. This Court has considered the submissions.

8. The basic enquiry as to the present petitioner's margin of profit and the normal price at which they sold the goods was conducted and a detailed investigation which culminated in the final findings resulted in the notification which fixed the margin of anti-dumping duty at US\$ 39.65 per MT for all the four group companies. At that point in time, Solvay SA had no connection with these companies. There is no material on record to point to the contrary. The interregnum as it were, with the reorganization and renaming of the petitioners being accompanied by Solvay SA's acquisition of shareholding in two petitioner companies through joint venture had resulted in the order of the Designated Authority, which quite correctly felt that closer investigation was necessary. Since then, the position appears to have altered again because on 08.06.2016, the European Commission gave a green signal for the divestment of Solvay SA's shareholding in Inovyn JV entirely. As a result, this Court, having regard to the fact that the basic circumstances, i.e. market conditions under which the petitioner companies exported to India and the nature of injury caused by them has already undergone detailed investigation, this Court is of the opinion that the Designated Authority should restrict its enquiry into the genuineness of the transaction

whereby Solvay SA is said to have divested itself of the shareholding of the Inovyn JV resulting in restoration of status quo ante as it were on the date of rendering of submission of final report dated 04.04.2014, culminating in the notification dated 13.06.2014. In case the authority concludes that as a matter of fact Solvay SA has no shareholding any longer in the joint venture company which owned 50% or any such significant percentage of shareholding in the petitioner companies, it should proceed to grant the request for change of name in the notification and recommend to that effect to the central government so that appropriate changes can be made by way of corrigendum.

9. The authority shall endeavour to complete its hearing and pass final orders at its earliest convenience and in any case within two months. The writ petitions are allowed in the above terms.”

5. After considering the petitioner’s submissions and the materials placed on record, before it, the DA by its order dated 25th May, 2017 stated as follows:

“9. Whereas hearings were held with the solicitors of the petitioner companies initially on 19.01.2017 and then further on 19.04.2017. On 19th April 2017 the solicitors after not having been able to answer all the queries satisfactorily made a written request seeking further adjournment to ascertain further details from their clients. Based on their request, the final oral hearing was kept on 2nd May 2017.

10. During the course of the all these hearing, the solicitors were asked to explain the shareholding pattern and ownership structure of these entities, whose name(s) were sought to be changed, at different stages (i.e. during the period of investigation, as on 01.07.2015-the date of entry of Solvay and as on 07.07.2016 – the date of exit of Solvay) Based on the information furnished by the solicitors regarding the shareholding pattern and ownership structure of these companies, the flow chart of these entities (German, Belgian, British and Swedish) with their status at

different stages were prepared which is depicted in the Table I, II, III and IV enclosed with the order.

11. *It was submitted by the solicitors that the companies by the name of Inovyn Sverige AB, Sweden, Inovyn Chlorvinyls Limited, UK, Vynova Wilhelmshaven Gmbh and Vynova Belgium NV did not exist during the period of investigation or on the date of final finding i.e. 04.04.2014, but there were different entities namely, Inovyn Sverige AB, Sweden as INEOS Sverige AB, Sweden; Inovyn Chlorvinyls Limited, UK, as INEOS Chlorvinyl Limited; Vynova Wilhelmshaven Gmbh as INEOS Vinyl Deutschland Gmbh and Vynova Belgium NV as INEOS Chlorvinyl Belgium NV. It was also submitted that Solvay invested in Inovyn Limited on 01.07.2015 when simultaneously changes in names of UK and Swedish companies from Ineos Chlor Vinyls Ltd. To Inovyn ChlorVinyls Ltd and Ineos Sverige AB to Inovyn Sverige AB took place and that finally Solvay did exit Inovyn Ltd. on 07.07.2016.*
12. *Whereas based on the submissions made by the solicitors during the hearings it was noted that in respect of all these entities (except in case of German entity), it was a chain of wholly owned 100% subsidiaries with the holding company at the top. During the course of the hearing, it also came to the light that full facts of this case were never brought out earlier by the petitioners or their solicitors either before the Designated Authority or before the Hon'ble High Court of Delhi and that it was on account of the suppression/non-disclosure of these essential relevant facts that the Designated Authority was misled into believing that the exit of Solvay from the Joint Venture Company Inovyn Limited would result in restoration of status quo ante, thereby entitling these entities to change of name(s) in the duty table as requested. Orders dated 02.12.2016 of Hon'ble High Court was based on these facts presented by the petitioner. Petitioner has contended before the Hon'ble High Court that Ineos AG was the original holding company of all these four companies (Para 3 of the judgment dated 02.12.2016). But during the hearing, a different picture was presented with respect to Belgium & Germany based entities (See Table III & IV). This became clearly evident from the fact that Solvay had no participation at any stage in the German*

and Belgian entities and therefore, the question of Solvay joining and leaving these entities at any stage did not arise at all. This was admitted clearly by the solicitors representing petitioners during the hearing. Therefore, the fact of verification of exit of Solvay as ordered by the Hon'ble Court will have no bearing on the petitioner's request for change of names of the German and Belgian entities namely Ineos Vinyl Deutschland GmbH and IneosVinyls Sales GmbH to Vynova Wilhelmshaven GmbH and Ineos Chlorvinyls Belgium NV to M/s. Vynova Belgium NV.

13. *Whereas the scrutiny of facts of the case also revealed that even in case of entities belonging to UK and Sweden namely M/s. Inovyn Sverige AB, Sweden and M/s. Inovyn Chlorvinyls Ltd., UK, Solvay had joined as 50% equity holder in the Inovyn Limited, which was a second stage 100% subsidiary of the holding company M/s. Ineos AG and did not exist during the period of investigation. Therefore, fresh revelations by the solicitors of the petitioners to the effect that M/s. Inovyn Ltd as a company did not exist at all during the period of investigation under any name whatsoever and that it was a fresh entrant in the chain of holding companies subsequent to the period of investigation go to establish that the exit of Solvay from Inovyn Limited would not restore the status quo ante, as erroneously claimed by the petitioner before the Hon'ble Court. The petitioners' contention would have had merit if the name of these entities e.g. Ineos ChlorVinyls Ltd & Ineos Sverige AB would only have changed as Inovyn ChlorVinyls Ltd. & Inovyn Sverige AB respectively, without any change in any other factor/parameter including that in the ownership structure and shareholding pattern of these entities. This however, is not the case and the change of name of UK and Swedish entities on the contrary is accompanied by the entry of a new company namely Inovyn Ltd I the ownership structure. Thus post-POI (i.e. subsequent to the period of investigation), a new entity namely, Inovyn Limited came into existence on 01.07.2015 and therefore even after exit of Solvay on 07.07.2016 from Inovyn Limited, the status quo ante (i.e. status existing during the period of Investigation) does not get restored. The solicitors representing petitioners*

were not even able to satisfactorily explain as to how exit of Solvay from the joint venture company Inovyn Limited did not result in corresponding rise in shares of the Lone Shareholder Ineos Group Investment Limited when there was no change in the face value of shares. They were not able to confirm or deny whether current holding companies in the ownership structure of the German and Belgian entities existed during the period of investigation.

14. *In view of the foregoing, it is concluded that it is not just a case involving mere change of name but that of change in the entire ownership structure and the shareholding pattern of all the entities. The observation of the Hon'ble Delhi High Court to restrict the scope of enquiry is based on non-disclosure/selective disclosure of fact as exit of Solvay has no relevant in case of German and Belgian entities and does not result in restoration of status quo ante for other two (UK and Swedish) entities. Accordingly, the request for change of name(s) in the duty table in the above-referred final findings is declined."*

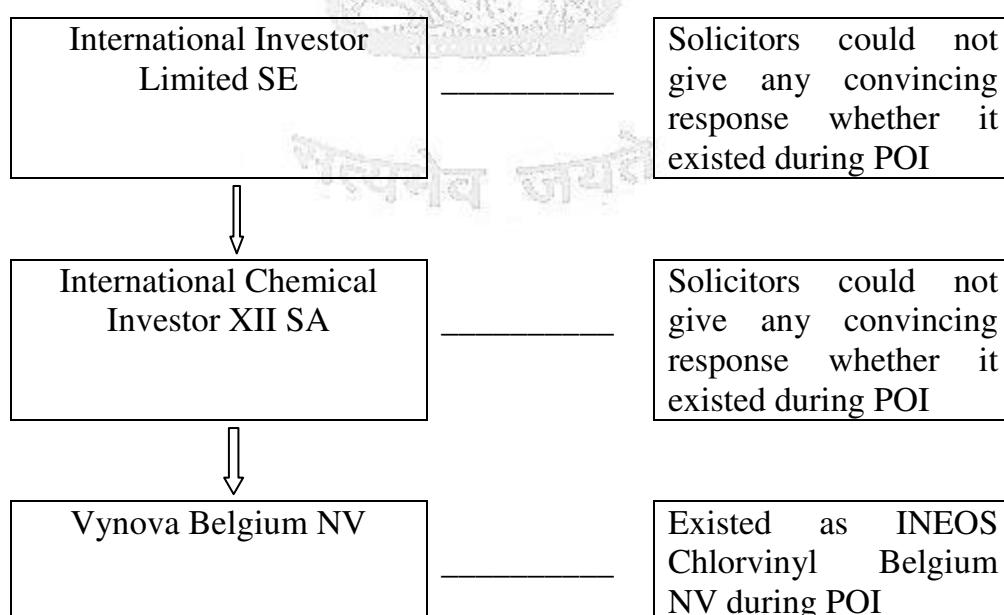
6. Mr. Balbir Singh, learned senior counsel for the petitioner explained the facts and submitted that during the pendency of anti-dumping investigations before the DA on 16.09.2013, INEOS AG and Solvay SA, (the latter – a Belgium based entity) decided to acquire joint control of a newly acquired JV – Inovyn Limited through transfer of assets. In compliance with the prevailing European regulations, the two companies notified European Commission of the proposal to establish a newly created JV – Inovyn JV. The proposal was approved on 08.05.2014 by the Commission. It was conditional upon divestiture of some of the INEOS' S-PVC plants and related assets (which included INEOS Chlorovinyl Belgium NV and production and sales assets of all INEOS Vinyls Deutschland GmbH and INEOS Vinyls Sales GmbH – a JV).

7. To comply with the EU's order, INEOS entered into share purchase agreement with International Chemical Investors Group SE (ICIG) by

which ICIG agreed to purchase the divested business. It is stressed that ICIG – a privately held industrial holding company, prior to the share purchase agreement, was not active in the production/sale of S-PVC. ICIG on 29.04.2015, complied with the EU merger policy and notified its intention to acquire the divested business. The Commission approved the acquisition by the ICIG. It is thereafter that on 01.07.2015, the creation of Inovyn JV Was implemented. This necessitated change of name of INEOS Chlorovinyls Belgium NV and Vinyl Wilhelmshaven GmbH after which shares of the companies were transferred to ICIG on 01.08.2015.

8. It is stated that as a result of this restructuring, the erstwhile companies were directly held on the International Chemical Investors Group SE (ICIG). It is submitted that although the original JV was between INEOS AG and Solvay SA, based on equal equity participation, Solvay left the JV; Solvay which had 50% holding in Inovyn JV, sold its share on 07.03.2016. It is pursuant to this that the restructuring has now resulted in the following holding:

Table III – Belgium based entity



9. It is further submitted that on 25.05.2016, in the meanwhile, the name of one for the petitioner's business was changed from its erstwhile Vynova Tessenderlo NV. This was on account of a settlement agreement brought about by Tessenderlo created after. This name change did not entail any change in the shareholding pattern. It is highlighted that before the previous order of the Court was made in W.P.(C) 5907/2016, the DA had rejected the request for change of name in its findings and a corresponding consequential name change on the finding that Solvay SA was part of and a known name during the period of investigation which had not cooperated and furthermore, that the anti-dumping duty was determined on the basis of weighed average which cannot now be unravelled to arrive at individual duty determination. It was highlighted by Sh. Balbir Singh, learned senior counsel that the clear purport of the previous order of this Court in its previous writ petition was that the DA had to allow the request for name change. In case it held that Solvay SA had no shareholding in the Inovyn JV as it is a JV.

10. It is submitted that the DA's reasoning, to decline the name change in its final findings, amounts to extending the scope of the assignment which it did not have any jurisdiction or power to. The DA has assigned fresh reasons for the rejection of the request which are different from those assigned by the DA in the original order. Learned counsel relies upon the judgment of the SC in *Collector (DM) Allahabad v. Raja Ram Jaiswal* 1985 (3) SCC 1 that a power conferred by a statutory authority can be exercised in a reasonable manner to achieve an objective of the enactment which grants it. It is submitted that in the present case, the DS's reasoning do not sub-serve the objective to be achieved and are not legitimate. It is submitted that by repeated rejection of the *bona fide* request for name change, the

respondents have erroneously ruled it out rendering the goods liable to higher rates in the determination of anti-dumping duty.

11. It is further stated that the DA overlooked the fact that it had already paid the individual dumping and injury margin for the petitioner companies and in the absence of any reasoning, the rejection of request for change of name results in unnecessary burden and amounts to repetition of injury which are both substantially impermissible.

12. It was argued on behalf of the DA by Mr. Ahluwalia that there was clear suppression of facts or misrepresentation which was evident from the fact that Solvay had not participated in the German or Belgium entity and its claim of joining it at any stage of investigation does not arise. The exit of Solvay really had no bearing and that this Court should give due consideration to that fact. What stood different was that the change of name of the corresponding change in the corporate structure was post period of investigation Inovyn's exit on 01.07.2015. Therefore, even after exit of Solvay from Inovyn Limited, the *status quo ante* did not get restored. The petitioner could not establish how Solvay's exit from JV Inovyn Limited did not result in corresponding price of lone shareholding in Inovyn Group when there is no change on the face.

13. It is argued on behalf of the DA that the order dated 02.12.2016 in the previous writ petition had required the examination of the facts, and grant the change of name request of the petitioners if it was found that Solvay SA had exited from its (the petitioner's) shareholding and if *status quo ante* had been restored. It is submitted that this court's direction in the order dated 02.12.2016 was on the implied assumption that the above stated facts furnished by the Petitioner were correct and *bona fide*. The DA states that on examination it was found that the Petitioner had wrongly stated the

facts. It is submitted that the Petitioner could not establish two fundamental facts during the subsequent proceedings before the DA i.e.

- a. Whether Solvay SA held shareholding in the Petitioner company at any point in time; and
- b. Whether current holding companies in the ownership structure of the Petitioner existed during the period of investigation, and thus, whether *status quo ante* was restored.

14. It was argued that the fact that the petitioner underwent change of shareholding pattern twice over, did not result in any automatic entitlement – in the absence of any investigation freshly undertaken by the DA in accordance with any known rules of law that such restructuring had to be reflected duly by an amendment in the findings or notification. It was submitted that unlike a simple name change, in this case, a complex re-structuring was involved. This did not and could not result in a claim for automatic amendment to the findings rendered on the facts previously existing about the margin of duty based on extent of injury found. The petitioner companies' strengths, particularly those developed during the period that Solvay was an equal holding company and the advantages given to it, are unknown. Learned counsel also relied on a recent circular and submitted that the petitioner can, during the sunset review make appropriate submissions.

Analysis and Conclusions

15. The object of anti-dumping proceedings and the recommendations for imposition of duty have been explained by two Supreme Court rulings in *S&S Enterprise v. Designated Authority*, (2005) 3 SCC 337, when it was noted that ;

“the purpose behind the imposition of the duty is to curb unfair trade practices resorted to by exporters of a particular country of flooding the domestic markets with goods at rates which are lower than the rate at which the exporters normally sell the same or like goods in their own countries so as to cause or be likely to cause injury to the domestic market. The levy of dumping duty is a method recognized by GATT, which seeks to remedy the injury and at the same time balances the right of exporters from other countries to sell their products within the country with the interest of the domestic markets. Thus the factors to constitute ‘dumping’, are (i) an import at prices which are lower than the normal value of the goods in the exporting country; (ii) the exports must be sufficient to cause injury to the domestic industry.”

16. In *Reliance Industries Ltd. v. Designated Authority* (2006) 10 SCC 368, it was explained that industries built after independence with great difficulty should not be allowed :

“to be destroyed by unfair competition of some foreign companies. Dumping is a well-known method of unfair competition which is adopted by the foreign companies.”

17. The Court also said that:

“The purpose of Section 9-A is, therefore, to maintain a level playing field and prevent dumping, while allowing for healthy competition. The purpose is not protectionism in the classical sense (as proposed by the German economist Friedrich List in his famous book ‘National System of Political Economy’ published in 1841) but to prevent unfair trade practices. The 1995 Amendment to Section 9A was apparently made in pursuance to Article VI of the General Agreement on Tariffs and Trade 1994 (GATT 1994) which permitted anti-dumping measures as an instrument of fair competition.

The concept of anti-dumping is founded on the basis that a foreign manufacturer sells below the normal value in order to destabilise domestic manufacturers.”

18. An *anti-dumping* proceeding, leading to a determination whether any *injury* exists and if so, its margin, involves (through Rule 11 of the

Annexure to the Anti-Dumping Rules and other provisions under such rules) examination of *“the causal relationship between the dumped imports and the injury to the domestic industry”*. In this regard, the DA has to examine known factors :

“other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.”

19. In the present case, the corporate structure of the petitioner companies was such that four companies were part of the Inovyn group. During the investigation, there appears to have been a proposal of restructuring. However, the then existing companies (of which the petitioner claims to be successors) did not disclose this; perhaps correctly so, because the proposal had not been approved by the European Union. However, when that did happen, the EU stipulated that a third party entity had to be part of the holding JV arrangement. This resulted in the entry of Solvay- a complicating factor for the petitioner, because Solvay had stayed out of the investigation and therefore was subjected to the residual, higher rate of duty (rather than the considerably lower anti-dumping duty rate imposed on the petitioner's predecessors).

20. The petitioner had to approach this court, because on the previous occasion the DA felt that since the relevant facts were investigated at the determination of injury margin stage, it had become *functus officio*. The court therefore, directed the examination of the relevant facts and also stated that if indeed Solvay had exited from the JV, the DA could consider

granting the petitioner's request. Now, the DA has re-examined the petitioner's contentions and concluded yet again that the amendment sought is unfeasible. The petitioners, naturally cry foul and attack that order as arbitrary and contrary to the previous order of this court.

21. On a first reading, it would appear that that this court had required the DA to reconsider the issue and if it was found that Solvay had indeed exited from the holding JV, to grant the relief to the petitioner.

22. The fresh order of the DA, states as follows:

“The petitioners’ contention would have had merit if the name of these entities e.g. Ineos Chlor Vinyls Ltd & Ineos Sverige AB would only have changed as Inovyn Chlor Vinyls Ltd. & Inovyn Sverige AB respectively, without any change in any other factor/parameter including that in the ownership structure and shareholding pattern of these entities. This however, is not the case and the change of name of UK and Swedish entities on the contrary is accompanied by the entry of a new company namely Inovyn Ltd I the ownership structure. Thus post-POI (i.e. subsequent to the period of investigation), a new entity namely, Inovyn Limited came into existence on 01.07.2015 and therefore even after exit of Solvay on 07.07.2016 from Inovyn Limited, the status quo ante (i.e. status existing during the period of Investigation) does not get restored. The solicitors representing petitioners were not even able to satisfactorily explain as to how exit of Solvay from the joint venture company Inovyn Limited did not result in corresponding rise in shares of the Ione Shareholder Ineos Group Investment Limited when there was no change in the face value of shares. They were not able to confirm or deny whether current holding companies in the ownership structure of the German and Belgian entities existed during the period of investigation.

14. *In view of the foregoing, it is concluded that it is not just a case involving mere change of name but that of change in the entire ownership structure and the shareholding pattern of all the entities. The observation of the Hon’ble Delhi High Court to restrict the scope of enquiry is based on non-disclosure/selective disclosure of fact as exit of Solvay has no relevant in case of German and Belgian entities and does not result in restoration of status quo ante for other two (UK and Swedish) entities. Accordingly, the request for change*

of name(s) in the duty table in the above-referred final findings is declined.”

23. The above consideration, in the opinion of this court, has relevance; the duty determination was based on a particular state of facts and circumstances during the period of investigation (hereafter referred as “POI”). The fact that soon thereafter, the JV involving Solvay was formed is not disputed. Therefore, for the intervening period (i.e. after the POI and before Solvay exited from the JV which from 01-07-2015 to 07-07-2016) *although there was an important event, in the form of corporate restructuring, which had potential impact on the commercial decisions of the new JV, no request for name change or change in the notification or findings was made.* Perhaps quite correctly, because the petitioners realized that Solvay, as an important equity participant had been consciously kept out of the proceedings in the POI and was saddled with higher anti-dumping duty. If this perspective were to be kept in mind, the further circumstance that after July, 2016, there was yet another corporate restructuring, did not necessarily mean that the previous entities continued. No doubt their manufacturing facilities and staff, might have continued; equally, they might have been augmented during the period Solvay was an important JV equity participant in their holding company. Likewise, the commercial arrangements made with Solvay and their long term implications would continue to inure with the petitioners.

24. It is therefore, quite clear that the two step corporate reorganization of the petitioner companies did not entail only name change or inconsequential changes in shareholding. The petitioner’s entities were transformed and placed under the control of different groups. Given that the nature of inquiry by the DA was not superficial but application of mind with respect to a web of details, that authority was justified in holding that

the relief- of change in the notification to enable the petitioners to claim benefit of lower rate of anti dumping duty, was not capable of being granted.

25. In view of the foregoing discussion and finding, this court is of opinion that there is no merit in the writ petitions; they are accordingly dismissed without any order on costs.

S. RAVINDRA BHAT, J

DECEMBER 03, 2018

A.K. CHAWLA, J



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