

**Customs, Excise & Service Tax Appellate Tribunal  
West Zonal Bench at Ahmedabad**

REGIONAL BENCH- COURT NO. 3

**Customs Appeal No. 10257 of 2022- DB**

(Arising out of OIA-AHD-CUSTM-000-APP-1429-21-22 dated 06.01.2022 passed by Commissioner of Customs (Appeals) - AHMEDABAD)

**M/s Lanxess India Private Limited**

Plot No. 748/2A, 748/3 & 748/4B, 748/4A,  
GIDC, Jhagadia, Furwadi, Jhagadia,  
Bharuch, Gujarat 393110

**.....Appellant**

*VERSUS*

**C.C. Ahmedabad**

Customs House, Navrangpura,  
Ahmedabad, Gujarat - 380009

**.....Respondent**

**APPEARANCE:**

Shri Prashant Patankar, Consultant for the Appellant

Shri R.R. Kurup, Superintendent (Authorised Representative) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR  
HON'BLE MEMBER (TECHNICAL), MR. RAJU**

**FINAL ORDER NO. 11932 /2024**

DATE OF HEARING: 08.05.2024  
DATE OF DECISION: 04.09.2024

**RAJU**

This appeal has been filed by M/s Lanxess (India) Private Limited against rejection of the declared transaction cost and redetermination of assessable value under Section 17(5) of the Customs Act, 1962.

2. Learned counsel for the appellant pointed out that they had filed bill of entry No. 8616203 dated 28.08.2020 for clearance of 8000 Kgs of 1.2 Benzisothiazolin-3-ONE 85% (BIT PASTE 85%) China origin. The price of goods was declared as USD 8.50 PKG on CIF basis. The system raised a query regarding the price on the basis of an earlier import vide Bill of Entry No. 7502528 dated 22.04.2020 wherein the price declared was USD 28 PKG. The appellant had contended before the lower authorities that the commodities need not to be traded at uniform price all along. The appellant had imported the goods on 28.08.2020 whereas the comparative price taken was of 22.04.2020. He argued that there are varying commercial parameters which result in variation in cost. He submitted that there has been significant variation in the price in the appellant's own imports over the past two years from different

manufacturers. The appellant had stated before first appellate authority that the price of key raw material namely O-chloro benzonitrile (OCBN) has dropped drastically during this period and therefore the supplier had passed on the benefit to the appellant.

3. Learned counsel contended that the supplier had explained that the prices of raw material OCBN shot up five-fold after March 2019. The prices shot up from CNY 20/KG to CNY 100/KG following the explosion in the main manufacturing unit. He argued that the deputy commissioner had ignored this explanation given in the certificate of the manufacturer's supplier wrongly. He pointed out that the original adjudicating authority had unfairly and without any reason discarded the said certificate solely for the reason that there were no supporting documents from any regulating / governing international price agency/ institute, weekly / quarterly Price Bulletins. He pointed out that the original adjudicating authority had not appreciated the certificate dated 14.09.2020 from the supplier specifically stating that the price of raw material OCBN dropped from RMB 110/KG (USD 15.70 PKG) to RMB 23 PKG (USD 3.29 PKG). The aforesaid evidence has not been examined in Order-in-Original or in Order-in-Appeal. The appellant submitted some data of imports made between February 2018 to August 2020, in support of their claim about temporary increase of price.

4. Learned Authorised Representative relies on the impugned order. He pointed out that the original adjudicating authority has relied on contemporaneous import data as under:

SR No.	BE No.	Date	Rate (\$/KG)
1	5181446	05.10.2019	27.80
2	5432974	25.10.2019	27.80
3	7502528	22.04.2020	28.00

He pointed out that said data indicates that the price of the item was in the range of 27.80 USD PKG to 28 USD PKG.

5. We have considered the rival submissions. We find that the case relates to rejection of the declared assessable value and enhancement of the assessable value on the basis of contemporaneous import prices. The appellant had imported '1,2-Benzisothiazolin-3-ONE 85% (BIT PASTE 85%) China origin' at the USD 8.5 PKG vide their bill of entry No. 8616203 dated 28.08.2020 for a quantity of 8000 Kgs. The revenue has rejected the said declared value on the strength of bill of entry no. 7502528 dated 22.04.2020 which had a declared value of USD 28 PKG. The appellant had contended that there was a temporary rise in prices of

the '1,2-Benzisothiazolin-3-ONE 85% (BIT PASTE 85%) China origin' due to explosion in a unit manufacturing key input for manufacture of bit namely OCBN. The appellant had contended that for a short period the prices of OCBN had sky rocketed leading to increase in price of BIT. However, later on the prices dropped and consequently the price of BIT also dropped. The appellant had submitted a letter from their supplier in this regard. Consequently, the appellant have submitted the import data of same item subsequent to the impugned imports. The data indicates that the price of the said item has since decreased from USD 8.50 PKG to USD 7.23 PKG.

#### Details of Imports between February 2018 to August 2020

	Shipper	Bill of Entry	BoE date	Qty Kg	Unit Price USD/kg
1	Linva (Shanghai)	5037222	02.02.2018	8000	8.56
2	Linva (Shanghai)	6461919	21.05.2018	8000	8.56
3	Linva (Shanghai)	8207135	26.09.2018	8000	11.90
4	Linva (Shanghai)	8978056	24.11.2018	8000	11.90
5	Linva (Shanghai)	9413287	26.12.2018	8250	12.33
6	Linva (Shanghai)	2495847	20.03.2019	12000	12.33
7	Dalian Bio-Chem	4531602	17.08.2019	4000	27.40
8	<b>Dalian Bio-Chem</b>	<b>5181446</b>	<b>05.10.2019</b>	<b>5200</b>	<b>27.80</b>
9	Linva (Shanghai)	5295583	15.10.2019	5000	28.00
10		5432974	25.10.2019	5200	27.80
11	Linva (Shanghai)	7502528	22.04.2020	8000	28.00
12	Shouguang Hentech	8616203	20.08.2020	8000	8.50

#### Details of Imports between August 2020 to July 2021

	Description				
1	Article dated 26.03.2019 about explosion on 21.03.2019 at Xiangshui industrial Park				
2	Article dated 26.03.2019 about explosion on 21.03.2019 at Xiangshui Industrial Park				
3	Bills of Entry post bill of entry under dispute dated 28.08.2020				
	Shipper	Bill of Entry	BoE date	Qty Kg	Unit Price USD/kg
(i)	Shouguang Hentech	9450451	04.11.2020	12000	8.50
(ii)	Shouguang Hentech	9938006	13.12.2020	12000	7.50
(iii)	Shouguang Hentech	2933180	27.02.2021	12000	7.30
(iv)	Shouguang Hentech	3703760	25.04.2021	12000	7.30
(v)	Dalian Bio-Chem	4809880	26.07.2021	5000	7.23

The appellant have submitted corresponding bill of entries as well. The appellant has also submitted some literature from the internet indicating the explosion in Xiangshui Industrial Park in Yancheng, Jiangsu. From the above chart it is seen that there was a brief period from August 2019 to April 2020 when the prices of the product sky rocketed however thereafter the prices cooled down. In this context, the explanation given by the appellant fits the data.

6. Consequently, we find that the explanation given by the appellant is reasonable and therefore, the impugned order is set aside and appeal is allowed.

(Order pronounced in the open court on 04.09.2024 )

**(RAMESH NAIR)**  
**MEMBER (JUDICIAL)**

**(RAJU)**  
**MEMBER (TECHNICAL)**

*Neha*