



Indian Electrical & Electronics Manufacturer's Association
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Deputy Director General

SEC/REP/RS/144

16Th June 2021

Dr. T.V. Somanathan
Secretary,
Ministry of Finance
Government of India
New Delhi – 110001

Subject: Regarding imposition of BCD vis-à-vis change in law pass through benefit

Dear Sir,

The Government of India under the guidance and visionary leadership of Shri Narendra Modi have come across a long way in making our country self-dependent on its energy requirement by encouraging power production through renewable energy sources, at a minimal cost

Your good office will appreciate that global economy which was already in throes of a slowdown was pushed into an unprecedented contraction on account of COVID -19 during the last year. However, your ministry has time and again vide various office memorandum has acknowledged the issues suffered by the renewable energy sector and has also provided the requisite relief.

Further, your good office from time and again has been taking several bold initiatives and reform measures to come closer in realizing the dream of Atmanirbhar Bharat

It is humbly submitted before your good office that Solar cells assembled in modules or made up into panels falls under Tariff Item 8541 4012 and solar cells not assembled fall under tariff 8541 4011 under the First Schedule to the Custom Tariff Act, 1975 (“the said goods” or “solar module”) and attracts a standard basic custom duty rate (“**BCD**”) of 20% respectively, when imported into India. Please note, there is a basic customs duty exemption for these items in place vide notification 24/2005 of Customs dated March 01, 2005.

Your ministry vide office memorandum dated March 09, 2021 has proposed imposition of BCD of twenty five percent (25%) on solar cells and forty percent (40%) on solar modules imported to India with effect from April 01, 2022 (“**Notification**”). The Notification is yet to be imposed by the Ministry of Finance, Government of India.

Your good office while issuing the Notification has stated that “*Considering India's huge solar targets and that electricity is a strategic sector of the economy, India needs to develop domestic solar manufacturing capacities and reduce its dependence on imports to avoid disruption in future.*”



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The Atmanirbhar Bharat initiative has geared up the country toward scaling up domestic manufacturing. Scaling up of domestic solar manufacturing would also enable India to export solar cells/module". The Notification as it clarifies has been issued to increase the reliance on the domestic content of solar cell/modules and to benefit the domestic manufactures.

However, in the realm of India's dream of Atmanirbhar Bharat *vide* this representation we would like to draw your attention to the misery suffered by domestic solar module manufactures due to change in law pass through precedent available with the solar module/ cell imports.

It is pertinent to note that, imposition of any new law, order, interpretation, ordinance by the government tantamount to change in law. Upon issuance of such change in law the bidder and or the contractor/ owner has the right to claim pass through from the respective authority if such law has been imposed after the issuance of the tender or signing of the contract.

In the present scenario, please note if the BCD is imposed by the MoF considering the Notification, any and or all the bidders/ contractors who have won the bid before March 09, 2021 and has the execution time line beyond April 01, 2022 can claim the BCD effect as a pass through under the legal periphery of change in law principle. The extensions on account of Covid-19 is also to be considered while calculating the impact. However, as per market research such Project is equivalent to about 14 GW.

Consequent to the change in law relief, we apprehend that if the solar cell/ module importers gets the benefit of change in law- the reason for imposition of BCD will have no value whatsoever. Infact such relief of change in law benefit to such bidders/ contractors will have a catastrophic effect on the business operations of solar cell/ solar module manufacturers in India specifically during the initial years post imposition of BCD.

The effective cost of imported solar module/ cell would be much cheaper in comparison to the domestic manufacture. This might impact the domestic market for about one (1) year resulting into defeat of domestic solar market and shall prove to be detrimental to the concept of make in India. The competitive advantage being given to domestic manufacture will fall apart.

In view of the above, we pray before your good office to protect the domestic solar manufacturing units and to provide a level playing field for module/ cell manufacturer in India. The Government *via* your good office may consider providing relaxation/concession under the relevant laws to the domestic solar module/ cell manufacture by providing a relief taking into consideration purchase from domestic manufacture of solar cells/ modules as deemed import and providing relief of pass through of deemed BCD by taking into account the cost of purchase from the domestic manufacture to be considered inclusive of BCD at the applicable rate.

To create a sustainable ecosystem for the domestic manufacture it is significant to have catch point to protect domestic manufacture from gaps in existing law so that the benefit what Government intends to pass on to the domestic manufacture is actually being given to such manufactures. We hope our request will be given urgent and sympathetic consideration. Your



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intervention in this regard will help India to achieve its renewable energy targets and help the government to achieve "Atmanirbhar Bharat" vision.

The benefits to various stakeholders by implementation of this request is as follows in our view

Stakeholders	Benefits Rating	Benefits
Indian Module Manufacturers	++	Competitiveness and more profitable business
Chinese Module Manufacturers	--	Loss of opportunity due to less competitiveness w.r to Indian Manufacturers
EPC companies	+	More Vendor Options
Developers	+	More Vendor Options
Govt	+	Aatmanirbhar Bharat

We would be happy to provide any further information as your good office may desire.

Looking forward for your cooperation.

Best regards,

Yours sincerely

J. Pande