

Judgment Sheet

**IN THE HIGH COURT OF SINDH AT KARACHI**

Present:

Mr Justice Muhammad Shafi Siddiqui, CJ

Mr Justice Jawad Akbar Sarwana

**Constitution Petition No. D – 4561 of 2024**

**Tasneem Enterprises (Private) Limited**

**v.**

**National Tariff Commission and Four (4) Others**

Petitioner : Tasneem Enterprises (Pvt.) Ltd., through its duly authorized Attorney, through Mr. Junaid Ahmed and Syed Kawish Hussain Naqvi, Advocate

Respondent No.1: National Tariff Commission and  
Respondent No.2: Federation of Pakistan through the DAG, Mr Khaleeq Ahmed and Ms. Wajiha Mehdi AAG

Respondent No.3: Collector of Customs through Ms Tania Alam Advocate

Respondent Nos.4&5: Century Paper & Board Mills Limited through its CEO (Respondent No.4) and Bulleh Shah Packaging (Private) Ltd. through its CEO (Respondent No.5), both Respondent Nos. 4 & 5 through Mr Rais Mahmood Ali, Advocate

Date of Hearing : 29.10.2024

Date of Judgment : 28.01.2025

J U D G M E N T

**Jawad Akbar Sarwana, J.** The petitioner, Tasneem Enterprises (Pvt.) Ltd. has invoked the writ jurisdiction of the Constitutional High Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the “1973 Constitution”), seeking a declaration that the respondent No.1/National Tariff Commission (hereinafter referred to as “NTC”), Notice of Initiation of Anti-Circumvention Investigation dated

04.05.2024<sup>1</sup> for the product under investigation or slightly modified product under PCT Headings nos.4810.9200 and 4810.9900 (hereinafter referred to as the impugned “Initiation Notice of Anti-Circumvention”) is “without lawful authority” and “is of no legal effect”. Hence, the said investigation should be set aside and/or suspended. Petitioner has also sought ancillary relief viz. directions to restrain Respondent No.1/NTC from demanding any anti-dumping duties that may arise at the conclusion of the impugned Initiation Notice of Anti-Circumvention. Petitioner Counsel has further contended that the “Initiation Notice of an Anti-Circumvention” investigation of anti-dumping duties levied on dumped imports of coated bleached paperboard into Pakistan originating in and/or exported from China initiated by NTC against the petitioner is liable to be declared as illegal and void ab initio because “Two-side coated bleached paperboard” was excluded from the investigated product<sup>2</sup> which was the subject matter of the anti-dumping investigation both in the final determination in 2018,<sup>3</sup> as well as in the Sunset Review in 2022.<sup>4</sup> No final determination was made concerning “Two-side coated bleached paperboard”. Now, without (in the absence of) a final determination of the product specified as “Two-sided coated bleached paperboard”, which determination should be first concluded, the issuance of an “Initiation Notice of an Anti-Circumvention” for “Two-side coated bleached paperboard” is misconceived and malafide.

2. The petitioner had also preferred an appeal under Section 70 of the ADD Act, 2015 against the impugned “Initiation Notice of Anti-Circumvention” before the Anti-Dumping Appellate Tribunal, Pakistan, namely Appeal No.567/2024,<sup>5</sup> but the said Tribunal dismissed the said Appeal vide Judgment dated 27.08.2024 with the observation that it does not have jurisdiction to hear and adjudicate an appeal to an “Initiation Notice of Anti-Circumvention” investigation by the NTC at its initial stage.<sup>6</sup> Only the final determination of

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<sup>1</sup> Page 31 of the Petition

<sup>2</sup> Section 2(k) “investigated product” means a product which is subject to an anti-dumping investigation as described in the notice of initiation of the investigation;

<sup>3</sup> Page 213 of the Petition

<sup>4</sup> Page 499 of the Petition

<sup>5</sup> Page 773 of the Petition

<sup>6</sup> Page 807 of the Petition

the Anti-Circumvention investigation by the NTC alone is subject to appeal. Accordingly, on 16.09.2024, the petitioner invoked the writ jurisdiction of this Constitutional Court under Article 199(1)(a)(ii) of the 1973 Constitution and its related articles.

3. Counsel for Respondents filed detailed Written Comments, which are available on record and contended that the petition was misconceived as the initial investigation is ongoing, and the petitioner has an alternate remedy available to register itself as an interested party and request a hearing.<sup>7</sup> Thereafter, the petitioner can appear and submit its concerns before Respondent No.1/NTC. NTC would pass its final decision after considering all the material facts, including those concerns raised by the petitioner. Further, suppose the final decision of the NTC aggrieved the petitioner, which decision has yet to be made as Respondent No. 1/NTC is still processing the initial investigation. In that case, the petitioner has the right to appeal the final decision. Finally, Respondent Counsel argued that this petition involved factual controversies between the petitioner and respondents, which are to be decided before the NTC, and the petition as filed could not be decided in writ jurisdiction. Accordingly, this petition is/was liable to be dismissed for the above reasons.

4. We have heard Counsel, the learned AG and DAG, and perused the documents attached to the petition.

5. At the outset, we note that the principle relief/remedy sought by the petitioner against Respondent No.1/NTC is to declare the “Initiation Notice of an Anti-Circumvention” investigation is “without lawful authority” or “is of no legal effect”.

6. In the present case, the remedy/relief sought by the petitioner emerges out of legal proceedings, i.e. the “Initiation Notice of an Anti-

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<sup>7</sup> Respondent No.1/NTC Written Comments and Respondent Nos.4 &5 Written Comments available in Part-II of the Petition.

Circumvention” investigation, which would trigger the ingredients of Article 199(1)(a)(ii) of the 1973 Constitution. Further, the petition has claimed/is claiming that the actions of the person, i.e. Respondent No.1/NTC, are “without lawful authority” and “is of no legal effect”. Both these terms, i.e. “without lawful authority” and “is of no legal effect”, are mentioned in Articles 199(1)(a)(ii), alone. While, as an ancillary, the petitioner has also sought directions from this Court to restrain (read: to stop and cease) Respondent No.1/NTC from taking any adverse action against the petitioner, such relief/remedy is not the main/primary relief/remedy sought by the petitioner. Therefore, applying the principles laid down in the unreported Order dated 02.12.2024 passed by this bench in the case of C.P. No.D-1590/2023 in Attock Cement Pakistan Ltd. and others v. Federation of Pakistan and others, the bench finds that in terms of the articles of the 1973 Constitution available for judicial review, Article 199(1)(a)(ii) is both the most relevant and the dominant remedy/relief sought by the petitioner.

7. Under Article 199 of the 1973 Constitution and as a judicial review, this bench next must determine whether the act done or proceeding taken by Respondent No.1/NTC falls within the contours of Article 199 of the 1973 Constitution. In case this determination is in the negative then this petition is not amenable to the extraordinary jurisdiction of Article 199 of the 1973 Constitution. Alternatively, if the determination is affirmative, this bench will have to decide the petition on merits.

8. It is common ground between the parties that NTC has passed a Final Determination Report dated 09.04.2018 wherein NTC imposed Anti-Dumping Duties of 28.74% on the exporters named therein and 29.02% Anti-Dumping Duty on all other non-cooperating exporters of the alleged dumped imports of the Investigated Products for a period of five years effective from 28.02.2017 to 27.02.2022. Further, parties are at idem that the Investigated Products of the Final Determination included Side Coated Bleached Board / Side Coated Folding Box Board with White Back Manila Pulp or ISC Ivory Board with White Back Manila Pulp (180gsm – 400 gsm) classified under PCT Heading

nos.4810.9200 and 4810.9900. Finally, it is also common ground that in the Sunset Review Report dated 24.08.2022, the products subject to review were the same, except that additionally, for the first time, there was mention in the Sunset Review in the products under review of “Two-Sided Coated Bleached Paperboard” as excluded. Additionally, in paragraph 10.2.7 of the Sunset Report, Respondent No.1/NTC, observed that the Applicants failed to justify its claim of circumvention of anti-dumping duties through documentary evidence. Therefore, it is pertinent to note that these products mentioned herein (both included and excluded products) all fall within the PCT No.4810.9200 and 4810.9900 classifications.

9. It is now a well-understood principle that before an aggrieved person triggers judicial review, the Constitutional Court must, at the proverbial doorsteps of judicial review, satisfy itself that “no adequate remedy is provided by law” to the petitioner. Section 33 of the Anti-Dumping Duties (“ADD”) Act, 2015 requires NTC to provide an opportunity to all interested parties to see the information submitted to it. The NTC has already invited all interested parties to make their views/comments known to it and to submit information and documents (if any) not later than 45 days from the date of publication of this notice in the press in Pakistan. Section 35 of the ADD Act 2015 requires NTC to solicit, gather, obtain, accept and reject information for the purpose of an investigation. Any party as defined as an interested party under Section 2(j) of the ADD Act, 2015,<sup>8</sup> if it so wishes, may send a written request for a hearing in accordance with Rule 14 of the Anti-Dumping Rules (“ADR”), 2022 within 30 days of publication of this notice to the Secretary of NTC. Section 38 also allows any interested party to submit written arguments. The petitioner should have engaged the machinery provided under the ADD Act, 2015, as discussed above. In view of the foregoing, it is expected that the petitioner should first exhaust the adequate remedy provided under the ADD

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<sup>8</sup> Section 2(j) “interested party” includes— (i) any exporter or foreign producer of an investigated product; (ii) any importer of an investigated product; (iii) trade or business association a majority of the members of which are producers, exporters or importers of an investigated product; (iv) the government of an exporting country; (v) any producer of a domestic like product in Pakistan; (vi) trade or business associations a majority of the members of which produce a domestic like product in Pakistan; and such other person or group of persons as the Commission may, by notification in the official Gazette, specify.

Act, 2015, which remedy the petitioner has attempted to side-step and managed to frog-leap its way to the High Court by filing this constitutional petition. The present action/filing on the part of the petitioner to immediately approach the High Court is to be discouraged, which view has been consistently articulated by the Superior Courts of Pakistan in several judgments<sup>9</sup> and, most recently by the Supreme Court of Pakistan in the Mian Azam Waheed case:<sup>10</sup>

“[t]he writ jurisdiction of the High Court cannot be exploited as the sole solution or remedy for ventilating all miseries, distresses and plights regardless of having equally efficacious, alternate and adequate remedy provided under the law which cannot be bypassed to attract the writ jurisdiction. The doctrine of exhaustion of remedies stops a litigant from pursuing a remedy in a new court or jurisdiction until the remedy already provided under the law is exhausted. The profound rationale accentuated in this doctrine is that the litigant should not be encouraged to circumvent or bypass the provisions assimilated in the relevant statute paving the way for availing remedies with precise procedure to challenge the impugned action. . . .”

10. In view of the above, the petitioner should have exercised recourse to the machinery provided under the ADD Act 2015, read with the ADR Rules 2022, and challenged the “Initiation Notice of Anti-Circumvention” investigation within the framework of the special law instead of filing this petition against the said investigation.

11. There is another aspect of the matter. The petitioner has mentioned in its’ pleading that it approached the Constitutional High Court after exhausting its right of appeal before the Appellate Tribunal, which held that in the facts and circumstances of the case, it had no jurisdiction to hear appeals arising from the “Initiation Notice of Anti-Circumvention” investigation. Therefore, the petitioner’s appeal was dismissed by the Appellate Tribunal vide its Judgment dated 27.08.2024. However, the

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<sup>9</sup> Messrs. Tameer Steel Zone through Authorized Representative v. Government of Pakistan through Federal Secretary Finance and Others, 2021 PTD 1423 (Peshawar High Court, DB); Shaheen Merchant v. Federation of Pakistan/National Tariff Commission and Others, 2021 PTD 2126 (Lahore High Court, SB), etc.

<sup>10</sup> Mian Azam Waheed and Two (2) Others v. The Collector of Customs through Additional Collector of Customs, Karachi, 2023 SCMR 1247

petitioner has not impugned this Judgment dated 27.08.2024 in the petition. According to the petitioner's Counsel, no appeal has been preferred against the Judgment of the Tribunal. Instead, the petitioner elected to impugn only the "Intimation Notice of Anti-Circumvention" investigation. Therefore, this bench must also examine if the Tribunal's conclusion was in accordance with law, and, if so, whether this petition can be justified within the frame of the statute. As no appellate forum/challenge was/is available to the petitioner against the conduct of an ongoing investigation, can the filing of this petition to eclipse the legislative frame be justified in the case at hand?

12. Section 70 of the ADD Act 2015 provides the right of recourse to an appeal and includes matters concerning initiating an investigation, including anti-circumvention measures.<sup>11</sup> Relevant provisions of Section 70 reads as follows:

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<sup>11</sup> **Section 63. Anti-circumvention measures.**— (1) Anti-dumping duties imposed pursuant to this Act may be extended to imports from third countries, of the like product, whether slightly modified or not, or to imports of the slightly modified like product from the country subject to measures, or parts thereof, when circumvention of the measures in force is taking place. Anti-dumping duties not exceeding the residual anti-dumping duty imposed in accordance with section 39 may be extended to imports from companies benefiting from individual duties in the countries subject to measures when circumvention of the measures in force is taking place. Circumvention shall be defined as a change in the pattern of trade between third countries and Pakistan or between individual companies in the country subject to measures by Pakistan, which stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty, and where there is evidence of injury or that the remedial effects of the duty are being undermined in terms of the prices or quantities of the like product, and where there is evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of this Act.

(2) The practice, process or work referred to in sub-section (1) includes, inter alia, the slight modification of the product concerned to make it fall under customs tariff which are normally not subject to the measures, provided that the modification does not alter its essential characteristics, the consignment of the product subject to measures via third countries, the re-organisation by exporters or producers of their patterns and channels of sales in the country subject to measures in order to eventually have their products exported to Pakistan through producers benefiting from an individual duty rate lower than that applicable to the products of the manufacturers, and, in the circumstances indicated in sub-section (3), the assembly of parts by an assembly operation in Pakistan or a third country.

(3) An assembly operation in Pakistan or a third country shall be considered to circumvent the measures in force where,—

- (a) the operation started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation and the parts concerned are from the country subject to measures;
- (b) the parts constitute 60 % or more of the total value of the parts of the assembled product, except that in no case shall circumvention be considered to be taking place where the value added to the parts brought in, during the assembly or completion operation, is greater than 25 % of the manufacturing cost;
- (c) the remedial effects of the duty are being undermined in terms of the prices or quantities of the assembled like product and there is evidence of dumping in relation to the normal values previously established for the like or similar products.

(4) Investigations shall be initiated pursuant to this section on the initiative of the Commission or at the request of any interested party on the basis of sufficient evidence regarding the factors set out in sub-sections (1) and (2). Investigations shall be concluded by the Commission within nine months.

**“Section 70. Appellate procedures.—**(1) Any interested party may prefer an appeal to the Appellate Tribunal against—

- (i) the initiation of an investigation or a preliminary determination, where it is alleged that it does not satisfy the requirements laid down in sections 23 and 37 respectively;
- (ii) an affirmative or negative final determination by the Commission under section 39
- (iii) any final determination pursuant to a review;
- (iv) an order of the Commission for termination of investigation under Section 41; or
- (v) a determination of the Commission under section 52.

...

(13) The decision of the Appellate Tribunal shall be appealable in the High Court. The High Court shall render a decision within ninety days of receiving an appeal from the decision of the Appellate Tribunal:

Provided that the High Court shall not make an interim order against the conduct of investigation by the Commission unless the Commission has been given notice of the application and has had an opportunity of being heard and the High Court, for reasons to be recorded in writing, is satisfied that the interim order would not have the effect of prejudicing or interfering with the carrying out of a public work or of otherwise being harmful to the public interest [or State property] or of impeding the assessment or collection of public revenues:

Provided further that The Appellate Tribunal may, if it thinks fit, accept an application from any party to an appeal in which the Appellate Tribunal has rendered its decision, for a clarification of any of the issues raised by the Appellate Tribunal in its decision:

Provided also that such application shall specify the precise issue in respect of which a clarification is sought and give reasons as to why a clarification is necessary:”

(underlining added)



13. In view of the provisions of Section 70(1)(i), an appeal filed by an interested party is maintainable where the ingredients of filing an appeal under Section 70(1)(i) are satisfied, that is, when the prerequisites of Sections 23 and 37 of the ADD Act, 2015 have not been met. Section 23 is in Part VII of the ADD Act, 2015, titled "INITIATION AND CONDUCT OF INVESTIGATIONS". When receiving an application from the applicant-complainant, Respondent No.1/NTC is required to scrutinise such application made by the complainant-applicant within the contours of Sections 20, 23 and 24 of the ADD Act, 2015. Sections 20, 23 and 24 of the ADD Act, 2015 relate to the complainant-applicant state as follows:

**"Section 20. Requirement of a written application.—**(1) Subject to section 24 and save as provided for in section 25, an investigation by the Commission shall only be initiated upon a written application by or on behalf of domestic industry.

(2) An application under sub-section (1) shall—

(a) be submitted to the Commission in such manner, number and form and with such fee as may be prescribed;

(b) include evidence of dumping and injury within the meaning of this Act and the causal link between the dumped imports and the alleged injury, as is reasonably available to the applicant; and

(c) contain such further information as may be prescribed."

**"Section 23. Initiation of an investigation.—**(1) Subject to section 24, the Commission shall examine accuracy and adequacy of evidence provided in an application to determine whether it is compliant with the requirements of section 20 and if so whether there is sufficient evidence to justify initiation of an investigation.

(2) An application under section 20 shall be rejected as soon as the Commission is satisfied that sufficient evidence is not available to indicate dumping or any injury to justify initiation of an investigation.

(3) The Commission may seek additional information from an applicant before deciding whether to initiate an investigation and such information shall be provided by the applicant to the Commission within such time and in such manner as may be prescribed.

(4) When the Commission is satisfied that —

- (a) an application under section 20 has been made by or on behalf of domestic industry; and
- (b) there is sufficient evidence of dumping and injury within the meaning of this Act,

the Commission shall initiate an investigation.

(5) Where the Commission does not consider it appropriate to initiate an investigation, it shall inform all the applicants of the reasons for not initiating the investigation and shall inform the exporting country of its decision.”

**“Section 24. Application by or on behalf of domestic industry.—**(1) For the purposes of section 20, an application shall be considered to have been made by or on behalf of domestic industry only if it is supported by those domestic producers whose collective output constitutes more than fifty per cent of the total production of a domestic like product produced by that portion of the domestic industry expressing either support for or opposition to the application.

(2) For the purposes of section 23, no investigation shall be initiated when domestic producers expressly supporting an application account for less than twenty-five percent of the total production of a domestic like product produced by domestic industry.

(3) In the case of fragmented industries involving an exceptionally large number of producers, the Commission may determine support and opposition for an application submitted under section 20 by using statistically valid sampling techniques.”

14. The above-cited sections do not concern the potential target or the interested party, like the petitioner, to whom the initiation of the investigation may allegedly impact. Section 23 accrues in two scenarios from the perspective of the applicant-complainant: (i) where the ingredients of Section 20 of the ADD Act, 2015 are not met to justify the initiation of an investigation and (ii) when an application to initiate an action is rejected by NTC when during the “Initiation of an Anti-Circumvention” investigation of dumping and injury based on evidence “as is reasonably available to the applicant” NTC is satisfied that “sufficient evidence” is not available to indicate dumping or an injury to justify continuing an initiation of an investigation. From a time-wise perspective, Section 23 covers two types of situations, either (a) the period

starting from when an application for Initiation of Investigation has been filed, and the investigation process has yet to begin with the issuance of the Notice of Initiation, or (b) the Notice of Initiation of Investigation is published/notified and the period of initiation of investigation has commenced (but before the final determination by NTC). During both situations (a) and/or (b), NTC may, under Section 23, decide to reject the complainant-applicant's application. Regardless, Sections 20 and 23 of the ADD Act 2015 limit themselves to matters relating to and/or concerning the complainant-applicant only. Thus, Section 70, while it may be invoked by "any interested party" yet, given the cross-reference to Sections 23 and 37 in Section 70(1)(i), in fact, this particular sub-section of Section 70, enables an opportunity of appeal to complainant-applicants under Section 20 exclusively. This is because the ingredients of Section 70(1)(i) to invoke it can be satisfied by the applicant-complainant who has filed the application/complainant under Section 20, not the petitioner. Only an interested party who is an applicant-complainant under Section 20 may be aggrieved by any adverse actions of the NTC under Section 23 because they are the ones who have filed the application/complaint with the NTC and, as such, when aggrieved by the adverse action, then invoke Section 70(1)(i). The petitioner cannot make out a case for appeal under Section 70(1)(i) because it's not the one to file the application/complaint under Section 20 for him to be aggrieved that the requirements laid down in Section 23 have not been satisfied. It is the complainant-applicant whose application may be rejected at the preliminary stage based on a lower standard of evidence, i.e. "as is reasonably available to the applicant" in Situation (a) above or during the pendency of the initial investigative stage, in Situation (b) above, NTC is satisfied that "sufficient evidence" of the applicant-complainant which may be collected and gathered under Section 63 of the ADD Act, 2015 which will constitute demonstrable evidence of dumping and injury that becomes the foundation of the final determination under Section 37 of the ADD Act, 2015 is not forthcoming or emerging. An adverse action on the part of NTC during Situations (a) and/or (b) or otherwise, which will trigger a cause to the applicant-complainant to invoke Section 70(1)(i). In such circumstances, if Respondent No.1/NTC

dismisses the application, Section 70(1)(i) provides the right to appeal to the aggrieved applicant-complainant to challenge such application rejection by NTC before the Appellate Tribunal. If the Legislature intended to provide a full-fledged right of appeal at the initiation stage of investigations, then it would not have attached any conditions/prerequisites to Section 70(1)(i), as is the case at hand. In other words, the Legislature did not provide the right of a complete “interlocutory appeal” to all “interested party” during the initiation of an investigation but limited such “interlocutory appeal” as it were to be made by the applicant-complainant only within the contours of Sections 20, 23 and 24. This may be seen in the juxtaposition of Section 70(1)(ii), which is worded very differently from Section 70(1)(i). Section 70(1)(ii) provides an unconditional and unqualified right of appeal against the final determination of an Anti-Circumvention Investigation. It is like a final appeal to the NTC’s determination. Section 70(1)(ii) refers to an appeal to an affirmative or negative final determination by the NTC under Section 39. This final appeal can be invoked by “any interested party” – be it the applicant-complainant under Section 23 or the petitioner or otherwise those who fall within the definition of an interested party under Section 2(j) of the ADD Act, 2015. Hence, an unconditional right of appeal is available to those interested parties impacted by the investigation once the final determination is made based on sufficient evidence under Section 39. The petitioner did not have the right to appeal before the Appellate Tribunal under Section 70(1)(i) of the ADD Act, 2015, when it approached it. The petitioner was not the applicant-complainant of the initiation of the investigation under Section 23, and for the reasons cited above, the conclusion reached by the Appellate Tribunal vide its Judgment dated 27.08.2024 that it did not have jurisdiction to hear the petitioner’s appeal was correct. If the petitioner had no cause to file an appeal before the Appellate Tribunal in the facts and circumstances of the case, which position remains the same, we cannot allow the petitioner to frog-leap the frame of the statute and arrive at the door of the Constitutional High Court and reduce the statutory framework provided to address such situations to a cipher. The framework of the ADD Act, 2015 could only be eclipsed if there was a breach of any constitutional rights of the petitioner by the machinery

provided under the statute, including its fundamental rights. But this is not the petitioner's case. The petitioner has not identified any violation of the constitution apart from Article 199(1)(a)(ii) of the 1973 Constitution. As such, the petitioner is not entitled to any relief in writ jurisdiction from the Constitutional High Court.

15. Finally, to close the loop, Section 70(1)(i) also refers to Section 37 of the ADD Act, 2015. It states as follows:

37. Preliminary determination.—(1) The Commission shall make a preliminary determination of dumping and injury, if any, not earlier than sixty days and not later than one hundred and eighty days, after initiation of an investigation. Such preliminary determination shall be based on the information available to the, Commission at that time.

(2) The Commission shall issue a notice of preliminary determination, whether affirmative or negative, which shall, subject to the requirements of section 31, set forth in sufficient detail the findings and conclusions reached on all issues of fact and law considered material. Such notice of preliminary determination may also contain such other information as may be prescribed.

(3) The Commission shall publish a copy of the notice of preliminary determination in the official Gazette and in at least one issue each of a daily newspaper in the English language and a daily newspaper in the Urdu language having wide circulation in Pakistan.

(4) The Commission shall forward a copy of the notice of preliminary determination to exporting country and to other known interested parties.”

16. As is apparent from the plain reading of Section 37, it concerns the preliminary determination of dumping and injury after the initiation of an investigation but this stage has not occurred in the facts and circumstances of the case and does not apply to the case at hand. Moreover, Section 37 accrues cause to the applicant-complainant and not anyone else.

17. Finally, the petitioner claims that the investigated product being imported from the foreign exporter is “Two-side coated bleached paperboard”.” In contrast, it is the claim of Respondent Nos.4 and 5, who are

also applicant-complainants before NTC that the investigated product is not “Two-side coated bleached paperboard” in its true form. The applicants-complainants claim that the foreign exporters have “slightly modified” one-sided coated bleach board to allegedly look like “Two-side coated bleached paperboard” in order to circumvent the duty imposed on one-sided coated bleach board. Indeed, this Constitutional Court is not the appropriate forum to conduct this fact-finding exercise, which is why the Legislature has provided the powers to NTC to address such controversy under Section 35 of the ADD Act, 2015, read with Rules 29, 9 and 11, including, inter alia, to submit questionnaires to the foreign exporters and further verify given information by way of an on-spot-verification at the officers and plants of the foreign exporters. The Anti-Circumvention investigation needs to be taken to its logical conclusion, and any attempt to delay and/or stall the process of law, cannot and should not be sustained before the Constitutional Court.

18. Based on the above understanding, the discussion set out herein, and the record available in the petition, we hold that this petition is not maintainable and is dismissed with no order as to costs.

Judge

Chief Justice