



ADHYATAN

TPM Newsletter

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The Month in Flashback

Trade Remedial Measures in India

Number of investigations initiated	2
Number of findings issued	.....	6
Duties imposed or continued	.....	0
Duties recommended but not imposed	.....	2
Ongoing anti-dumping investigations	.....	21
Ongoing anti-subsidy investigations	.....	4
Ongoing safeguard investigations	.....	0

Non-Tariff Barriers

Number of non-tariff notifications by India	.....	4
Number of non-tariff notifications by others	.....	260

Key Highlights

India

Increased analysis of public interest in trade remedial investigations in India.

The DGTR is gradually undertaking a more detailed analysis of the interests of public at large as part of anti-dumping investigations concluded recently. In recent findings, the DGTR has analysed the likely impact of imposition of anti-dumping duty on performance of the downstream industries as well as the impact of previous or existing anti-dumping duty on the consumers in case of a sunset review investigation, demand-supply gap in India, need for fair priced imports, alternative sources of supply including through imports from other countries, possibility of a situation of monopoly in India due to imposition of duties, existence of fair competition in India due to inter se competition between the domestic producers, etc. The public interest analysis of the DGTR covers interests of domestic producers, consumers as well as public at large.

DGTR finds that a particular market situation may exist, where there is distortion of raw material prices (31 Mar)

The DGTR has issued Final Findings in the anti-dumping investigation into imports of Low-Density Polyethylene from Saudi Arabia, Singapore, Thailand and USA. The Authority concluded that there exists a particular market situation in Saudi Arabia as the prices of inputs including ethane, propane, butane and natural gas are fixed by the Government. The DGTR has also concluded that the very fact that the prices are regulated, even though the prices have been increased, implies that the prices are fixed by the Government and not determined by free market forces. The DGTR has considered that a finding of particular market situation may not necessarily be made for the product under consideration itself, but may also be made for the inputs used.

Rejection of responses on failure of producer and its related exporter to furnish correct information (30 Mar)

The DGTR has issued Final Findings recommending imposition of anti-dumping duty on imports of certain rubber chemicals namely, TDQ from China, EU and Russia, PVI from China, and CBS from China. The DGTR concluded that the responding producer and its related exporter should be considered non-cooperative since they mis-declared factual information regarding significant exports of the subject goods to India by their parent company during the period of investigation.

Focus on Higher Domestic Production: PLI Scheme

Brief

- **PLI scheme was launched in 2020, to encourage investment from domestic and foreign companies.**
- **The scheme is intended to boost domestic manufacturing capabilities, reduce reliance on imports and increase export-orientation.**
- **Initially, the scheme was introduced in only three sectors, namely mobile manufacturing and electric components, medical device manufacturing, and active pharmaceutical industry.**
- **Now the scheme is active across thirteen different sectors, including ACC battery, electronic / technology products, automobile and auto components, pharmaceuticals, textiles, steel products, drug intermediates and APIs, among others.**
- **The eligibility criteria under the scheme typically relates to investment made and additional goods manufactured over the base year.**
- **The Government has received applications from hundreds of producers for benefit under the scheme.**
- **The Ministry of Chemicals and Fertilizers is considering introduction of the scheme for the chemical sector as well.**

Production Linked Incentive (also known as PLI) is a government initiative launched in March of 2020, to encourage investment from foreign and domestic companies and to create more employment. The idea behind the scheme is relatively simple:

1. To boost India's manufacturing capabilities
2. To decrease reliance on imports
3. To enhance export-oriented production

As the name suggests, the PLI scheme works by providing incentives which are directly linked to the production/manufacturing capabilities of a company. The PLI scheme can be implemented by the concerned ministries/departments and shall be within the overall financial limits prescribed. The final proposals of PLI for individual sectors will be appraised by the Expenditure Finance Committee (EFC) and approved by the Cabinet. Any new sector for PLI will require fresh approval of the Cabinet.

The scheme was first introduced in following three key sectors identified by the Government:

1. Mobile manufacturing and electric components

-
2. Medical device manufacturing
 3. Active Pharmaceutical Industry (API)

The duration of the scheme ranges from four to six years and typically operates on the premise of providing incentive in form of a) some percentage of cash incentive to manufacturing companies on every additional production/ sale made over the base year, or b) increase in basic customs duties. To avail these benefits, a manufacturing entity has to establish its eligibility, which might include certain investments being planned and type of investment (whether greenfield or brownfield), etc. This gives manufacturing companies a support for current investments and direct incentive to boost capacities and manufacturing facilities further. The scheme is genesis of Government's view of enhancing domestic production of goods to make the country 'Aatmanirbhar'. Another key component of the scheme, which was announced in November 2021, is that savings generated from one sector can be transferred to other sectors making efficient and complete use of the budget assigned for the scheme.

Implementation of the sector-specific schemes is the responsibility of the involved ministries and departments. Initially, the scheme was notified in three key sectors; however, as of now the scheme is active across 13 different sectors, including ACC battery manufacturing, electronic / technology products, automobile and auto components, pharmaceuticals, telecom products, textiles, food processing, solar PV manufacturing, steel products, medical devices, drug intermediates and APIs, white goods, and mobile manufacturing.

For the purpose of seeking benefit under the scheme, an eligible manufacturing entity has to make an application as per guidelines issued along with the scheme. For the purpose of eligibility under the scheme, typical requirement is investment and additional sale of manufactured goods over the base year. However, this is a general criteria and every sector has specific eligibility criteria that a manufacturer needs to satisfy to receive the benefit. For example, in case of mobile phone manufacturing, domestic companies must have a consolidated global manufacturing revenue (including group companies) of more than INR 100 crore in the base year of 2019-20.

The PLI scheme has garnered huge success in India. The World Bank believes that PLI will assist the Indian economy to grow at a rate of 8.7% in the FY 2022-23, outperforming the growth rate of emerging rival economies like China. According to the Finance Minister Nirmala Sitharaman, the scheme is set to generate 6 million new jobs in the next 5 years. Apart from this, the scheme has been well received by manufacturing companies as Government has received applications for PLI from hundreds of companies across sectors. Through the virtue of this scheme the Indian Government will push Indian manufactured products and brands to become a global staple boosting the Indian GDP and forex reserves.

While the 13 Sectors that have received the benefit of this scheme are performing well, the Government does not plan to stop yet. According to the Minister of Chemical and Fertilizers, Mansukh Mandaviya, the Ministry is planning to extend PLI scheme to the chemical sector as well. Further, the Ministry seems to be considering holding industrial consultations in order to see the possibilities of PLI scheme and discuss the modalities around the same. This could be really good news for the chemical industry in India. As of now, India is a net importer of inorganic and organic chemicals. If the scheme is extended to the chemical sector the situation could very well change. Currently, China is the biggest exporter of chemicals in the world, while USA is the largest importer of the same. Given the tense trade relations between the two countries, India can be an alternate source of supply for USA. Chemicals is a fast-growing industry with global demand for chemicals on the rise. Owing to the scheme, India could be poised to take advantage of this increase in demand both locally and internationally providing yet another boost to the forex reserves of the Nation.

Through this scheme, the Government is providing unprecedented boost to manufacturing in key sectors. The predicted outcome so far is going in the right direction and the response from all the stakeholders involved is encouraging. India could very well be headed towards boosting its manufacturing capacities significantly to become a global manufacturing hub.

– Dilbar Singh, Business Analyst

RS Infra Transmission Limited
Vs.
Commissioner of Customs -Jaipur I

Customs Appeal No. 50758/2020
Dated 30th March 2022

The Appellant was a manufacturer of construction material. The Appellant imported zinc anodes from Sri Lanka and claimed benefit of concessional customs duty based on country-of-origin certificate. The Customs challenged the certificate of origin, denied the claim and seized the goods. An order dated 30th June 2008 was issued denying exemption of customs duty, demand for differential customs duty and confiscation of goods. The order was challenged before the Tribunal and vide final order dated 4th October 2017 the appeal was allowed. The Appellant filed a refund claim of countervailing duty, which was rejected vide Show Cause Notice dated 4th July 2018. The Appellant filed an appeal being aggrieved of the said rejection.

The Customs denied the claim of refund on the basis that right of availment of credit has passed. The Customs found that as more than a year had passed since the payment of duty, the claim for refund was time barred. On appeal, the Tribunal observed that Section 3 of the Customs Tariff Act, 1975 states that any countervailing duty, in lieu of excise duty, is Cenvatable. Any refund of unutilized credit can be taken if it fulfils the conditions under Section 11B of the Central Excise Act, 1944, within one year from the relevant date for the claim to be filed.

While placing reliance on Pioneer India Electronics (P) Ltd. Vs. Union of India, the Tribunal held that the refund claim is to be calculated from the date of adjustment of duty after the final assessment and not from the date on which the duty was paid provisionally. Till the final adjudication by the Court or Tribunal, the quantum of duty and refund remains uncertain. The Tribunal held that the relevant date in terms of Section 11B was the date of the final order. Therefore, the Appellant was entitled for the refund of countervailing duty under Section 11B, along with interest.

Trade Remedial Actions in India

Initiation of investigations

- Anti-circumvention investigation of anti-subsidy duty on imports of Saccharin originating in China, being exported from Thailand.^[1] (17 Mar)
- Sunset review of anti-dumping duty on imports of New / Unused Pneumatic Radial Tyres from China. ^[2] (30 Mar)

Duties recommended

- Continuation of anti-dumping duty on imports of Ceramic Tableware and Kitchenware from China. ^[3] (10 Mar)
- Continuation of anti-dumping duty on imports of Aluminum Foil 5.5 Micron to 80 Micron from China. ^[4] (14 Mar)
- Continuation of anti-dumping duty on imports of Hydrogen Peroxide from Bangladesh and Thailand. ^[5] (16 Mar)
- Imposition of anti-dumping duty on imports of Fluoro Backsheet from China. (29 Mar)
- Imposition of anti-dumping duty on imports of certain Rubber Chemicals, viz. TDQ from China, European Union and Russia, PVI from China and CBS from China and European Union. ^[6] (30 Mar)
- Imposition of anti-dumping duty on imports of Low-Density Polyethylene from Saudi Arabia, Singapore, Thailand and USA. ^[7] (31 Mar)

Duties recommended but not imposed

- Anti-dumping duty on imports of Glass Fibre from Bahrain and Egypt. (03 Mar)
- Anti-dumping duty on imports of Uncoated Copier Paper from Indonesia and Singapore. (03 Mar)

Customs Notifications

- Extension of anti-dumping duty on imports of Jute Products from Bangladesh and Nepal till 31st August 2022. (31 Mar)

Trade Remedial Actions outside India

Chapter 23 – Residues and waste from food industries

Trade remedial actions against India

United States of America

Final affirmative determinations issued in anti-dumping and anti-subsidy investigations into imports of Organic Soybean Meal from India (23 Mar)

DOC has determined that Organic Soybean Meal from India is dumped into USA and the producers in India are also receiving countervailable subsidies. Anti-dumping duty upto 18.80% and anti-subsidy duty as high as 283.19% have been imposed on Indian exports.

Chapter 29 – Organic Chemicals

Taiwan

- Continuation of anti-dumping duty on imports of Benzyl Peroxide from China. (21 Mar)

Turkey

- Initiation of anti-dumping investigation into imports of Phthalic Anhydride from Korea. (30 Mar)

USA

- Initiation of sunset review investigation of anti-dumping duty on imports of R-134A from China. (01 Mar)
- Imposition of anti-dumping and anti-subsidy duties on imports of Pentafluoroethane (R-125) from China. (03 Mar)

Chapter 31 – Fertilizers

Mexico

- Imposition of anti-dumping duty on imports of Ammonium Sulfate from China. (31 Mar)

Chapter 32 – Tanning and Dyeing extracts

Trade remedial actions against India

China

Initiation of anti-dumping investigation into imports of Phthalocyanine from India (01 Mar)

The MOFCOM has initiated an anti-dumping investigation against imports from India pursuant to an application filed by the China Dye Industry Association. MOFCOM has issued a sampling questionnaire on 25th March 2022 which is due to be filed within 12 days of issuance.

Trade Remedial Actions outside India

Chapter 38 – Miscellaneous chemical products

Eurasian Economic Union

- Temporary suspension of anti-dumping duty on imports of Herbicides from European Union and United Kingdom. (22 Mar)

Chapter 39 – Plastics and articles thereof

Trade remedial actions against India

USA

USITC finds that material injury is likely to continue or recur on revocation of anti-dumping and anti-subsidy duties on imports of Polyethylene Terephthalate Resin from Canada, China, India and Oman (10 Mar)

USITC has determined that dumped imports from Canada, China, India and Oman and subsidized imports from China and India are likely to cause material injury to the U.S. industry upon revocation of existing duties. Pursuant to the determination of USITC, the DOC will now issue orders for continuation of duties.

Other trade remedial actions

Argentina

- Imposition of anti-dumping duty on imports of Polymer Vinyl Chloride Profiles from Turkey. (11 Mar)

Eurasian Economic Union

- Imposition of anti-dumping duty on imports of Melamine from China. (18 Mar)

Thailand

- Imposition of anti-dumping duty on imports of Biaxially Oriented Polypropylene (BOPP) Films from China and Indonesia (10 Mar)

Chapter 48 – Paper and paperboard articles of paper pulp

Australia

- Initiation of expiry review of anti-dumping duty on imports of A4 Copy Paper from Brazil, China, Indonesia and Thailand. (30 Mar)

United States of America

- Final affirmative determinations issued in the sunset review investigation of anti-subsidy duty on imports of certain Coated Paper from China and Indonesia. (24 Mar)

Trade Remedial Actions outside India

Chapter 58 – Special woven fabrics

United States of America

- Continuation of anti-dumping and anti-subsidy duty on imports of Narrow Woven Ribbons with Woven Selvedge from China and Taiwan. (17 Mar)

Chapter 70 – Glass and glassware

South Africa

- Imposition of provisional anti-dumping duty on imports of Laminated Safety Glass from China. (07 Mar)

Chapter 72 – Iron and Steel

Trade remedial actions against India

Canada

CBSA initiates re-investigation to update normal value and export price applicable to imports of Oil Country Tubular Goods from China, India, Indonesia, South Korea, Taiwan, Thailand, Turkey and Vietnam. (08 Mar)

CBSA has initiated a re-investigation of normal value and export price applicable to all exporters as determined in the expiry review investigation conducted in 2020. CBSA has issued questionnaire responses for all exporters which is due to be filed on 14th April 2022.

CBSA concludes normal value review updating normal value and export price applicable on imports of Oil Country Tubular Goods from India by Jindal SAW Limited. (09 Mar)

CBSA has updated the normal value and export price as applicable to Jindal SAW Limited, as determined in the expiry review investigation conducted in 2020. Pursuant to the review, goods exported by Jindal SAW Limited will be subject to anti-dumping duty at the rate of 37.4%.

Mexico

Initiation of anti-dumping investigation into imports of High Coal Ferromanganese from India. (14 Mar)

The Ministry of Economy has initiated an anti-dumping investigation against imports from India pursuant to an application filed by Minera Autlán, which is the largest producer of ferroalloys in Mexico. Minera Autlán has alleged that imports from India have increased significantly leading to price discrimination. The Ministry has issued questionnaires on 15th March 2022 which is due to be filed within 28 days of issuance.

Trade Remedial Actions outside India

Chapter 72 – Iron and Steel

Other trade remedial actions

Australia

- Initiation of expiry review of anti-dumping duty on imports of Steel Reinforcing Bars from Greece, Indonesia, Spain, Taiwan and Thailand. (28 Mar)

Canada

- Initiation of expiry review investigation of anti-dumping duty on imports of certain Concrete Reinforcing Bars from Belarus, China, Hong Kong, Japan, Portugal, and Spain. (30 Mar)

Eurasian Economic Union

- Initiation of expiry review of anti-dumping duty on imports of Hot-Rolled Steel Angles from Ukraine. (09 Mar)

Indonesia

- Imposition of anti-dumping duty on imports of Hot Rolled Coil of other alloy from China. (03 Mar)

Mexico

- Imposition of anti-subsidy duty on imports of Carbon Steel Plates from Romania, Russia and Ukraine. (08 Mar)

United States of America

- Initiation of sunset review investigation of anti-dumping and anti-subsidy duties on imports of Stainless Sheets and Strips from China. (01 Mar)
- Final affirmative determination issued in the sunset review investigation of anti-subsidy duty on imports of Stainless-Steel Plate in Coils from South Africa. (23 Mar)
- Final affirmative determination issued in the sunset review investigation of anti-dumping and anti-subsidy duties on imports of certain Carbon and Alloy Steel Cut-to-Length Plates from Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, Korea, South Africa, Taiwan and Turkey. (25 Mar)

Chapter 73 – Articles of Iron and Steel

Canada

- CBSA initiates anti-dumping and anti-subsidy investigations into imports of Drill Pipes from China. (25 Mar)

Trade Remedial Actions outside India

Chapter 73 – Articles of Iron and Steel

United States of America

- USITC finds that material injury is likely to continue or recur on revocation of anti-dumping duty on imports of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea, Mexico and Turkey (10 Mar)
- Preliminary affirmative determination issued in the anti-subsidy investigation into imports of Oil Country Tubular Goods from Russia and negative determination issued in the investigation into imports from Korea. (14 Mar)
- Final affirmative determinations issued in the sunset review investigation of anti-dumping duty on imports of certain Iron Construction Castings from Brazil, Canada and China. (16 Mar)

Chapter 74 – Copper and articles thereof

Australia

- Termination of anti-dumping investigation into imports of certain Copper Tubes from Vietnam. (04 Mar)

United States of America

- Initiation of sunset review investigation of anti-dumping duty on imports of Phosphorous Copper from Korea. (01 Mar)
- Final affirmative determinations issued in the sunset review investigation of anti-dumping duty on imports of Seamless Refined Copper Pipes and Tubes from China and Mexico. (03 Mar)

Chapter 76 – Aluminium and articles thereof

United States of America

- Initiation of sunset review investigation of anti-dumping and anti-subsidy duties on imports of Aluminium Extrusions from China. (01 Mar)

Chapter 81 – Other base metals, cermets and articles thereof

United States of America

- Initiation of sunset review investigation of anti-dumping duty on imports of Pure Magnesium from China. (01 Mar)

Trade Remedial Actions outside India

Chapter 84 – Machinery and mechanical appliances

Argentina

- Initiation of sunset review investigation of anti-dumping duty on imports of Screw Compressors from Brazil. (11 Mar)

United States of America

- USITC finds that material injury has been caused to the U.S. industry by dumped imports of certain Mobile Access Equipment and Subassemblies from China. (24 Mar)
- Final affirmative determinations issued in the sunset review investigation of anti-dumping and anti-subsidy duties on imports of certain Walk-Behind Snow Throwers from China. (29 Mar)

Chapter 85 – Electrical machinery, equipment and parts thereof

Trade remedial actions against India

European Union

Initiation of expiry review of anti-dumping and anti-subsidy duties on imports of Graphite Electrode Systems from India (09 Mar)

European Commission has initiated expiry reviews of anti-dumping and anti-subsidy duties based on application by GrafTech, Showa Denko Europe and Tokai Erft Carbon. The anti-dumping duty ranging from 0-9.5% and anti-subsidy duty ranging from 6.3-7.2% were imposed in 2017.

Other trade remedial actions

Argentina

- Initiation of anti-dumping investigation into imports of Electric Kettles from China (11 Mar)
- Continuation of anti-dumping duty on imports Multiprocessors for processing food and liquids from Brazil and China. (11 Mar)

Turkey

- Initiation of anti-dumping investigation into imports of Solar Panels from China. (29 Mar)

Other Trade Updates

Foreign Trade Policy

Extension of last date for filing of application for scrip-based schemes (07 Mar)

The Foreign Trade Policy has been amended to modify the last date for filing application for scrip based schemes.

- a. MEIS - For exports made in the period 1st April 2020 to 1st December 2020 and 2% additional ad hoc incentive for exports made in the period 1st January 2020 to 31st March 2020, the last date for filing applications is 30th April 2022.
- b. ROSCTL and ROSL - For exports made in the period 1st January 2020 to 31st March 2020, the last date for filing applications is 15th March 2022.

Modification of policy for export and import of Hydrocarbons (09 Mar and 23 Mar)

The export and import policy of Hydrocarbons has been revised from 'Free' to 'Restricted' category with immediate effect. The export authorisation would be issued by NOC of Ozone Cell, Ministry of Environment, Forest and Climate Change (MoEF&CC).

Enlistment under Appendix 2E to issue Certificate of Origin (14 Mar)

The DGFT has authorised the Mewar Chamber of Commerce and Industry as an agency listed under Appendix 2E of FTP 2015-20 to issue Certificate of Origin (Non-Preferential) (CoO NP).

New online module for filing registration for the Interest Equalisation Scheme (15 Mar)

Since RBI has extended the Interest Equalisation Scheme up to 31st March 2024, the DGFT has operationalised a new online system to register for the scheme with effect from 1st April 2022.

Amendment in Handbook of Procedures with respect to submission of FIRC for OFAC listed countries (17 Mar)

The Handbook of Procedure has been amended to allow exporters to submit the Foreign Inward Remittance Certificate (FIRC) along with a self-declaration that e-BRC could not be generated by the concerned bank in case of exports to OFAC countries.

Extension of Foreign Trade Policy 2015-20 and Handbook of Procedures 2015-20 (31 Mar)

The validity of the existing Foreign Trade Policy 2015-20 and Handbook of Procedures 2015-20 has been extended to 30th September 2022. The Policy and Handbook had been earlier extended till 31st March 2022,

Other Trade Updates

Free Trade Agreements

India and Canada agree to re-launch talks for Free Trade Agreement

India and Canada have agreed to re-launch talks for a Free Trade Agreement on 11th March 2022. This decision was made in a meeting between Commerce Minister Piyush Goyal and Canadian Trade Minister Mary Ng.

India and UAE Free Trade Agreement likely to come into effect on 1st May

A Free Trade Agreement between the two countries is most likely to come into effect on 1st May 2022. Under this agreement 6,090 domestic goods from sectors like textiles, dry fruits, jewellery, etc. can be exported duty free to UAE.

Second round of talks regarding Free Trade Agreement concluded between India and UK

Second round of negotiations included talks on draft treaty text across most chapters that will make up the agreement. The third round of negotiations will be held in April 2022.

Bureau of Indian Standards

Change in date of Quality Control Order (10 Mar)

The following Quality Control Orders will come into force on 12th September 2022:

- Acrylonitrile- Butadiene Styrene (ABS)
- Ethylene Dichloride
- Polycarbonate
- Vinyl Chloride Monomer

Change in date of Quality Control Order (11 Mar)

The following Quality Control Orders will come into force on 13th September 2022:

- Pyridine
- Gamma Picoline
- Potassium Carbonate
- Sodium Tripolyphosphate
- Acetone

Change in date of Quality Control Order (23 Mar)

The following Quality Control Orders will come into force on 13th September 2022:

- p-Xylene
- Polyurethanes

Modification of Standard (24 Mar)

The existing Standard IS 8910 : 2010/ISO 404 : 1992 concerning General Technical Delivery Requirements for Steel and Steel Products shall be withdrawn with effect from 21st April 2022 and be substituted by IS 8910 : 2022/ISO 404 : 2013.

About Us

TPM was founded in 1999 at a time when the practice of trade remedies in India was in its infancy and there were only a handful of firms in the field. While other firms added these services to their existing portfolios, TPM dealt exclusively in cases in the domain of trade remedies.

TPM began its journey with a staff of merely 2 professionals. Today, it has a team of more than 40 professionals including Cost Accountants, Chartered Accountants, Company Secretaries, Lawyers, Engineers and MBAs.

From the beginning, TPM was focused on providing consultancy in the field of trade remedies. TPM helps domestic producers suffering due to cheap and unfair imports into India to avail the necessary protection under the umbrella of the WTO Agreements. TPM has also assisted the domestic producers in other countries to avail similar measures in their respective countries. Besides assisting domestic producers in India and other countries, TPM also assists exporters and importers facing trade remedial investigations in India or other countries. TPM has assisted Indian exporters facing investigations in a number of jurisdictions such as Argentina, Brazil, Canada, Egypt, European Union, GCC, Indonesia, Korea RP, Turkey and USA.

TPM has an enviable experience in the field, of more than 700 cases. Its unique experience in the field sets it apart from other firms. While the firm is primarily dedicated to trade remedies, it also provides services in the field of trade policy, non-tariff barriers, competition law, trade compliance, indirect taxation, trade monitoring and analysis. It also represents industries before the Government in matters involving customs policy.

TPM Consultants

Ish Kriti, J-209, Saket, New Delhi – 17



[011 – 4989 2200](tel:011-49892200)



info@tpm.in



www.tpm.in



[TPM Solicitors
& Consultants](#)

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