

Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi -110011

F.No. 18/56/2018-19/ECA-I(3)

Date of Order: 03.05.2019

Date of Dispatch: 08.05.2019

Name of the Appellant:

Pan Drugs Limited,
167-168 GIDC Nandesari Industrial Estate,
Vadodara, Gujarat 391340, India.

IEC Number:

0388063670

Order reviewed against:

Order-in-Appeal
No.08/01/144/00017/AM17/A'bad/0509,
dated 29.03.2018 passed by the Addl. DGFT,
Mumbai.

Order-in-Review passed by:

Shri Alok Vardhan Chaturvedi, DGFT

Order-in-Review

Pan Drugs Limited, 167-168 GIDC Estate, Nandesari, Vadodara- 391340, has filed this review under section 16 of the Foreign Trade (Development & Regulation) Act 1992, as amended, against the order in original 34/01/002/0035/AM12 dated 29.11.2016 and order in appeal No. 08/01/144/00017/AM17/A'bad/0509, dated 29.03.2018.

Brief facts of the case

2.0 Pan Drugs Limited, had applied and obtained an advance Authorisation No. 3410005339 dated 18.09.2002 for CIF value Rs. 39,03,900/- for import of 16500 kgs of Guaiacol and 14080 Kgs. of Epichlorohydrin against export of 22000 Kgs. of Guaifenesine for an FOB value of Rs 69,71,250/- (USD 143000). One of the conditions of the licence was that the licensee had to fulfil the corresponding export obligation within a period of 24 months from the date of issuance of the licence and submit the documents within one month from the date of expiry of export obligation.

2.1 The Licensing authority had issued letter dated 04.12.2013 and directed to regularise the case as per Public Notice No. 22 dated 12.08.2013. Again vide letter dated 10.02.16 the licensing authority had directed to submit export documents and gave opportunity for personal hearing. The company's request for clubbing of licence was rejected by DGFT, New Delhi vide letter dated 16.08.2012. The company was required to regularise the case by

paying customs duty and interest which it failed to do. Thus the company have violated the conditions of the licence.

2.2 Therefore, the Adjudicating Authority in exercise of power vested in him under section 13 of the FTDR Act passed order-in-original 34/01/002/0035/AM12 dated 29.11.2016 imposing fiscal penalty of Rs.1,57,00,000/- on the company and its directors under section 11(2) of the FTDR Act, 1992.

3.0 Aggrieved by the order-in-original, the applicant company filed an appeal before the Additional Directorate General of Foreign Trade, Mumbai.

4.0 After hearing the applicant and going through the adjudicating order as well as documents available on record, the Appellate Authority observed as under:

- (i) The Applicant has approached the PRC, DGFT, New Delhi in the month of February 2011 and again in April, 2017 for clubbing but did not receive any relief from the PRC.
- (iii) The Applicant claimed to be in BIFR since 2003, but no supporting documents provided.

Therefore, the appeal was rejected vide order-in-appeal dated 29.03.2018.

5.0 Aggrieved by the order-in-appeal dated 29.03.2018 the applicant has filed the present review. An opportunity of personal hearing was granted to the applicant by the DGFT on 13.12.2018 at 3:00 PM in which Mr. Sunil Kumar K, Mr. Babu Ezhumavil and Mr. Bhavin Chokshi appeared. The review has been filed on the following grounds:

- (i) The company does not have finance to pay such a huge amount.
- (ii) The company has export to their credit and put together there may be negligible gap.
- (iii) The company had applied for clubbing of advance authorisations. While approached RA, Office, they considered individual closing rendering one authorisation out of the set. Others were closed individually. The company's request for closing authorisation was not approved for clubbing in PRC citing that it was under adjudication.
- (iv) The duty concession which was availed of has been properly utilized and accounted for. Any difference or excess imports are noticed, the company is ready to pay the duty back with interest on any excess imports left unutilised with them after clubbing.

6.0 I have gone through the facts of the case carefully. It is observed that the party failed to fulfil the prescribed export obligation against the duty free imports made by them under this authorisation. It's request for clubbing of various authorisations was denied by RA



Vadodara as it was not eligible for clubbing as per the provisions of the relevant Foreign Trade Policy. Requests of the company for granting relaxation to it were also rejected in the Policy Relaxation Committee. It has failed to get its case regularised as per the conditions attached with the duty free imports made by it under the authorisation.

I, therefore, in exercise of the powers vested in me under section 16 of the Act, 1992, as amended, pass the following order:

Order

F.No. 18/56/2018-19/ECA-186

Dated: 04. 2019

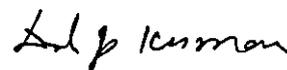
Order-in- Appeal No. 08/01/144/00017/AM17/A'bad/0509, dated 29.03.2018 is upheld. Review appeal is dismissed.



(Alok Vardhan Chaturvedi)
Director General of Foreign Trade

Copy To:

1. M/s Pan Drugs Ltd., 167-168, GIDC Nandesari Industrial Estate, Vadodara-391340 Gujarat.
- ✓ 2. Addl. DGFT, Mumbai with reference to F.No. 08/01/144/00017/AM17/A'bad/0509
3. RA Vadodara with reference to F.No. 34/01/02/0035/AM12
4. DGFT Website.



(Dilip Kumar)
Deputy Director General of Foreign Trade