

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

F.No. 18/45/2018-19/ECA-1/169

Date of Order: 07.08.2019

Date of Dispatch: 07.08.2019

Name of the Applicant:

Sri Subalakshmi Garments, S.F. No. 4/285,
Jawagar Nagar, Murugampalayam Ring Road,
Iduvampalayam Post, Tirupur -641 687

IEC No. :

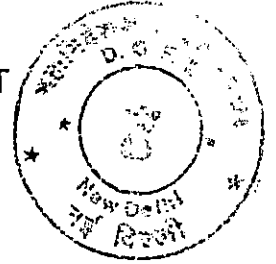
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Order reviewed against:

Order-in-Appeal No. I(97)/Addl. DGFT/ECA/
Chen/AM17-Cbe/ 168 dated 31.07.2017 passed
by Addl. DGFT, Chennai.

Order-in-Review passed by:

Shri Alok Vardhan Chaturvedi, DGFT



Order-in-Review

Sri Subalakshmi Garments, Tirupur filed a Review Petition dated 24.09.2018 under section 16 of the Foreign Trade (Development & Regulation) Act, 1992 against Order-in-Appeal No. I(97)/Addl. DGFT/ECA/Chen/AM17-Cbe/168 dated 31.07.2017 passed by the Addl. DGFT, Chennai dismissing the appeal.

Brief Facts of the Case

2.1 The petitioner obtained an EPCG Authorization No. 3230005496 dated 24.10.2005 from RA, Coimbatore as per the provisions of the Foreign Trade policy prevalent during the period for import of capital goods for a duty saved value of Rs. 13,07,588/- with an obligation to export goods manufactured out of it for an FOB values of US\$ 260629/- within a period of 8 years from the date of issue of authorization. As per conditions of the Authorisation, the petitioner was required to submit the prescribed export documents towards fulfilment of export obligation (EO) within the time frame as mentioned in the relevant FTP.

2.2 The petitioner did not submit documents evidencing fulfilment of export obligation. A Demand cum Show Cause Notice dated 22.04.2013 under section 14 for action under section 11(2) of Foreign Trade (Development & Regulation) Act, 1992 was issued to the petitioner since it did not fulfil the export obligation. The petitioner neither replied to the Show Cause Notice nor appeared in personal hearing granted to it. The Adjudication Authority passed Order-in-Original No.32/36/021/00280/AM 06 dated 30.06.2016 imposing a penalty of Rs. 26,15,176/- and the petitioner was also placed in Denied Entity List by the Adjudication Authority.

2.3 The petitioner filed an appeal on 13.02.2017 before the Appellate Authority against Order-in-Original dated 30.06.2016 under section 15 of FT(D&R) Act, 1992.

The Appellate Authority, vide the Order-in-Appeal dated 31.07.2017 rejected the appeal as time barred.

3.0 The petitioner has now submitted a review petition dated 24.09.2018 before DGFT seeking revocation of the penalty pleading that:

(i) Due to lack of orders in the international market, it could not complete the export obligation in the stipulated period and got extension in EOP for two years on paying composition fee. It completed the export obligation in the extended period.

(ii) It could not submit the full set of documents and also did not reply to Show Cause Notice due to lack of knowledge.

(iii) It did not appear for personal hearing before the Appellate Authority due to lack of educational knowledge.

4.0 The petitioner was afforded an opportunity of personal hearing on 14.02.2019. I have gone through the facts and records carefully and submissions of firms during personal hearing. The petitioner imported embroidery machines against the authorisation and claimed to have made seven export shipments through a third party fulfilling the prescribed export obligation in the extended period. In such a situation the case needs to be re-examined.

5.0 I, therefore, in exercise of powers vested in me under section 16 of Foreign Trade (Development & Regulation) Act, 1992 as amended pass the following order:

Order

F.No. 18/45/2018-19/ECA-I

Dated: .07.2019

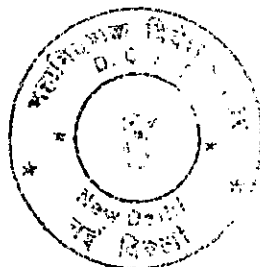
Order-in-original dated 30.06.2016 and Order-in-Appeal dated 31.07.2017 are set aside and the case is remanded back to the regional authority for de-novo examination.



(Alok Vardhan Chaturvedi)
Director General of Foreign Trade

Copy To:

- ✓ (1) Sri Subalakshmi Garments, S.F. No. 4/285, Jawagar Nagar, Murugampalayam Ring Road, Iduvampalayam Post, Tirupur -641 687.
- (2) RA, Coimbtore
- (3) RA, Chennai
- (4) DGFT website



(Dilip Kumar)
Dy. Director General of Foreign Trade