

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

F.No. 18/29/18-19/ECA-I(2)/215

Date of Order: 19 .09.2019

Date of Dispatch: 19 .09.2019

Name of the Applicant:

N. J. Leather Enterprise, Flat No. 7, 3rd Floor, 45A,
Shamsul Huda Road, Kolkata – 700 017

IEC No.

0288029593

Order reviewed against:

Order-in-Original No. 02/21/021/00256/AM'06 dated
17.01.2018 passed by Jt. DGFT, Kolkata.

Order-in-Review passed by:

Shri Alok Vardhan Chaturvedi, DGFT

Order-in-Review

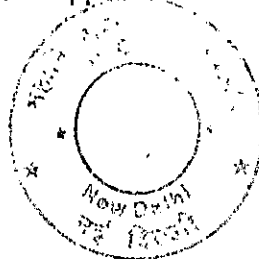
N. J. Leather Enterprise, Kolkata filed a Review Petition dated 03.10.2018 against Order-in-Original No. 02/21/021/00256/AM'06 dated 17.01.2018 passed by Jt. DGFT, Kolkata. The petitioner has requested to waive penalty, customs duty and interest. The adjudicating authority imposed a penalty of Rs. 20,000/- in addition to customs duty and applicable interest on the petitioner and its partners.

Facts of the case:

2. The petitioner obtained an EPCG Authorisation No. 0230001214 dated 10.11.2005 from RA, Kolkata as per provisions of Foreign Trade policy prevalent during that period for import of capital goods for a Duty Saved Value of Rs. 1,85,577/- with an Export Obligation (EO) of Rs. 14,84,616/- (US\$ 32030.55) to be completed within a period of 8 years from the date of issue of the Authorization. As per condition of the Authorization, the petitioner was required to submit the prescribed export documents towards fulfilment of obligation block wise and Installation Certificate within the time frame as mentioned in the FTP during that period.

2.1 The export obligation period expired on 10.11.2013. The petitioner did not furnish complete export documents towards fulfilment of export obligation and Installation Certificate. A Show Cause Notice dated 01.12.2015 under Section 9.2, 9.4 and 11.2 of the Foreign Trade (Development & Regulation) Act 1992 was issued to the petitioner. The petitioner was also granted personal hearing. The petitioner did not respond to the Show Cause Notice and did not appear for personal hearing. The Adjudicating Authority passed Order-in-Original dated 17.01.2018 imposing a fiscal penalty of Rs.20,000/- in addition to payment of customs duty along with applicable interest on the petitioner and its partners.

2.2. The petitioner did not file an appeal before the Appellate Authority against the Order-in-Original dated 17.01.2018.



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3. The petitioner has now submitted a review petition dated 03.10.2018 before the undersigned. The petitioner has, inter-alia, submitted the following:

(i) It could not submit the requisite documents to obtain EODC owing to unscrupulous attitude of its employees whom it had trusted to do the job. It has to keep itself busy in tannery production and to cope with the poor business situation and monetary hardship.

(ii) It has already fulfilled export obligation.

(iii) After receiving duplicate copy of adjudication order, it submitted relevant documents to RA, Kolkata but the same were not accepted.

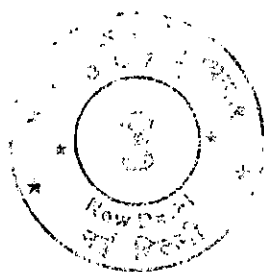
(iv) It could not submit appeal owing to time stipulations.

4. I have gone through the facts and records carefully. The petitioner was granted personal hearing on 29.11.2018 which was availed by it. The petitioner claimed to have fulfilled the export obligation. Therefore, the petitioner was advised to submit the prescribed documents showing fulfillment of the export obligation to its Regional Authority. However, the Regional Authority, Kolkata, vide its letter dated 29.07.2019, informed that the petitioner submitted some documents but these documents have discrepancies. The petitioner has failed to submit complete documents towards fulfillment of export obligation inspite of the fresh opportunity given to it.

5. 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

The Order-in-Original dated 17.01.2018 is upheld. Review appeal is dismissed.



(Alok Vardhan Chaturvedi)
Director General of Foreign Trade

Copy To:

- (1) N. J. Leather Enterprise, Flat No. 7, 3rd Floor, 45A, Shamsul Huda Road, Kolkata – 700017
- (2) Additional DGFT, 4, Esplanade East, Kolkata - 700069
- (3) DGFT Website.

(Dilip Kumar)
Dy. Director General of Foreign Trade