

Government of India  
Ministry of Commerce & Industry  
Directorate General of Foreign Trade  
Udyog Bhawan, New Delhi -110011  
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F.No. 18/29/18-19/ECA-I(4)/219

Date of Order: 19 .09.2019  
Date of Dispatch: 19 .09.2019

Name of the Applicant:

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

IEC No.

0288029593

Order reviewed against:

Order-in-Original No. 02/21/021/00152/AM'05 dated  
21.01.2016 passed by Jt. DGFT, Kolkata.

Order-in-Review passed by:

Shri Alok Vardhan Chaturvedi, DGFT

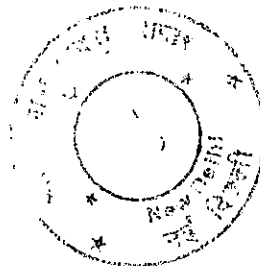
**Order-in-Review**

N. J. Leather Enterprise, Kolkata filed a Review Petition dated 03.10.2018 against Order-in-Original No. 02/21/021/00152/AM'05 dated 21.01.2016 passed by Dy. DGFT, Kolkata. The petitioner has requested to waive penalty, customs duty and interest. The adjudicating authority imposed a penalty of Rs. 2,00,000/- in addition to customs duty and 15% interest per annum on the petitioner and its partners.

**Facts of the case:**

2. The petitioner obtained an EPCG Authorisation No. 0230000727 dated 12.10.2004 from RA, Kolkata as per provisions of Foreign Trade policy prevalent during the period for import of capital goods for a Duty Saved Value of Rs. 3,51,121/- with an Export Obligation (EO) of Rs. 28,08,968/- (US\$ 60603.40) to be completed within a period of 8 years from the date of issue of the Authorization. As per condition of the Authorization, the Applicant was required to submit the export documents towards fulfilment of obligation block wise and Installation Certificate within the time frame as mentioned in the FTP during that policy period.

2.1 The export obligation period expired on 12.10.2012. The petitioner did not furnish any export documents towards fulfilment of export obligation and Installation Certificate. A Show Cause Notice was issued on 13.09.2013 for submission of return reply. Since, the petitioner did not submit reply, a refusal order was issued to it on 22.01.2014 in terms of section 9(2) of FT(D&R) Act, 1992 read with Rule 7(1)(a) and (k) of FT (Regulations) Rules, 1993. 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 21.01.2016 imposing a fiscal penalty of Rs.2,00,000/- in addition to payment of customs duty along with 15% per annum 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 21.01.2016.

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.

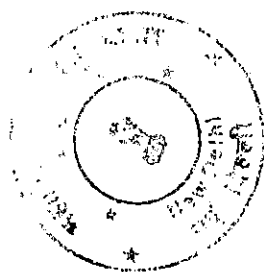
(iv) It could not submit appeal owing to time stipulations.

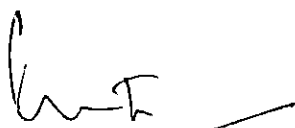
4. I have gone through the facts and records carefully. The petitioner was granted personal hearing on 29.11.2018 which was availed by it. The petitioner again stated to have fulfilled the export obligation. Therefore the petitioner was directed to submit the prescribed documents evidencing fulfillment of the export obligation to its RA. However RA Kolkata, vide its letter dated 29.07.2019, informed that the petitioner submitted some incomplete export documents which have discrepancies. Hence it is observed that the petitioner failed to submit complete documents towards fulfillment of export obligation inspite of another opportunity granted 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

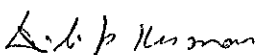
The Order-in-Original dated 21.01.2016 is upheld. Review appeal is dismissed.



  
(Alok Vardhan Chaturvedi)  
Director General of Foreign Trade

#### Copy To:

- (1) N. J. Leather Enterprise, Flat No. 7, 3<sup>rd</sup> 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