

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

F.No. 18/87/18-19/ECA-I/114

Date of Order: 30.05.2019
Date of Dispatch: 31.05.2019

Name of the Applicant:

Tanna Cranktech Pvt. Ltd.,
3B, Lal Bazaar Street,
Sri R.N.M. House, Suite No.1, 5th Floor, Kolkata.
(Present Address: Survey No. 201, Rajkot Amdavad
Highway, Vil.: Maliyasan, Dist. Rajkot)

IEC No.

0204006783

Order reviewed against:

Order-in-Appeal No. 18/103/17-18/ECA/KOI/ Appeal-232/776
dated 04.01.19 passed by the Addl. DGFT, Kolkata.

Order-in-Appeal passed by:

Shri Alok Vardhan Chaturvedi, DGFT

Order-in-Review

Tanna Cranktech Pvt. Ltd. Kolkata filed a Review Petition dated 08.02.2019 against Order-in-Appeal No. 18/103/17-18/ECA/KOI/Appeal-232/776 dated 04.01.19 passed by the Addl. DGFT, Kolkata imposing a penalty of Rs 35000/-.

Facts of the case:

2. The petitioner obtained an EPCG Authorisation No. 0230000824 dated 24.12.2004 from RA, Kolkata as per provisions of the Foreign Trade policy prevalent during the period, for import of capital goods for a Duty Saved value of Rs. 31,58,127/- with an Export Obligation (EO) of Rs. 2,52,65,016.00/- (US\$. 5,45,092.03) 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 prescribed export documents towards fulfilment of obligation block wise and Installation Certificate within the time frame as mentioned in the relevant FTP.

2.1 The export obligation period expired on 23.12.2012. The appellant did not furnish complete export documents towards fulfilment of export obligation and Installation Certificate despite several reminders and opportunities of personal hearing. A Show cause Notice under Rule 7(1)(k) of Foreign Trade (Development & Regulation) Rules, 1993 was issued on 15.03.2013. A refusal order dated 05.02.2014 was issued followed by a Show Cause Notice on 27.05.2014 under section 11(2) read with section 14 of FT(D&R) Act was issued by RA, Kolkata, giving an opportunity for a personal hearing. The petitioner contravened the provisions of the FT(D&R) Act by not submitting complete export documents. The Adjudication Authority passed Order-in-Original dated 17.01.2018 imposing a fiscal penalty of Rs.35,000/- in addition to payment of Customs Duty along with 15% interest per annum on the petitioner and its directors.

2.2. The petitioner filed an appeal on 18.06.2018 before the Appellate Authority against Order-in-Original dated 17.01.2018. The Appellate Authority, vide the Order-in-Appeal dated 04.01.2019 rejected the appeal as time barred.

3. The petitioner has now submitted a review petition dated 08.02.2019 before DGFT seeking relief from revenue liability. The petitioner has, inter-alia, submitted the following:

- (i) One director who used to look after the export-import related matters resigned in 2013 without handing over complete charge and documents. Further, after his resignation, operations of the company were shifted from Kolkata to Rajkot. Due to this there was lack of response from its end in replying to various communications from the Regional Authority.
- (ii) It did not fulfil export obligation within 8 years of export obligation period. It also did not seek extension of export obligation period.
- (iii) It has deposited the penalty amount of Rs.35,000/- within the prescribed period.
- (iv) It has fulfilled 97.12% of export obligation but outside EOP.

4. I have gone through the facts and records carefully. It is observed that the petitioner imported capital goods for a Duty Saved value of Rs. 31,58,127.00 with an export obligation of Rs. 2,52,65,016.00/- (US\$. 5,45,092.03) to be completed within a period of 8 years from the date of issue of the Authorization. It did not make any export against the authorization within the export obligation period. It is claiming to have made exports but outside the export obligation period. In that case, it is more appropriate if the appellant gets extension in the export obligation period to cover its already made exports and then gets the case regularized for the shortfall, if any.

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:

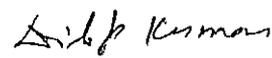
ORDER

The Order-in-Appeal dated 04.01.2019 and Order-in-Original dated 17-01-18 are quashed. Review appeal is accepted. The case is remanded back to the RA. The appellant will approach RA for extension in the export obligation period as per provisions of the FTP and will get its case regularized for the shortfall, if any, within a period of 60 days of the issue of this order.


(Alok Vardhan Chaturvedi)
Director General of Foreign Trade

Copy To:

- (1) Tanna Cranktech Pvt. Ltd., Survey No. 201, Rajkot Amdavad Highway, Vil.: Maliyasan, Dist. Rajkot- 360 003.)
- (2) RA, Kolkata with an advice to initiate de-novo proceedings in case the appellant fails to get its case regularized.
- (3) RA, Ahmedabad.
- ~(4) DGFT Website.


(Dilip Kumar)
Dy. Director General of Foreign Trade