F.No. 18/61/18-19/ECA-I 416  
Date of Order: 10.01.2020  
Date of Dispatch: 13.01.2020  
Name of the Applicant: Dulari Exports Pvt. Ltd., D 14/4 Okhla Industrial Area, Phase-II, New Delhi-110020.  
IEC No. 0588078557  
Order reviewed against: Order-in-Original No. 05/36/21/1231/AM04/EPCG.I/CLA dated 15.01.2018 passed by Asstt. DGFT, CLA, New Delhi.  
Order-in-Review passed by: Shri Amit Yadav, DGFT  

Order-in-Review  

Facts of the case:  
2. The petitioner obtained an EPCG Authorisation No. 0530135469 dated 30.12.2003 from office of the Zonal Addl. DGFT, CLA, New Delhi, as per provisions of the Foreign Trade Policy (FTP) prevalent during that period, for import of capital goods for a Duty Saved Value of Rs. 408227/- with an obligation to export products manufactured with the same and similar machinery, for an FOB value of Rs. 3265816/- (US$ 68251.11) 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 documents showing fulfilment of obligation within a time frame as mentioned in the FTP.  
2.1 The export obligation period expired on 29.12.2011. The petitioner did not furnish any document showing fulfilment of export obligation. A Show Cause Notice was issued to the petitioner for taking action under section 11(2) of the Foreign Trade (Development & Regulation) Act, 1992, (here-in-after referred to as ‘the Act’) as
amended and Rule 7 of the Foreign Trade (Regulations) Rules, 1993, as amended. The petitioner was also granted personal hearings. The petitioner did not respond to the Show Cause Notice and also did not appear during the personal hearings. The Adjudicating Authority passed Order-in-Original dated 15.01.2018 imposing a fiscal penalty of Rs.40,000/- in addition to payment of customs duty, interest, penalty, fine and personal penalty.

2.2. The petitioner did not file an appeal before the Appellate Authority against the Order-in-Original dated 15.01.2018. Instead the petitioner filed a review petition dated 10.12.2018 before the undersigned. The petitioner has inter-alia submitted that it has fulfilled the prescribed export obligation and has submitted all the required documents.

3. The petitioner was granted personal hearings on 12.03.2019 and 19.12.2019 which were attended by its manager Sh. Praveen Kumar. The manager re-iterated their written submissions.

4. I have gone through the facts and records carefully. It is observed that office of the Zonal Addl. DGFT, vide its letter F. No. 5/36/021112311AM04/EPCG-1/CLA/1367846 dated 23/09/2019 has confirmed that the petitioner has submitted export documents and the export obligation is complete.

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

F.No. 18/61/2018-19/ECA-I Dated: 10.01.2020

Order-in-Original dated 15.01.2018 is set aside. The matter is remanded back to the Adjudicating Authority for taking further necessary action.

(Amit Yadav)
Director General of Foreign Trade

Copy To:

(1) Dulari Exports Pvt. Ltd., D 14/4 Okhla Industrial Area, Phase-II, New Delhi-110020
(2) Additional DGFT, CLA, New Delhi-110002.
(3) DGFT Website.

(Dilip Kumar)
Dy. Director General of Foreign Trade