

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

F.No. 18/24/2019-20/ECA-I/424

Date of Order:

15 .01.2020

Date of Dispatch:

17 .01.2020

Name of the Applicant:

M/s. Quality Apparels,
9-B/5, Navjivan Colony, Mori Road, Mahim,
Mumbai – 400016.

IEC No.:

0304068209

Order reviewed against:

Order-in-Appeal No.1(86)/Addl.DGFT/ECA/Che/
AM16 dated 26.06.2019
passed by the Addl. DGFT, Chennai.

Order-in-Review passed by:

Shri Amit Yadav, DGFT

Order-in-Review

M/s. Quality Apparels, Mumbai, filed a Review Petition dated 07.08.2019 under section 16 of the Foreign Trade (Development & Regulation) Act, 1992 (here-in-after referred to as 'the Act') against Order-in-Appeal No. 1(86)/Addl.DGFT/ECA/Che/AM16 dated 26.06.2019 passed by the Addl. DGFT, Chennai dismissing the appeal against Order-in-Original dated 07.09.2015 wherein the Adjudicating Authority imposed a penalty of Rs.1,92,52,361/- on the petitioner.

Brief Facts of the Case

2.1 The petitioner obtained an Advance Authorisation No. 3210038103 dated 24.06.2008 from RA, Coimbatore as per the provisions of the Foreign Trade Policy (FTP) prevalent during that period for import of raw materials etc. free of customs duty for a CIF value of Rs. 1,92,52,361/- with an obligation to export goods made out of that raw material for an FOB value of US\$734902/- to be completed within a period of 24 months from the date of issue of the Authorisation. As per conditions of the authorisation, the applicant was required to submit the prescribed export documents evidencing fulfilment of export obligation within the time frame as mentioned in the relevant FTP.

2.2 The Export Obligation (EO) period expired. The petitioner did not submit any export documents towards fulfilment of export obligation despite issuance of a Show Cause Notice dated 10.06.2015 under section 14 for action under section 11(2) of the Act. It also did not attend the personal hearing granted to it. Since the petitioner contravened the provisions of the FTP and the Act by not submitting complete export documents, the Adjudicating Authority passed Order-in-Original dated 07.09.2015 imposing a fiscal penalty of Rs. 1,92,52,361/- on the petitioner.



2.3 The petitioner filed an appeal on 27.10.2015 before the Appellate Authority against Order-in-Original dated 07.09.2015. The Appellate Authority granted two personal hearings on 29.04.2019 and 18.06.2019, but the petitioner did not attend the personal hearings. The Appellate Authority, vide the Order-in-Appeal dated 26.06.2019, while dismissing the appeal observed that the imported raw materials allowed under the licence have not been properly utilized and the corresponding export obligation has not been fulfilled.

3.0 Aggrieved by the Order-in-Appeal dated 26.06.2019, the petitioner has submitted a review petition dated 07.08.2019 before the undersigned praying to set aside Order-in-Appeal dated 26.06.2019 and Order-in-Original dated 07.09.2015. The petitioner has, inter-alia, submitted that the Adjudicating Authority imposed a hefty penalty of Rs.1,92,52,361/- equivalent to the CIF Value of the Advance Authorisation No. 3210038103 dated 24.06.2008 on the petitioner and its partners which is arbitrary and bad in law.

4.0 I have gone through the facts/records and submissions made during personal hearing carefully. It is observed that the petitioner imported the goods allowed under the Advance Authorisation No. 3210038103 dated 24.06.2008 and it did not export anything towards fulfilment of export obligation. Rather the petitioner did not mention anything about the fulfilment of export obligation. As per the procedure, in the event of non-fulfilment of export obligation, the petitioner was required to get its case regularised by paying the amount of customs duty exemption availed by it on such imports along with applicable interest. However, the petitioner also failed to do so. As per section 11(2) of the Act, the penalty amount can be up to five times of the value of goods involved in contravention whereas in this case the penalty imposed is one time of the value of goods imported.

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

Order

F.No. 18/24/2019-20/ECA-I

Dated: 15 .01. 2020

Order-in-Appeal dated 26.06.2019 and Order-in-original dated 07.09.2015 are upheld.
Review Petition is dismissed.



(Handwritten signature)
(Amit Yadav) 15/1/2020

Director General of Foreign Trade

Copy To:

- ✓ (1) M/s. Quality Apparels, 9-B/5, Navjivan Colony, Mori Road, Mahim, Mumbai – 400016.
- (2) RA, Chennai.
- (3) RA, Coimbatore.
- (4) DGFT website.

(Handwritten signature)

(Dilip Kumar)

Dy. Director General of Foreign Trade