

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

F.No. 18/18/2019-20/ECA-I/440 Date of Order: 22.01.2020  
Date of Dispatch: 23.01.2020

Name of the Applicant: M/s. Chiang Sheng Tannery,  
114F, Matheswartala Road, Kolkata – 700046.

IEC Code: 0289000998

Order reviewed against: Order-in-Appeal No. 18/338/15-16/ECA/KOL/  
Appeal-127 dated 30.10.2018 passed by  
Additional DGFT, Kolkata.

Order-in-Review passed by: Amit Yadav, DGFT.

**Order-in-Review**

M/s. Chiang Sheng Tannery, Kolkata (here-in-after referred to as 'the Petitioner') filed a Review Petition dated 31.05.2019 under section 16 of the Foreign Trade (Development & Regulation) Act, 1992 (here-in-after referred to as 'the Act') against Order-in-Appeal No. 18/338/15-16/ECA/KOL/Appeal-127 dated 30.10.2018 passed by Additional DGFT, Kolkata dismissing the appeal and upholding the Order-in-Original dated 11.01.2016 whereby the Adjudication Authority had imposed a penalty of Rs.1,00,000/- in addition to payment of customs duty along with 15% interest per annum on the Petitioner and its partners.

**Brief Facts of the case.**

2.1 The Petitioner obtained an EPCG Authorization No. 0230001755 dated 07.09.2006 from RA, Kolkata as per the provisions of the Foreign Trade Policy (FTP) prevalent during the period, for import of capital goods for a duty saved value of Rs. 20,09,220/-with an obligation to export products manufactured with the same machinery, for an FOB value of Rs. 1,60,73,760/-(US\$ 340545.76) 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 evidencing fulfilment of obligation and Installation Certificate within the time frame as mentioned in the FTP.

2.2. The export obligation period (EOP) expired on 06.09.2014. The Petitioner did not furnish any document showing fulfilment of export obligation and also Installation Certificate. A Show Cause Notices under Rule 7(i)(k) of the Foreign Trade (Regulation) Rules 1993 and under section 9 & 11 of the Act was issued to the Petitioner. The petitioner did not submit the prescribed documents. The Adjudicating Authority passed the Order-in-Original dated 11.01.2016 imposing a fiscal penalty of Rs.1,00,000/- in addition to payment of customs duty along with 15% interest per annum, on the Petitioner and its partners.

2.3 The Petitioner filed an appeal on 22.02.2016 before the Appellate Authority against the Order-in-Original dated 11.01.2016. The Appellate Authority gave personal hearings on 05.04.2016, 16.11.2016, 05.06.2018 & 27.09.2018. The Appellate Authority observed that the Petitioner did not submit original export documents and hence, vide Order-in-Appeal, dated 30.10.2018, dismissed the appeal.

3. The Petitioner has now submitted a Review Petition dated 31.05.2019 before the undersigned. The Petitioner has, inter-alia, submitted the following:

- (i) It has utilized the Authorisation for a duty saved amount of Rs. 19,47,186.37 and therefore, the export obligation comes to Rs. 1,55,77,491/- against which it has fulfilled EO for Rs. 1,58,17,486/- through third party.
- (ii) Due to inadvertent mistake, it could not endorse details on the third-party shipping bills regarding its name as manufacturer and the EPCG Authorization number.
- (iii) The merchant exporter delayed getting the shipping bills amended as per the requirement for discharge of export. On its repeated request the exporter made an application to the custom authority for necessary amendment in the shipping bills.
- (iv) Installation Certificate dated 20.09.2007 issued by Chartered Engineer was misplaced and therefore it could not be submitted to RA, Kolkata on time. It located the Installation certificate date 20.09.2007 on extensive search and submitted it to RA, Kolkata on 21.05.2019.

4. The Petitioner was granted personal hearing on 20.12.2019 which was attended by Shri Li Yung Chiang, partner and Shri Samit Kumar Dey, Manager. I have gone through the facts and records carefully. It is observed that the Petitioner failed to discharge the export obligation and to submit the prescribed documents. The claim of the Petitioner, for having made third party exports, can not be admitted in the absence of necessary endorsements to this effect on the export documents. The Petitioner has made only local sales.

5. I, therefore, in exercise of powers vested in me under Section 16 of the Act, as amended, pass the following order:

**ORDER**

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

Dated: 22.01.2020

The Review Appeal is dismissed.



(Amit Yadav)

Directorate General of Foreign Trade

Copy to:

- ✓ (i) M/S Chiang Sheng Tannary, 114F, Matheswartala Road, Kolkata – 700 046.
- (ii) Addl. DGFT, Kolkata.
- (iii) DGFT website.



(Dilip Kumar)

Dy. Director General of Foreign Trade