
**Facts of the case**

2.0 The petitioner obtained an Advance Authorisation No. 0210100542 dated 04.05.2007 as per the provisions of FTP prevalent during the period for import of various raw materials for a CIF value of Rs. 2,20,08,173 with an obligation to export a specified product for a FOB value of Rs.2,92,70,895/- to be completed within a period of 24 months from the date of issue of the Authorization. As per the conditions of the Authorization, Organon was required to submit the export documents towards fulfilment of obligation within two months from the date of expiry of EOP.

2.1 The EOP expired on 11.03.2011. Despite several reminders and opportunities of personal hearing, the petitioner failed to furnish complete documentary evidence towards fulfilment of export obligation. The petitioner approached Policy Relaxation Committee (PRC), New Delhi on 22.03.2011
for allowing clubbing of this authorization with another Authorization No. 0210089056 dated 05.05.2006. The PRC in its meeting no. 21/AM12 dated 06.09.2011 allowed clubbing subject to certain conditions.

2.2 Finding that the previous Authorisation had already been redeemed, PRC in its meeting No. 40/AM12 dated 07.02.2012 rejected the request for clubbing of these two Advance Authorizations No. 0210089056 dated 05.05.2006 and 0210100542 dated 04.05.2007. So, a Demand Notice dated 21.06.2012 was issued to the petitioner for payment of customs duty and interest on excess import.

2.3 The petitioner did not comply with the same and therefore a Show Cause Notice dated 19.09.2012 for action under section 11(2) FT (D&R) Act was issued by RA Kolkata and the Adjudicating Authority passed Order-in-Original dated 18.06.2013 imposing a fiscal penalty of Rs.2,20,08,000/- in addition to payment of Customs Duty along with 15% interest per annum.

3. The petitioner filed an appeal on 02.05.2018 before the Appellate Authority requesting to set aside the Order-in-Original dated 18.06.2013. Additional DGFT, Kolkata, the Appellate Authority, vide the Order-in-Appeal dated 28.08.2018 rejected the appeal as time barred.

4. The petitioner has now submitted a review petition dated 06.11.2018 before DGFT requesting to set aside the Order-in-Appeal dated 21.08.2018. The petitioner has, interalia, submitted that:

(i) Advance Authorisation No. 0210089056 dated 05.05.2006 was redeemed on 20.04.2010. The petitioner submitted a letter dated 24.05.2010 with a request to cancel the redemption and consider clubbing of two Authorisations.

(ii) The PRC in its meeting No. 21/AM12 dated 06.09.2011 allowed clubbing subject to certain conditions. Subsequently, PRC in its meeting No. 40/AM12 dated 07.02.2012 decided to reject the request for clubbing of these two Advance Authorizations No. 0210089056 dated 05.05.2006 and 0210100542 dated 04.05.2007 since the previous Authorisation had already been redeemed.

(iii) It deposited duty and interest accrued till 31.05.2018 for Rs.1,17,27,327 on 22.05.2018.

(iv) The Appellate Authority passed the Order-in-Appeal dated 28.08.2018 without granting any personal hearing.

(v) The clubbing application for two Advance Authorizations No.0210089056 dated 05.05.2006 and 0210100542 dated 04.05.2007 was
filed much before the redemption of the previous Authorisation. The Authorities erred in approving the redemption application when a clubbing application was already pending at their end.

5. I have gone through the facts and records carefully. It is observed that the Policy Relaxation Committee withdrew clubbing of Advance Authorisation No. 02100542 dated 04.05.2007 with the Advance Authorisation No. 02100568056 dated 05.05.2006 since the later authorisation had already been redeemed. The petitioner did not make any exports against the subject authorisation. It contravened the provisions of Foreign Trade (Development & Regulation) Act, 1992 as amended from time to time.

6. 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 21.08.18 is upheld. Review appeal is dismissed.

(Alok Vardhan Chaturvedi)
Director General of Foreign Trade

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4. DGFT website

(Dilip Kumar)
Deputy Director General of Foreign Trade