

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

F.No. 18/81/18-19/ECA-I/443

Date of Order: 24 .01.2020
Date of Dispatch: 27 .01.2020

Name of the Applicant: Shree Ganesh Forgings Ltd.,
C-3/C, Trans
Trane Creek Ind. Area, Pawne, Thane- Belapur Road,
Navi Mumbai-400 705.

IEC Code: 0389029602

Order reviewed against: Order-in-Appeal No. 03/16/144/00100/
AM.18/1033 dated 12.11.2018
passed by Additional DGFT, Mumbai.

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

Order-in-Review

Shree Ganesh Forgings Ltd. Mumbai (here-in-after referred to as 'the Petitioner'), filed a Review Petition dated 17.01.2019 under section 16 of the Foreign Trade (Development & Regulation) Act, 1992 (here-in-after referred to as 'the Act'), against Order-in-Appeal No. 03/16/144/00100/AM.18/1033 dated 12.11.2018 passed by Additional DGFT, Mumbai dismissing the appeal against Order-in-Original dated 08.03.2018 wherein the Adjudicating Authority imposed a penalty of Rs. 16,50,000/- on the petitioner.

Facts of the case

2.1 The Petitioner, as per provisions of the Foreign Trade Policy (FTP) prevalent during that period, obtained from RA, Mumbai an Advance Authorisation No. 0310382088 dated 29.05.2006 for import of raw materials etc. free of import duties for a CIF value of Rs. 16,04,578/- with an obligation to export specified products for an FOB value of Rs. 16,20,624/-(US\$ 34,814.70) to be completed within a period of 24 months from the date of issue of the Authorisation. As per conditions of the authorisation, the Petitioner was required to submit prescribed export documents evidencing fulfilment of export obligation, within the time frame as mentioned in the FTP.

2.2 The Export Obligation (EO) period expired on 28.05.2008 but the Petitioner did not submit the prescribed export documents evidencing fulfilment of export obligation despite several reminders and opportunities of personal hearings. A Demand Notice was issued on 08.07.2011. The Petitioner did not abide by the

Demand Notice. Therefore, a Show Cause Notice dated 12.01.2017 was issued to the Petitioner under Section 14 for action under Section 11(2) of the Act. The Petitioner neither responded to notices nor appeared for personal hearings. The Petitioner submitted some photocopies of documents viz. shipping bills. As per the submitted photocopies, the Petitioner made exports but all such exports were made outside the prescribed export obligation period. The Petitioner was directed to get its export made outside EO period, regularized with reference to Public Notice No. 34 dated 24.10.2017 which allowed one-time extension in EO period and clubbing of Advance Authorizations. However, the Petitioner failed to take the required action. The Adjudicating Authority passed Order-in-Original dated 08.03.2018 imposing a fiscal penalty of Rs. 16,50,000/- on the Petitioner.

2.3 The Petitioner filed an appeal on 27.03.2018 before the Appellate Authority against Order-in-Original dated 08.03.2018. The Appellate Authority gave personal hearing on 01.08.2018 & 27.08.2018. The Appellate Authority observed that (i) the Petitioner had approached the Policy Relaxation Committee (PRC) in January 2010 for extension in the EO period. The PRC rejected its request since it was not permissible under the extant provisions. (ii) the Petitioner also requested for clubbing of the subject Advance Authorization with its another Advance Authorization No. 0310581209 dated 29.06.2010. The PRC on 18.11.2014 also rejected Petitioner's request of clubbing since it was not permissible under the extant provisions. (iii) the Petitioner submitted original export documents on 15.06.2018. The Appellate Authority, vide the Order-in-Appeal dated 12.11.2018 dismissed the appeal.

3.0 The Petitioner now submitted a Review Petition dated 17.01.2019 before the undersigned requesting to set aside Order-in-Appeal dated 12.11.2018 and grant extension in the EO period for Advance Authorization dated 29.05.2006 or clubbing of its two Advance Authorizations dated 29.05.2006 and 29.06.2010. The petitioner has, inter-alia, submitted the following:

- (i) It has made 100% imports in July 2006. There was severe labour strike in its manufacturing unit since February 2007 for two and half years and therefore could not fulfil the export obligation in the prescribed time period.
- (ii) It fulfilled 100% export obligation by 18.10.2010. All such export was made under another Advance Authorisation No. 0310581209 dated 29.06.2010. It has submitted original export documents.
- (iii) Public Notice No. 34 dated 24.10.2017 is not applicable to its Advance Authorization dated 29.05.2006 as it could not make exports within 48 months.
- (iv) Exports made by it under Advance Authorisation no. 0310581209 dated 29.06. 2010 should be accepted against export obligation of the Authorisation in question or both these Advance Authorisations should be treated as clubbed and the matter be closed.
- (v) Waiver be given for pre-deposit of penalty.

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4.0 The matter was taken up without insisting on pre-deposit of the penalty amount and the Petitioner was afforded an opportunity of personal hearing on 20.12.2019. During the hearing, the Petitioner was represented by its Authorised Representative Sh. Manoj B. Chaudhari who re-iterated the points as mentioned in para 3.0 supra. I have carefully gone through the submissions of the Petitioner, information received from the RA, Mumbai and other related documents. I observe that although the Petitioner has claimed to have fulfilled the export obligation but it was outside the prescribed export obligation period. Since the request for clubbing of the above referred two Advance Authorisations was beyond the extant provisions, no relaxation was granted by the PRC.


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. 18/81/2018-19/ECA-I

Dated: 24.01.2020

Review Appeal is dismissed.


(Amit Yadav)

Director General of Foreign Trade

Copy to: -

- ✓(i) Shree Ganesh Forgings Ltd, C-3/C, Trans Trane Creek Industrial Area, Pawne, Thane – Belapur Road, Navi Mumbai – 400 705.
- (ii) RA, Mumbai.
- (iii) DGFT Website.



(Dilip Kumar)

Dy. Director General of Foreign Trade