

Government of India  
Ministry of Commerce & Industry  
Directorate General of Foreign Trade  
Udyog Bhawan, New Delhi -110011  
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F.No. 01/92/171/18/AM-19 / PC-VI/ 343

Date of Order: 28 .02.2020

Date of Dispatch: 02 .03.2020

Name of the Appellant:

GMR Aero Technical Ltd.,  
GMR Hyderabad Aviation SEZ Ltd.,  
Shamshabad, Hyderabad

IEC No.

0910022071

Order appealed against:

Order-in-Original No. 9/093/SEZ/HYD  
/2010/1999/SEZ dated 8.12.2017  
passed by the Development  
Commissioner, Visakhapatnam, Special  
Economic Zone.

Order-in-Appeal passed by:

Shri Amit Yadav, DGFT

### Order-in-Appeal

GMR Aero Technical Ltd. (hereinafter referred to as 'the appellant'), an SEZ unit, has filed an appeal on 19.01.2018 under Section 15 of the Foreign Trade (Development & Regulation) Act 1992, (FTDR Act) as amended from time to time, against Order-in-Original No. 9/093/SEZ/HYD/2010/1999/SEZ dated 8.12.2017 passed by the Development Commissioner, Visakhapatnam, Special Economic Zone (DC VSEZ).

2. Vide Notification No. 101 (RE-2013)/2009-2014, dated the 5<sup>th</sup> December 2014, the Central Government has authorized the Director General of Foreign Trade aided by one Addl. DGFT in the Directorate General of Foreign Trade to function as Appellate Authority against the orders passed by the Development Commissioner, Special Economic Zones, as Adjudicating Authorities. Hence, the present appeal is before me.

3.0 Brief facts of the case:

3.1 The appellant obtained a Letter of Approval (LOA) No. 9/093/SEZ/HYD/2010 dated 02.11.2020, as amended, to set up an SEZ unit for rendering Maintenance, Repairs and Overhaul services (MRO Services) for various Aircrafts and its components

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from DC, VSEZ. As per terms of LOA read with section 2(z)(iii) of the SEZ Act, 2005, the appellant was allowed to render services in Domestic Tariff Area (DTA) against payment of foreign exchange only.

3.2 It was found that the appellant rendered MRO Services to the tune of Rs. 8.95 Crores to Jet Airways in the DTA against Indian rupees (INR) thereby violating the terms of LOA and provisions of SEZ Act, 2005 and rules made there under.

3.3 Accordingly, a notice dated 30.07.2015 was issued to the appellant by the DC, VSEZ to show cause as to why action should not be taken against it for imposition of penalty under FTDR Act read with clause (2) of Section 25 of the SEZ Act, 2005.

3.4 During the personal hearing on 03.11.2017 before the DC and in its written reply dated 19.8.2015, the appellant stated that its LOA dated 02.11.2010 and Rule 47 /48 of SEZ Rules allow sale of goods and services in DTA. No provision specifically restrict the payment to be accepted only in foreign exchange. Hence, their action of accepting payments from Jet Airways in INR for services supplied cannot be held to be in violation of section 2(z)(iii) of SEZ Act.

3.5 On examination of the contentions of the appellant, the DC found that section 2(z)(iii) of the SEZ Act, 2005 defines 'Services' means such tradeable services which earn foreign exchange. Since, the appellant rendered services in DTA against receipt of payment in INR, the DC proceeded to adjudicate the matter and imposed a penalty of Rs. 5 lakh under section 11(2) of FTDR Act vide order-in-original dated 8.12.2017.

4.0 Aggrieved by the adjudication order dated 08.12.2017, the appellant filed the present appeal. During the personal hearing held on 17.01.2020 before me, the representative of the Appellant stated that the appellant is providing services which is normally procured from outside India. There was a specific period when the payments were accepted in INR. However, the same have now been discontinued. In view of conduct of the appellant, a lenient view may be taken with regard to imposition of penalty amount of Rs. 5 lakh. The appellant further informed that the penalty amount of Rs. 5 lakh has already been paid.

5.0 Comments from the office of the DC, VSEZ were also obtained on the appeal.

6.0 I have gone through the facts of the case; written submissions made by the appellant; comments of office of the DC, VSEZ and all other aspects relevant to the case. It is observed that the appellant rendered MRO service to Jet Airways in the DTA worth Rs. 8.95 Crores for which it accepted the payment in INR. As per section 2(z)(iii) of the SEZ Act, 2005, 'Services' means such tradeable services which earn foreign exchange. Hence, the appellant has violated the specific provision of SEZ Act, 2005. The appellant has admitted the mistake on its part and requested to take a lenient view

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in the matter. It is noted that the DC has imposed a penalty of Rs. 5 Lakh which is only 0.56% of the value of services rendered in INR. Hence, the DC has already taken a lenient view while imposing the penalty. It is further noted that the penalty has already been deposited by the appellant.

6.0 In view of the above, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992 (as amended in 2010) read with Notification No. 101 (RE-2013)/2009-2014, dated the 5th December 2014, I pass the following order:

Order

F.No. 01/92/171/18/AM-19 / PC-VI/

Dated: 28 .02.2020

The appeal preferred by the appellant is dismissed.



(Amit Yadav)

Director General of Foreign Trade

Copy To:

- 344 (1) GMR Aero Technical Ltd., Plot No. 1, GMR Hyderabad Aviation SEZ Ltd.,  
Rajiv Gandhi International Airport, Shamshabad, Hyderabad
- 345 (2) Development Commissioner, VSEZ.
- (3) DGFT Website.



(Shobhit Gupta)

Dy. Director General of Foreign Trade