

Government of India  
Ministry of Commerce & Industry  
Directorate General of Foreign Trade  
Udyog Bhawan, New Delhi -110011  
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F.No. 01/92/171/05/AM 18 / PC-V/137-139

Date of Order: 08.08.2019  
Date of Dispatch: 08.08.2019

Name of the Appellant:

Shreeyam Power & Steel Industries Ltd.,  
Tulsiani Chambers, Nariman Point, Mumbai

IEC No.

1199001201

Order appealed against:

Order-in-Original No. 37/21/040/00035/  
AM09/4373 dated 17/19.07.2017 passed by the  
Development Commissioner, Kandla, Special  
Economic Zone.

Order-in-Appeal passed by:

Shri Alok Vardhan Chaturvedi, DGFT

**Order-in-Appeal**

Shreeyam Power and Steel Industries Limited (formerly known as Ruchi Powers & Steel Industries Ltd and Mid India Power and Steel Ltd., hereinafter referred to as 'the appellant'), a DTA unit, has filed an appeal on 6.9.2017 under Section 15 of the Foreign Trade (Development & Regulation) Act 1992, (FTDR Act) as amended from time to time, against Order-in-Original No. 37/21/040/00035/AM09 dated 17/19.07.2017 passed by the Development Commissioner, Kandla, Special Economic Zone (DC KASEZ).

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 the appeal is before me.

3.0 Brief facts of the case:

3.1 The appellant obtained one Advance Authorisation (AA) No. 3710000880 dated 03.10.2008 for a CIF value of Rs. 5,10,00,604.03/- from the office of DC, KASEZ working as RA of DGFT, for import of duty free materials as mentioned in the said AA with the conditions, inter-alia, to export 'Non alloy steel bar, Thermo mechanically treated bar' worth Rs. 5,21,24,984.25 within a period of 24 months from the date of issue of the said AA.

3.2 As the appellant did not submit export documents showing fulfilment of the export obligation, a Show Cause Notice dated 20.06.2016 under section 14 of the FTDR Act, 1992 was issued to it asking as to why action should not be taken against it under section- 11(2) and (7) of the FTDR Act, 1992, as amended and under Rule- 7.1 (k) of the Foreign Trade (Regulation) Rules 1993.

3.3 During the personal hearing on 09.08.2016 before the DC, the representative of the appellant stated that the appellant had filed papers for financial restructuring to BIFR in 2015. However, it did not submit any export documents for redemption.

3.3 Hence, the DC proceeded to adjudicate the matter and imposed a penalty of Rs. 50 lakh with a direction to the appellant to pay the custom duty + interest to the Custom Authority of Rs. 5,10,00,604/- plus interest vide Order-in-Original dated 17/19.07.2017 issued u/s 11(2) read with section 13 of FTDR Act, 1992, as amended.

4.0 Aggrieved by the adjudication order dated 17/19.07.2017; the appellant filed the present appeal. During the personal hearing held on 31.01.2019 before me, the representative of the Appellant stated that the company was a recognized 'Export House' vide status certificate dated 16.07.2007. It actually imported item at Sr. No. 04 for a quantity of 1634.34 MT for which proportionate export to be made was 1362.00 MT. It has already completed the export obligation to the extent of 100% within the validity period of the said AA. It has also realised the export proceeds.

5.0 A report was sought from the DC office regarding the claims made by the appellant. DC vide letter dated 20/22.2.2019 informed that the appellant has not submitted original documents towards fulfillment of export obligation. As per photocopies of documents submitted, there is a short fall in FOB value which needs to be regularized in terms of para 4.28(ii) of the HBP. KASEZ vide letter dated 23.07.2019 further stated that the appellant has produced all the required documents, except the original shipping bill, for redemption of the case. During the personal hearing held on 04.04.2019 and vide letter dated 02.04.2019, the appellant stated to have deposited Rs. 55000/- towards shortfall in FOB value as per para 4.28(ii) of HBP 2009-14 and also submitted original AA(Both), original shipping bill (1No.) and original BRC (1 No.) to KASEZ.

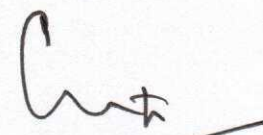
6.0 In view of the above, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992 (as amended in 2010) read with Notification No. 101 (RE-2013)/2009-2014, dated the 5th December 2014, I pass the following order:

**Order**

F.No. 01/92/171/08/AM 18/ PC-VI


Dated: 08 .08.2019

- (i) The Order-in-Original dated 17/19.07.2017 is set aside.
- (ii) The case is remanded to DC for De-Novo consideration.

  
(Alok Vardhan Chaturvedi)  
Director General of Foreign Trade

Copy To:

- ✓(1) Shreeyam Power and Steel Industries Ltd., 621, Tulsiani Chambers, Nariman Point, Mumbai.
- ✓(2) Shreeyam Power and Steel Industries Ltd., Plot no. 332, New GIDC Industrial Estate, Phase II, Village Mithirohar, Gandhidham, Kutch, Gujarat - 370201
- ✓(3) Development Commissioner, SEZ, Kandla.
- ✓(4) DGFT Website.

  
(Shobhit Gupta) 2/8/19  
Dy. Director General of Foreign Trade