



GOVT. OF INDIA,
MINISTRY OF COMMERCE & INDUSTRY,
OFFICE OF DEVELOPMENT COMMISSIONER,
SEEPZ SPECIAL ECONOMIC ZONE,
ANDHERI (E), MUMBAI-400 096.

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File No. SEEPZ-SEZ/IA-I/NUS/APL/SW-006/2007-08
BY REGISTERED A.D.

09972, 09973, 09974

ORDER-IN-ORIGINAL	Date Of Order : 10 MAY 2019
	Date Of Issue : 10 MAY 2019
Passed by:	Baldev Singh Development Commissioner, SEEPZ SEZ
In the matter of:	M/s. Techatalyst Software Pvt. Ltd., Unit No. 106, Multistoried Building, SEEPZ-SEZ, Andheri East, Mumbai - 400 096 SCN No-SEEPZ-SEZ/IA-I/NUS/APL/SW-006/2007-08/ 26964 Date : 05.10.2018

मूल आदेश / ORDER -IN - ORIGINAL

1. यह प्रति उपयोग के लिए उस व्यक्ति को निःशुल्क प्रदान की जाती है, जिस को यह आदेश जारी किया गया है।

This copy is granted free of charge for the use of the person to whom it is issued.

2. इस आदेश के विरुद्ध अपील दाखिल की जा सकती है। इस आदेश से व्यथित कोई/पार्टी विदेश व्यापार (विकास तथा विरुद्ध) (अधिनियम 1992, की धारा-15 के अधीन उपर्युक्त प्राधिकारी अर्थात् अपीली समिति, वाणिज्य तथा उद्योग मंत्रालय, वाणिज्य विभाग, उद्योग भवन, नई दिल्ली - 110107 के समक्ष इस आदेश की प्रतिलिपि के साथ न्याय निर्णय आदेश के तामिल किए जाने की तारीख से 45 दिनों के अंदर अपील के समर्थन में अपील के अनुलग्नक के रूप में साक्ष्यों की प्रतिलिपियों के साथ जिन पर अपील का आधार बंता हो, अपील दाखिल कर सकती है।

An Appeal against this Order lies. Any person/party aggrieved by this Order may, under section 15 of Foreign Trade (Development and Regulation) Act, 1992 file an Appeal before the appropriate Authority i.e. Appellate Committee cell, Director General of Foreign Trade, Ministry of Commerce & Industry, Department of Commerce, Udyog Bhawan, New Delhi-110107 within 45 days from the date of service of the Adjudication order together with a copy of this order and as complete set of evidence in the form of Annexure to the appeal relied upon in support of the Appeal.

3. यदि आप इस आदेश के विरुद्ध अपील दाखिल करते हों, तो कृपया विकास आयुक्त कार्यालय, सीपज़, अंधेरी (पूर्व), मुंबई - 96 को अपील संख्या तथा तारीख की सूचना दे।

If you file an appeal against this order, please intimate the appeal number and date to the Office of the Development Commissioner, SEEPZ, Andheri (East), Mumbai 96.

BRIEF FACTS OF THE CASE

1. **M/S. TECHATALYST SOFTWARE PVT. LTD.** (hereinafter referred to as the 'Noticee' for the sake of brevity) located at Unit No. 106, Multistoried Building, SEEPZ-SEZ, Andheri (E), Mumbai-400096 was issued the Letter of Approval in terms of Rule-19 of SEZ Rules-2006 vide No. SEEPZ-SEZ/IA-I/NUS/APL/SW-006/2007-08/7561 dated 12.10.2007 as amended under SEZ scheme for Computer Software, Information Processing & Related Srvices. The noticee accepted the terms and conditions of the Letter of Permission/Approval and executed Bond-cum-Legal-undertaking (BLUT) with the Office of Development Commissioner, SEEPZ-SEZ in terms of Rule 22 of SEZ Rules-2006. The noticee commenced their activities w.e.f. 01.08.2008.
2. The LOA issued to the noticee was renewed for further period of five years i.e. 2013-14 to 2017-18 vide letter no. SEEPZ-SEZ/IA-I/NUS/APL/SW-006/2007-08/9336 dated 27.08.2013 subject to the inter-alia terms and conditions as under:-
 - 2 (i) *The unit shall export the goods as per the provisions of the Special Economic Zone Act, 2005 and Rules made there-under for a period of five years. For this purpose, you shall execute the Bond-cum-legal undertaking as prescribed under the Special Economic zone Rules, 2006.*
 - 5 *You shall abide by the provisions of the Special Economic Zone Act, 2005 and the Rules and orders made thereunder.*
 - 7 *You shall confirm acceptance of the above terms and conditions to the undersigned within 45 days.*
 - 8 *You are requested to execute Bond-cum-Legal Undertaking for revised export & import projection as per Form H of SEZ Rules, 2006.*
3. The noticee failed to accept the terms and conditions of the Letter of Permission/ Approval dated 30.05.2013 and failed to execute Bond Cum Legal Undertaking (BLUT) with the Office of Development Commissioner, SEEPZ-SEZ in terms of Rule 22 of SEZ Rules-2006.
4. Accordingly the case was placed before the Unit Approval on 22.03.2018. The Unit Approval Committee in its meeting, after deliberation, directed to issue Show Cause Notice for non-execution of the Bond-cum-Legal Undertaking for the earlier block period i.e. 2013-14 to 2017-18.
5. In view of the aforesaid, noticee was issued the Show Cause Notice bearing Show Cause Notice No. SEEPZ-SEZ/IA-I/NUS/APL/SW-006/2007-08/26964 dated 05.11.2018 seeking the reason as to why the penal action should not be taken under Section 11(2) of Foreign Trade (Development & Regulation) Act, 1992 for violation of the condition of the LOA and BLUT read with rules of SEZ Rules-2006 and Orders made there under read with the provisions of the Foreign Trade (Development and Regulation) Act, 1992.

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6. The noticee vide its letter dated 26.11.2018 replied to the show cause notice and stated that the concerned staff handling the said activity from their side left without any notice and they were unaware of this missed submission, hence the said compliance could not be observed.

7. Thereafter, the noticee was granted an opportunity of personal hearing on 31.12.2018 wherein Shri. Waman Dukle, Director/CEO & Shri. Neelam Dharne, Assistant Manager Finance of the unit appeared. During the Personal Hearing, they admitted that it was a mistake on the part of them as one of their employee who was entrusted with the policy related work did not comply with the execution of the Bond-cum-Legal Undertaking and has left the job and assured that they will not occur in future and they would complying with all the procedures as per the SEZ Act/Rule 2006. They have further requested for lenient view.

DISCUSSIONS AND FINDINGS

8. I have carefully gone through the entire case records, SCN issued and defense put forth by the noticee as well as contentions raised during the course of personal hearing.

9. It is noted that the present Show Cause Notice is issued on the ground of the non-execution of the Bond-cum-Legal Undertaking of the earlier block by the noticee.

10. In this context, I find it relevant to refer the relevant provisions & guidelines under govern for the SEZ unit which read as under :

Rule 22 (1) (i)

The unit shall execute a Bond-cum-Legal Undertaking in Form H with regard to its obligations regarding proper utilization and accountal of goods, including capital goods, spares, raw materials, components and consumables including fuels, imported or procured duty free and regarding achievement of positive net foreign exchange earnings.

Rule 54(2)

"In case the Approval Committee comes to the conclusion that a unit has not achieved positive Net Foreign Exchange Earning or failed to abide by any of the terms and conditions of the letter of Approval or bond – cum Legal Undertaking without prejudice to the action that may be taken under any other law for the time being in force, the said unit shall be liable for penal action under the provisions of the Foreign Trade (Development and regulations) Act, 1992".

11. It is apperant from the above provisions that the noticee was required to execute the Bond-cum-Legal Undertaking for the earlier block period i.e. 2013-14 to 2017-18. However, it is an admitted fact that the noticee failed to execute the Bond-cum-Legal Undertaking & thereby violated the provisions of SEZ Rules, 2006.

ORDER

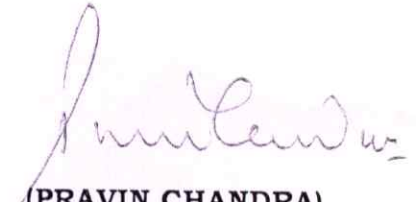
12. In view of the aforesaid facts & circumstances, I am satisfied that the noticee has violated the provision of SEZ Act & Rules. Hence, I impose a penalty of Rs. 20,000/- (Rs. Twenty Thousand Only) on M/s. Techatalyst Software Pvt. Ltd., under section 11(2) of FTDR, Act, 1992 read with Rule 54(2) of SEZ Rules 2006 for not adhering to the terms and conditions of the Letter of Permission/Approval and Bond cum Legal Undertaking (BLUT).

13. This order is without prejudice to any other action that may be taken against the notice or under any other person concerned with under the FTDR Act, 1992 or any other law for the time being in force in the Republic of India.

Sd/-
(BALDEV SINGH)
Development Commissioner,
SEEPZ-SEZ

To,

M/s. Techatalyst Software Pvt. Ltd.,
Unit No. 106, Multistoried Building
SEEPZ-SEZ, Andheri (East),
Mumbai - 400 096


(PRAVIN CHANDRA)
Jt. Development Commissioner,
SEEPZ-SEZ

Copy to:-

- 1) The Specified Officer, SEEPZ-SEZ
- 2) The Estate Manager, SEEPZ-SEZ