



GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY

OFFICE OF THE JOINT DIRECTOR GENERAL OF FOREIGN TRADE

6th Floor, ReshamBhavan, Laldarwaja, Surat 395003

Tel: 0261-2423381 FAX: 0261-2452216 EMAIL: surat-dgft@nic.in

File No. : 52/21/021/00456/AM07

Date: 30.04.20

ORDER- IN-ORIGINAL

1. Any party or person/s aggrieved by this Order may file an appeal against the same to Additional Director General of Foreign Trade, 6th Floor, ReshamBhavan, Laldarwaja, Surat in terms of Section 15 of the Foreign Trade (Development and Regulation) Act, 1992, within 45 days from the date of issue of this Order under intimation to this office.
2. The penalty amount shall be deposited within 45 days from issuance of this Order under intimation to this office under the Head of Account '1453 – Foreign Trade Export Promotion, Minor Head – 104 other receipts, fines and penalties etc. –Import and Exports Control Organization'. Penalty amount can also be submitted to online dgft.gov.in > Service > Online Ecom Application >eMPS.
3. If penalty is not paid, it shall be recovered as an arrear of land revenue of the person concerned and IEC may be cancelled as per Section 8 & 11(4) of FT(D&R) Act.

FACTS OF THE CASE

4. M/s.Alpha Packaging Ltd(IEC: 3494001987, PAN: AACCA0053A), the noticee, having address at 401 Accron Building Joggers Park, ROad Behind GhodDod Road Surat,Gujarat Pin-395007 and its Proprietor/ partners/directors applied and obtained license for Export Promotional Capital Goods Scheme under Chapter 5 of Foreign Trade Policy vide file number 52/21/021/00456/AM07 on 03.11.2006 and with following details:

Licence Number and Date 5230001265, 03.11.2006 Amendments :	
Licence Category	EPCG Concessional Duty 03%
File number	522102100456AM07
Name	ALPHA PACKAGING LTD (3494001987 Branch : 52)
Port of Registration	INTNA1
Notification No	
CIF	Rs.:1477297.18 in FC: 32432.43 USD
FOB	Rs.:2697824.24 in FC.0 USD

Import Item:

Sr.No.	Item Code	Item Description	Qty	UOM	CIF /Duty Saved (in Rs)
1	84145990	HIGH PRESSURE COMPRESSED AIR PACKAGE – MODEL NO.40P10-75 HIGH PRESSURE COMPRESSED AIR PACKAGE – MODEL NO.40P10-75	1.000	NUMBER	
		Total Duty Saved (Rs.)			337,228.00

Export Item:

Sr. No.	ITCHS Code	Item Description
1.	39159042	PET BOTLES AND PLASTIC/POLYMER BAGS BOTTLES AND PLASTIC/POLYMER BAG

5. As per condition sheet attached and conditions imposed under the scheme, the applicant is bound to fulfill Export Obligation of USD 59,227.75ie8 times of duty saved of capital goods on FOB basis with a period of 8 years from the date of issue of authorization.
6. The noticee submitted Bank Guarantee against Invalidation. Bank Guarantee is issued by Oriental Bank of Commerce, Jash Market, Ring Road, Surat with Guarantee no 01020006106 dated 10.11.06 of Rs. 2,65,000/- . Then bank also agreed not to revoke BG without prior consent from us.
7. Export Obligation period ends on 02.11.2014.
8. After expiry of period no export obligation fulfillment documents are submitted which are required under Foreign Trade Policy.
9. Demand Notice was issued with facility of Personal Hearing on 31.10.18.
10. Refusal Order Notice was issued on 24.07.19.
11. Show Cause Notice with facility of Personal Hearing was issued on 06.12.19.
12. Final call for Personal Hearing is issued on 06.12.19.

FINDINGS

13. A Show Cause Notice issued gave 15 days reply time with facility of personal hearing to the notice. But no Personal Hearing was attended by the noticee and no reply was submitted till date. So natural justice was done with enough opportunities.
14. In my opinion, the noticee while signing any documents must be aware of result of misuse. The noticee must not make any fraudulent documents and declaration which are contrary to the facts knowingly or unknowingly. To promote exports, the government waived off Duty of Rs337228/- to the noticee. This duty is hard earned money of the government which was appropriated from honest tax payers of the country. The noticee misappropriated and misused money of the government and did fraud to the government by taking undue benefit from government exchequer. So the noticee is fully responsible and mastermind for this modus operandi of fraud. The noticee has also not fulfilled export obligation till date. Because of this, the government lost Rs337228/- with addition of interest calculated from date of issuance of the license. So I found that the noticee violated Section 9 and 11 of Foreign Trade (Development and Regulation) Act, 1992. 'Person' under Section 11 of Foreign Trade (Development and Regulation) Act, means natural and legal person. In this case the proprietor/partners/directors in the name of his company is/are found guilty of violation of the Section 11 and liable to be imposed penalty.

ORDER

15. I therefore in exercise of powers vested in me under Section 9, 11& 13 of the Foreign Trade (Development & Regulation) Act, 1992, hereby impose fiscal penalty as below:

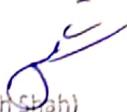
Sr. No.	Name of Proprietor/ partners/directors	Penalty Amount (in Rs.)
1.	SaritaShyam Agarwal Arjunlalji Ramachandra Hada 11b Ratna Market Apartment RavidhamComplex,NrPanjarpoleGhodDod R Surat,Gujarat Pin-395007	10000/-
2.	ShyamKanhayalal Agrawal KanhaiyalalSohanlal Agrawal 11b Ratna Market Apartment RavidhamComplex,NrPanjarpoleGhodDod R Surat,Gujarat Pin-395007	10000/-
3.	Radhika Nilaksh Agarwal Pradeep Ganediwal 11b Ratna Market Apartment RavidhamComplex,NrPanjarpoleGhodDod R Surat,Gujarat Pin-395007	10000/-


Suvidh Shah, ITS
Joint DGFT, Surat.
6th Floor, Resham Bhavan,
Lal Darwaja, Surat-395003.



4. NilakshShyam Agarwal Shyam Agarwal 11b Ratna Market Apartment RavidhamComplex,NrPanjarpoleGhodDod R Surat,Gujarat Pin-395007	10000/-
Total	40000/-

16. I ordered to pay 1,011,684/- (Rupees ten lakh eleven thousand six hundred eighty four only) as three times of duty saved towards to "Joint DGFT Surat" by Bank Draft.
17. I order to forfeit Bank Guarantee issued by Oriental Bank of Commerce, Jash Market, Ring Road, Surat with Guarantee no 01020006106 dated 10.11.06 of Rs. 2,65,000/-. The payment to be done in favour of Joint DGFT Surat" by Cheque/Draft by Bank of Baroda.
18. This order is issued without prejudice to any other action that may be taken under any other Act, Rules or Regulation for the time being in force.


(Suvidh Shah)
Joint Director General of Foreign Trade, Surat

To:
M/s. Alpha Packaging Ltd (IEC: 3494001987 PAN: AACCA0053A),
401 Accron Building Joggers Park,
R Oad Behind GhodDod Road
Surat,Gujarat Pin-395007

Suvidh Shah, ITS
Joint DGFT, Surat.
6th Floor, Resham Bhavan,
Lal Darwaja, Surat-395003.

Copy to:

1. Additional Director General of Foreign Trade, ReshamBhavan, Laldarwaja, Surat.
2. ECA Section, DGFT HQ, UdyogBhanvan, Maulana Azad Road, New Delhi-110011.
3. Regional Economic Intelligence Committee (REIC), Central GST Vadodara Zone, 2nd Floor, GST Bhavan, Race Course Circle, Vadodara-390007.
4. Oriental Bank of Commerce, Jash Market, Ring Road, Surat
5. SaritaShyam Agarwal Arjunlalji Ramachandra Hada 11b Ratna Market Apartment RavidhamComplex,NrPanjarpoleGhodDod R Surat,Gujarat Pin-395007
6. ShyamKanhaiyalal Agrawal KanhaiyalalSohanlal Agrawal 11b Ratna Market Apartment RavidhamComplex,NrPanjarpoleGhodDod R Surat,Gujarat Pin-395007
7. Radhika Nilaksh Agarwal Pradeep Ganediwal 11b Ratna Market Apartment RavidhamComplex,NrPanjarpoleGhodDod R Surat,Gujarat Pin-395007
8. NilakshShyam Agarwal Shyam Agarwal 11b Ratna Market Apartment RavidhamComplex,NrPanjarpoleGhodDod R Surat,Gujarat Pin-395007
9. M/s. Alpha Packaging Ltd , Alpha Pharma - BaddiDiv Of Alpha,Packaging Ltd 1291/3 1290/1 VillBhataulikolan Tehsil NalgarhSolan Pin-173205
10. M/s. Alpha Packaging Ltd, Sector 11 Plot No 28,Industrial Estate lieSiidcuiHaridwar,Uttarakhand Pin-249403
11. M/s. Alpha Packaging Ltd, Bramhaputra Industrial Park Plot No 104,Silasundurighopa Gauripur Kam Assam,Assam Pin-783331
12. M/s. Alpha Packaging Ltd, Plot No 336/A 336/B GidcPardi,IndUstrial Area BaldaPardiValsad,Gujarat Pin-396125
13. M/s. Alpha Packaging Ltd, 1 Nirman Industrial Estate,Chincho Li Link Road Malad West Mumbai,Maharashtra Pin-400064
14. M/s. Alpha Packaging Ltd, Khata No 21/28 Lakshmanapura,ThyaMagondluHobliNelamangalaTq Bangalore Rural,Karnataka Pin-562123

This Order Is Available On Dgft.Gov.In> Act & Rules > Order Passed By Ra/Sez> Office > Surat