



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. : 52/36/021/00006/AM06

Date: 05.05.20

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.K. N. Enterprises (IEC: 5203009571, PAN:AABHN8072Q), thenoticee, having address at D-314, Yash Plaza, Opp:Dhanmal Mills,Varachha Road, Surat/Gujarat Pin-395006and its Proprietor/ partners/directorsShri: Naresh ShivbhagwanSharma, 308, Swapnadeep Apts. Bhata Char Rasta , Surat/Gujarat Pin-395004applied and obtained license for Export Promotional Capital Goods Schemeunder Chapter 5 of Foreign Trade Policy vide file number 52/36/021/00006/AM06on 02.05.2005and with following details:

Licence Number and Date	5230000408, 02.05.2005 Amendments :
Licence Category	EPCG Concessional Duty 03%
File number	523602100006AM06
Name	K.N.ENTERPRISES, (5203009571 Branch : 0)
Port of Registration	INBOM4 (Air Cargo)
CIF	Rs.:5145693.3 in FC: 107538 USD
FOB	Rs.11867464 in FC: 0 USD

Import Item:

Sr. No.	Item Code	Item Description	Qty	CIF /Duty Saved (in Rs)
1	8465.99	DIA EXPERT-SL 1.3 7MM L/MAP HARDWARE INCLUDING:- DIAMARK SYSTEM	2.000	
2	8465.99	DIA EXPERT-SL 1.22 SYSTEM HARDWARE INCLUDING – DIAMARK SYSTEM	3.000	

3	8465.99	DIA EXPERT 1.22 SYSTEM HARDWARE INCLUDING:- DIAMARK-Z SYSTEM –SLP-240 W SEIKO LABEL PRINTER	1.000	
4	8465.99	DIA EXPERT-ML(#1); L/MAPPING H/W HARDWARE INCLUDING DIAMARK SYSTEM	1.000	
5	8465.99	DIA EXPERT-ML(#1,3); MAPPING H/W HARDWARE INCLUDING DIAMARK SYSTEM	1.000	
6	8465.99	DIA EXPERT-ML L/MAPPING H/W HARDWARE INCLUDING: DIAMARK SYSTEM	1.000	
7	8465.99	DIASCAN S12 (EXT.PUMP;I/MAPPING HARDWARE INCLUDING:	1.000	
Total Duty Saved (Rs.)				14,83,433.00

Export Item:

Sr. No.	Item Description
1.	CUT AND POLISHED DIAMONDS

5. As per condition sheet attached and conditions imposed under the scheme, the applicant is bound to fulfill Export Obligation of USD 248,013.87ie8 times of duty saved of capital goods on FOB basis with a period of 8 years from the date of issue of authorization.
6. Export Obligation period ends on 01.05.2013.
7. After expiry of period no export obligation fulfillment documents are submitted which are required under Foreign Trade Policy.
8. Demand Notice was issued with facility of Personal Hearing on 21.04.15.
9. Refusal Order Notice was issued on 05.10.17.
10. Show Cause Notice with facility of Personal Hearing was issued on 03.03.20.
11. Final call for Personal Hearing is issued on 03.03.20.

FINDINGS

12. 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 notice and no reply was submitted till date. So natural justice was done with enough opportunities.
13. In my opinion, the notice 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 Rs1483433/- to the noticee. This duty is hard earned money of the government which was appropriated from honest tax payers of the country. The notice 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 Rs1483433/- 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

14. 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 of Rs. 10,000/- (Rupees Ten Thousand only) on M/s. K. N. Enterprises (IEC: 5203009571, PAN: AABHN8072Q), the noticee, having address at D-314, Yash Plaza, Opp: Dhanmal Mills, Varachha Road, Surat/Gujarat Pin-395006 and its


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

Proprietor/ partners/directors Shri: Naresh ShivbhagwanSharma, 308, Swapnadeep Apts. Bhata Char Rasta , Surat/Gujarat Pin-395004

15. I ordered to pay custom duty and all other duties against this license as per utilization to Port of Registration mentioned in License with interest payment and penalty as per rules and regulation under Custom Act.
16. I also order for suspension of IEC5203009571 for stopping them any further import and export as per section 8 of FT (D&R) Act 1992.
17. 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. K. N. Enterprises (IEC: 5203009571 PAN: AABHN8072Q),
D-314, Yash Plaza, Opp:Dhanmal Mills,
Varachha Road,
Surat/Gujarat Pin-395006

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. Office of The Commissioner of Customs (Export) Air Cargo Complex, Sahar, Andheri (East) Mumbai 400099
5. Shri: Naresh ShivbhagwanSharma, 308, Swapnadeep Apts. Bhata Char Rasta , Surat/Gujarat Pin-395004

This Order Is Available On dgft.gov.in > act & rules > Order passed by RA/SEZ > Office > Surat