

Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi-110011

F.No. 18/61/2019-20/ECA.I/269

Date of Order: 06.09.2022

Date of Despatch: 07.09.2022

Name of the Appellant:

Ruia Chemicals Private Limited, 105/2B,
Ultadanga Main Road, Kolkata - 700067

IEC No.

0295007648

Order reviewed against:

Order-in-Appeal No. 18/23/18-
19/ECA/KOL/Appeal-234 dated
24.08.2018 passed by Addl. DGFT,
Kolkata

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

Order-in-Review

Ruia Chemicals Pvt. Ltd., Kolkata (here-in-after referred to as the 'Petitioner') filed a Review Petition dated 11.02.2020 under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against Order-in-Appeal (OIA) No. 18/23/18-19/ECA/KOL/Appeal-234 dated 24.08.2018 passed by Addl. DGFT, Kolkata upholding the Order-in-Original (OIO) No. 02/21/040/00091/AM12 dated 20.03.2018. The Adjudicating Authority imposed a penalty of Rs.7,39,000/- on the Petitioner in addition of payment of customs duty plus applicable interest thereon.

Brief of the case

2.1 The Petitioner obtained an Advance Authorization No. 0210161083 dated 24.06.2011 for a CIF value of Rs. 73,90,000/- (US\$ 1,57,251) with an obligation to export for an FOB value of US\$ 3,13,000 (Rs.1,44,17,000/-) to be completed within a period of 36 months from the date of the authorization. This authorization was issued against invalidation letters dated 26.04.2011, 05.05.2011 (two letters), 13.05.2011 and 25.05.2011 invalidating the Authorizations issued to Paharpur Cooling Towers Limited, Kolkata for direct import from the Petitioner. As per conditions of the Authorisation, the Petitioner was required to submit the prescribed documentary evidence of having fulfilled its export obligation (EO).

2.2 Export Obligation Period (EOP) expired on 30.06.2014. The Petitioner did not submit complete documents evidencing fulfilment of export obligation despite Show Cause Notice dated 07.01.2015 with an opportunity of personal hearing. As the Petitioner did not submit complete documents, its IEC was placed in Denied Entity List (DEL). A Show Cause Notice Dated 20.01.2016 under Section 11(2) for imposition of fiscal penalty was issued. The



[Handwritten signature]

Petitioner did not respond. The Adjudicating Authority passed an OIO dated 20.03.2018 imposing a penalty of Rs. 7,39,000/- on the Petitioner and its Directors/Partner/Proprietor in addition to payment of Customs duty plus applicable interest thereon.

3. The Petitioner filed an appeal on 02.07.2018 before the Appellate Authority. The Appellate Authority observed that the Petitioner did not submit the Appeal within prescribed time limit of 75 days of passing the OIO and did not deposit pre-deposit penalty amount and required documents. The Appellate Authority dismissed the Appeal and upheld the OIO vide the OIA dated 24.08.2018.

4.1 The Petitioner has now submitted a Review Petition dated 11.02.2020 to the undersigned. It has stated that:

- (i) it supplied the material by factory gate pass raising tax invoice cum excise invoices. Since Paharpur Cooling Towers Ltd. fulfilled the export obligation, proof of export was only available with them,
- (ii) it already submitted tax invoice cum excise invoices to the jurisdictional officer of DGFT for verification. It is not in a position to get excise authorities certification of item of supply, value and date etc. since excise officer was not of its jurisdictional officer,
- (iii) its office was completely destroyed by a devastating fire during the month of July 2018 and all the commercial files including the DGFT files were fully destroyed.

4.2 The Petitioner prayed to waive the fiscal penalty of the Rs. 7,39,000/- and customs duty.

5. RA, Kolkata furnished sequence of event and para-wise comments on the review petition vide their letter dated 08.03.2022. The Petitioner also submitted a certificate dated 27.08.2019 issued by Paharpur Cooling Tower Ltd., Kolkata vide their email dated 16.02.2022..

6.1 The Petitioner was granted personal hearing on 10.08.2022 which was attended by Shri Bimal Ruia, Managing Director and Shri Abhijit Roy, Advocate of the Petitioner. They informed that the Petitioner was not aware of the formality to submit documents relating to fulfilment of export obligation. When the Petitioner received SCN, it submitted all the documents. However, it did not get all its gate passes authenticated by Excise Authority. It imported all the material under the Authorization and supplied the material to Paharpur Cooling Towers Limited, Kolkata (PCTL). PCTL has given a certificate dated 27.08.2019 indicating Authorization number, product name, quantity and value. It does not have any documents to proof the export and PCTL have the documents.

6.2 Mrs. Dona Ghosh, JDG, Kolkata and Shri Anand Mohan Mishra, JDG, Kolkata were also present during the hearing. They informed that the Petitioner accepted that it cannot



provide the documents. It is the Petitioner's job to provide requisite prescribed documents relating to fulfilment of export obligation for redemption of the Authorization.

7. I have gone through the records and submissions made and it is observed that the Petitioner did not submit the prescribed documents towards fulfilment of export obligation. It also accepted that it did not have the export documents. The Petitioner imported the items indicated in the Authorization and did not make any export.

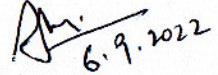
8. I, therefore, in exercise of powers vested in me under Section 16 of the Act pass the following order:

ORDER

F. No. 18/61/2019-20/ECA.I/272

Dated: 06.09.2022

The Review Petition dated 11.02.2020 is dismissed. Order-in-Appeal No. 18/23/18-19/ECA/KOL/Appeal-234 dated 24.08.2018 and Order-in-original No. 02/21/040/00091/AM12 dated 20.03.2018 are upheld.



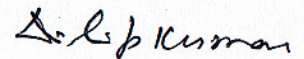
(Santosh Kumar Sarangi)

Director General of Foreign Trade

Copy to:

- (I) Ruia Chemicals Private Limited 105/2B, Ultadanga Main Raod, Kolkata - 700067 .
- (II) Addl. Director General of Foreign Trade, 4, Esplanade East, Kolkata -700069. It is requested to initiate recovery proceedings against the Petitioner for recovery of the penalty amount of Rs. 7,39,000/- .
- (III) Central Economic Intelligence Bureau, 1st, 6th& 8 Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi – 110001.
- ✓(IV) DGFT Website.





(Dilip Kumar)

Dy. Director General of Foreign Trade