

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

F.No.18/12/2022-23/ECA.I/

Date of Order : 09.03.2023

Date of Dispatch: 10.03.2023

Name of the Applicant:

M/s Jadhao Layland Pvt. Ltd.,
A-77, M.I.D.C Area Amravati,
Maharashtra - 444605

IEC No.

5011005038

Order appealed against:

Order-in-Original No. 50/21/021/ 00005
/AM14 dated 18.04.2022 passed by Addl.
DGFT, Nagpur

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

Order-in-Appeal

M/s Jadhao Layland Pvt. Ltd., Amravati (here-in-after referred to as the 'Appellant') filed an appeal dated 30.05.2022 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against the Order-in-Original No. 50/21/021/00005/AM14 dated 18.04.2022 (OIO) passed by Adjudicating Authority (Addl. DGFT, Nagpur) imposing a penalty of Rs.9,85,750/- in addition to payment of customs duty plus interest on the Appellant and its Proprietor/Partners/Directors and also ordered that no further licence shall be issued to the Appellant or any other firm in which the Proprietor/Partners/ Directors of the Appellant is/are directly involved in the day to day activities of the firm in terms of Section 7(1) of the Act.

Brief Facts of the Case

2.1 The Appellant obtained an EPCG Authorization No. 5030000350 dated 29.04.2013 from the office of Additional DGFT, Nagpur as per the provisions of Foreign Trade Policy (FTP), for import of capital goods for a duty saved value of



Rs.4,92,875/- under zero duty EPCG Scheme with a specific Export Obligation (EO) for FOB value of US\$ 53,817 to be completed within a period of 6 years from the date of issue of authorization. The average Export Obligation was nil. As per conditions of the Authorization, the Appellant was required to submit the prescribed documents showing fulfilment of export obligation.

2.2. Export obligation period expired 28.04.2019. The Appellant did not submit the prescribed documents evidencing fulfilment of EO. RA, Nagpur issued Show Cause Notice dated 05.03.2022 under Section 14 for action under Sections 11(2) of the Act.

2.3 The Adjudicating Authority (Additional DGFT, Nagpur) observed that the Appellant and its Proprietor/Partners/Directors, as the case may be, are guilty of violating of conditions authorization thereby liable to a penalty u/s 11(2) of the Act. The Adjudicating Authority passed an OIO dated 18.04.2022 imposing a penalty of Rs.9,85,750/- in addition to payment of customs duty plus interest thereon, on the Appellant and its Proprietor/Partners/Directors as there was no reply to the SCN. The Adjudicating Authority also ordered that no further licence shall be issued to the Appellant and or any firm in which the Proprietor/Partners/ Directors of the Appellant is/are directly involved in the day to day activities of the firm in terms of Section 7(1) of the Act.

3.1 The Appellant has filed an appeal dated 30.05.2022 to the undersigned stating that :-

(i) It could not fulfill export obligation due to slow down in international market, financial crises and COVID-19,

(ii) It has some export orders and can fulfill the export obligation. It has requested EPCG Committee for extension of EO period and on receipt of EO extension, it will start export and fulfill export obligation,

3.2 The Appellant has prayed for allowing some time to complete the Export Obligation and stop legal action against it.

4. The Appellant was granted personal hearing on 19.01.2023 and 06.03.2023 which was attended by Shri Rohit Asrani, Chartered Accountant, of the Appellant. He informed that the Appellant could not fulfill the export obligation due to slow down in international market, financial crises and COVID-19. It has many export orders in hand and can fulfill the export obligation. He requested to grant two years extension in export obligation period so that the Appellant could fulfill the export obligation. Ms. Snehel, Assistant DGFT, Nagpur was also present during the personal hearing.



5. I have gone through the facts and records carefully. EO period of the Authorisation No. 5030000350 dated 29.04.2013 expired on 28.04.2019. The Appellant had not applied for extension of EO period for the first block nor had it applied on time to the Regional Authority for extension of EO from 6 to 8 years. The representative of the firm admitted that they have not made any export but have sufficient orders in hand which can enable it to fulfill the EO if extension of time is granted. Ms. Snehel, Assistant DGFT, Nagpur was also present during the personal hearing. She informed that the Appellant has not submitted Installation Certificate from jurisdictional Central Excise Authority However the same can now be certified by a Independent Chartered Engineer as per existing policy.

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

ORDER

F.No.18/12/2022-23/ECA.I/ 521

Date: 09.03.2023

The appeal dated 30.05.2022 is rejected. The Appellant is directed to pay the customs duty plus interest on the unfulfilled EO within 1 month of issuance of the order along with documentary evidence of payment to RA Nagpur. The penalty shall stand remitted on payment of the customs duty and interest within the time period failing which RA Nagpur shall take appropriate action under the Act



Santosh Kumar Sarangi
9.3.

(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy to:-

1. M/s Jadhao Layland Pvt. Ltd., A-77, M.I.D.C Area Amravati, Maharashtra - 444605
2. The Addl. Director General of Foreign Trade, Nagpur.
3. Central Economic Intelligence Bureau, 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi.
4. DGFT Website.

Dilip Kumar

(Dilip Kumar)

Dy. Director General of Foreign Trade

