

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

F.No. 18/04/2017-18/ECA.I

Date of Order: 29 .09.2022

Date of Dispatch: 30 .09.2022

Name of the Petitioner:

Shivam Spinning Mills Pvt. Ltd.,
Building No. 08, Flat No. 003,
Oshiwara Mhada Complex, Andheri
(West), Mumbai-400053.

IEC No. :

3394002701

Order reviewed against:

Order-in-Appeal No. 03/16/144/
0078/AM.15 dated 27.03.2017 passed
by Addl. DGFT, Mumbai

Order-in-Review passed by:

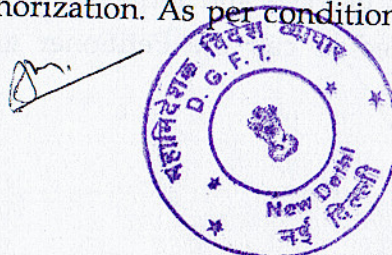
Shri Santosh Kumar Sarangi, DGFT

Order-in-Review

Shivam Spinning Mills Pvt. Ltd., Mumbai (here-in-after referred to as the 'Petitioner') filed a Review Petition dated 09.05.2017 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 No. 03/16/144/0078/AM.15 dated 27.03.2017 passed by Addl. DGFT, Mumbai upholding the Order-in-Original (OIO) dated 01.11.2007 passed by the Adjudicating Authority (Joint DGFT, Mumbai), imposing a penalty of Rs.19,00,000/- on the Petitioner and its Directors.

Brief of the Case

2.1 The Petitioner obtained an Advance Authorization No. 0310085899 dated 25.05.2001 for a CIF value of Rs. 14,29,730/- with an obligation to export for an FOB value of US\$40,800 (Rs.19,21,680/-) to be completed within a period of 18 months from the date of issue of the Authorization. As per conditions of the Authorisation,



the Petitioner was required to submit the prescribed documentary evidence of having fulfilled export obligation (EO) within two month of expiry of EO period.

2.2 EO period expired in December 2002. After the expiry of the EO period the Petitioner did not submit complete documents evidencing fulfilment of export obligation. A demand notice dated 25.05.2007 was issued, but the Petitioner did not respond. Thereafter, a Refusal Order and forfeiture order was issued on 25.06.2007. A Show Cause Notice (SCN) dated 01.08.2007 was issued to the Petitioner under the Act. The SCN was returned by postal authority with remarks "left". The Adjudicating Authority observed that the Petitioner and its proprietor had misutilized the license and the duty exemption material imported was utilized for the purpose other than for which the same was obtained by them, and passed an OIO No. 030100200106AM08 dated 01.11.2007 imposing a penalty of Rs. 19,00,000/- on the Petitioner and its Directors.

2.3 The Petitioner filed an appeal on 01.11.2011 before the Appellate Authority. The Petitioner was granted personal hearing (PH) thrice, but no one turned up for personal hearing. The Appellate Authority observed that the Petitioner had failed and neglected to submit any evidence of heaving made exports against the authorisation, and dismissed the appeal vide OIA dated 27.03.2017.

3.1 The Petitioner has now submitted a Review petition dated 09.05.2017 to the undersigned stating that:

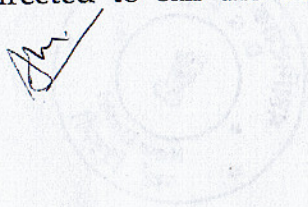
- (i) it fulfilled export obligation in time by clubbing 08 licenses and Joint DGFT, Mumbai, issued closure/redemption memo dated 03.07.2002,
- (ii) based on the said redemption memo the bond was also cancelled from Customs,
- (iii) it brought the above facts to notice of Adjudicating Authority and Appellate Authority and it was unfair that OIO and OIA was passed for already redeemed licenses.

3.2 The Petitioner has prayed that:

- (i) the OIA dated 27.03.2017 be quashed and set aside,
- (ii) no fiscal penalty is imposable on it and it is not liable to pay custom duty or interest.

4. The Petitioner was granted an opportunity of Personal Hearing on 23.12.2021 which was attended by Shri Rajiv Behl, Director of the Petitioner. He informed that the Petitioner clubbed 08 licences and redemption letter was issued on 03.07.2002.

RA, Mumbai was directed to call the Petitioner and verify the details from the



records and send a report within a month. RA, Mumbai vide their letter dated 08.09.2022 has furnished a report intimating that Advance Authorisation No. 0310085899 dated 25.05.2001 was clubbed with seven other Advance Authorizations and regularized vide memo dated 03.07.2002.

5. I have gone through the records and facts carefully. RA, Mumbai have now informed that Advance Authorisation No. 0310085899 dated 25.05.2001 was clubbed with seven other Advance Authorizations and regularized in 2002 vide memo dated 03.07.2002.

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

Order

F.No. 18/04/2017-18/ECA.I/318

Dated: 29.09.2022

The Review Petition dated 09.05.2017 is admitted. The Order-in-Appeal No. 03/16/144/0078/AM.15 dated 27.03.2017 and the Order-in-Original No. 030100200106AM 08 dated 01.11.2007 are set aside.



[Signature]
29.9.2022

(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy To:

- (1) Shivam Spinning Mills Pvt. Ltd., Building No. 08, Flat No. 003, Oshiwara Mhada Complex, Andheri (West), Mumbai-400053.
- (2) Addl. Director General of Foreign Trade, Nishtha Bhawan, New CGO Building, 48, Vithaldass Thakersey marg, New Marine Lines, Churchgate, Mumbai - 400 020.
- (3) CEIB, 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi - 110001.
- (4) DGFT Website.

[Signature]
Dilip Kumar

(Dilip Kumar)
Dy. Director General of Foreign Trade