

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

F.No. 18/26/2020-21/ECA.I/

Date of Order : 15 .12.2022

Date of Dispatch: 16 .12.2022

Name of the Applicant:

Amstrin Pharma Pvt. Ltd., Plot No. 13/D,
Kurla Indl. Est., Nari Seva Sadan Road,
Ghatkopar (W), Mumbai, Maharashtra - 400086

IEC No.

0301007667

Order Reviewed against:

Order-in-Appeal No.03/16/144/00009/AM.20
dated 10.11.2020 passed by Addl. DGFT, Mumbai

Order-in-Review passed by:

Shri Santosh Kumar Sarangi, DGFT

Order-in-Review

Amstrin Pharma Pvt. Ltd., Mumbai (here-in-after referred to as 'the Petitioner') filed a Review Petition dated January, 2021 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. 03/16/144/00009/AM20 dated 10.11.2020 passed by Addl. DGFT, Mumbai dismissing the appeal against the Order-in-Original (OIO) dated 01.01.2018 imposing a penalty of Rs.1,00,000/- (Rs. One lakh) on the Petitioner and its Directors.

Brief of the case

2.1 The Petitioner obtained an Advance Authorization No. 0310327345 dated 26.04.2005 for a CIF value of Rs. 1,52,460/- with an obligation to export for an FOB value of US\$15,488/- to be completed within a period of two years from the date of issue of the Authorization. As per conditions of the Authorization, the Petitioner was required to submit the prescribed documentary evidence of having fulfilled export obligation (EO) within two months of expiry of EO period.

2.2 EO period expired on 25.04.2007. The Petitioner submitted export documents on 26.12.2005 and 06.11.2006. RA, Mumbai found that the documents were not complete and issued deficiency letters on 03.03.2006, 17.11.2006, 18.01.2007, 02.09.2007 and



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09.12.2010. RA, Mumbai issued also a demand notice on 13.10.2010 with opportunity of personal hearing (PH) on 10.11.2010. The Petitioner neither submitted complete export documents nor attended the PH. RA, Mumbai placed its IEC under DEL vide refusal order issued on 06.01.2012. As there was no response from the Petitioner, a Show Cause Notice (SCN) dated 18.08.2012 with an opportunity of PH on 05.11.2012, was issued. The SCN dated 18.08.2012 was received back undelivered from the postal authorities with remarks 'Left'. RA, Mumbai again issued letters dated 25.03.2014 & 07.12.2017 to the Petitioner directing to submit the export documents towards fulfillment of export obligation. The Petitioner did not respond. The Adjudicating Authority thereafter passed OIO No. 03/01/002/00143/AM15 dated 01.01.2018 imposing a fiscal penalty of Rs. 1,00,000/- (Rs. One lakh) on the Petitioner and its Directors.

3. The Petitioner had filed an appeal on 23.05.2019 before the Appellate Authority. The Appellate Authority dismissed the appeal as time barred vide OIA dated 10.11.2020.

4.1 The Petitioner has now submitted a Review petition dated January, 2021 to the undersigned stating that:

- (i) it submitted to RA, Mumbai requisite original documents alongwith application on 26.12.2005 and 06.11.2006 evidencing fulfillment of export obligation and realization of export proceeds and requested for issue of EODC,
- (ii) it surrendered its IEC on 28.02.2011 for cancellation,
- (iii) despite submission of complete documents, it was issued SCN dated 18.08.2012 which was never received by it,
- (iv) it received a letter dated 04.04.2019 from DGFT informing to avail the opportunity to participate in EODC camps organized for the closure of the pending cases on 24.04.2019 and during the camp, it was informed that OIO dated 01.01.2018 was passed imposing a penalty of Rs. one lakh. It obtained a copy of OIO in the camp,
- (v) it submitted appeal on 23.05.2019 against the OIO, but the appeal was dismissed time barred vide OIA dated 10.11.2020.

4.2 The Petitioner has prayed for:

- (a) quashing and setting aside the OIO and review the OIA,
- (b) remanding the case to RA, Mumbai with the request that EODC application submitted on 26.12.2005 may be examined and EODC issued.

5. The Petitioner was granted an opportunity of Personal Hearing on 23.11.2022 which was attended by Mr. Shivam Amarnath Mishra, Consultant representing the Petitioner. He informed that the Petitioner submitted all the original documents in the year 2005. However, it received deficiency letters and demand notice stating that complete documents were not submitted and asked to submit balance documents. In the OIA, it is indicated that the Petitioner has submitted the documents as mentioned in Para 3.3, but failed to submit appeal within time limit. This proves that the Petitioner had submitted the entire export document. Shri Satya Raja Shekhar, DDG, Mumbai was



also present during PH. He informed that the Petitioner had completed the exports, but did not submit complete export documents like application in ANF-4F, CA certified documents, etc. The Petitioner agreed to submit the remaining documents.

6. I have gone through the records and facts carefully. The Petitioner has claimed to have completed exports, but has not submitted complete export documents. It has agreed to submit the remaining documents.

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

Order

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Dated: 15.12.2022

The Petitioner is directed to submit the remaining documents to RA, Mumbai within a month. The case is remanded to RA, Mumbai with the directions to examine the case denovo and finalize it within three months.



[Signature]
15.12.2022

(Santosh Kumar Sarangi)

Director General of Foreign Trade

Copy To:

- (I) Amstrin Pharma Pvt. Ltd., Plot No. 13/D, Kurla Indl. Est., Nari Seva Sadan Road, Ghatkopar (W), Mumbai, Maharashtra - 400086,
- (II) Additional Director General of Foreign Trade, Nishtha Bhawan (New C.G.O. Bldg.), 48, Vithaldas Thackersey Marg, Churchgate, Mumbai- 400020 (Maharashtra)
- (III) CEIB, 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi - 110001.
- ✓(IV) DGFT Website.

[Signature]

(Dilip Kumar)

Dy. Director General of Foreign Trade