

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

F. No. 18/03/2022-23/ECA.I/

Date of Order : 03.08.2023

Date of Despatch: 09.08.2023

Name of the Petitioner:

M/s Besta Vision Electronics Ltd,
6-B, Mathura Road, Jangpura,
New Delhi-110014.

IEC No.

0588000213

Order Reviewed against:

Order-in-Appeal No.
05/16/140/0094/AM19/Appeal/CLA dated
22.03.2022 passed by Addl. DGFT, CLA, New
Delhi.

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

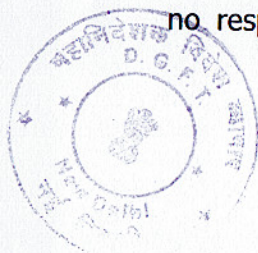
Order-in-Review

M/s Besta Vision Electronics Ltd., New Delhi (here-in-after referred to as 'the Petitioner') having IEC No.0588000213 filed Review Petition dated 05.05.2022 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.05/16/140/00094/AM19/Appeal/CLA dated 22.03.2022 passed by Addl. DGFT, CLA, New Delhi rejecting the appeal as time barred against the Order-in-Original No.ADV/LIC/UES/654/AM94/NMS-I/CLA dated 11.12.2007 imposing a penalty of Rs.50,00,000/- on the Petitioner and its Directors.

Brief of the Case

2. The Petitioner obtained an Advance Authorization No.P/K/0002005 dated 19.03.1996 from RA, CLA, New Delhi under Duty Exemption Scheme for a CIF value of Rs.24,55,704/- with condition to fulfill the export obligation for a FOB value of Rs.34,38,000/- in free foreign exchange.

3. The export obligation period (EOP) expired on 31.03.1997, but the petitioner did not submit the documents evidencing fulfillment of export obligation. A SCN dated 19.09.1997 u/s 14 for action u/s 11(2) of FTDR Act, 1992 was issued to the petitioner on all addresses available on record. All the letters received back undelivered. Since, no response received from the petitioner, the Adjudicating Authority (RA, CLA, New



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Delhi) passed an Adjudication Order No.ADV/LIC/UDES/654/AM94/NMS-I/CLA dated 11.12.2007 imposing a penalty of Rs.50,00,000/- on the petitioner and its Directors.

4. The Petitioner filed appeal on 21.01.2019 against the Adjudication Order dated 11.12.2007 (almost after 11 years) which was rejected by the Appellate Authority being time barred vide Order-in-Appeal (OIA) No.05/16/140/0094/AM19/Appeal/CLA dt.22.03.2022.

5.1 Now, the Petitioner has filed the present review petition dated 05.05.2022 on the following grounds :-

(i) OIA was rejected without considering actual date of receipt of adjudication order was 26.11.2018 and not 11.12.2007. The appeal was filed within prescribed time. As per Section 15 of FTDR Act, 1992, an appeal can be filed within 45 days from the date on which the decision or order is served on such person.

(ii) Adjudication order has been passed ex-parte without considering the documents and facts available on record and written submissions and judgment submitted on 03.03.2022.

(iii) The petitioner did not utilize the impugned license at all and therefore there is no question of payment of duty and fulfillment of export obligation.

(iv) If the petitioner would have affected the imports qua the subject licenses, Customs Authorities would have issued SCN whereas in the instant case, no SCN have been issued by Customs Authorities.

(v) The penalty is highly excessive and incommensurate with the gravity of offense, if any.

5.2 The Petitioner has prayed for :-

- (i) Set aside the Order-in-Appeal dated 22.03.2022.
- (ii) Pass such order(s) or direction(s) in favour of the petitioner as deem fit.
- (iii) Grant a personal hearing.

6. The Reviewing Authority granted the personal hearing to the Petitioner on 06.06.2023. Ms. Reena Rawat, Advocate and Shri Manoj Gupta, Authorised Representative attended the PH. While hearing it was observed that the voice of the petitioner was not audible properly. No one was attended from CLA, New Delhi in the meeting. Reviewing Authority has given 30 days time to the Petitioner to submit the



corroborative evidence of non-utilization of the subjected license. However, Petitioner has not submitted the corroborative evidence of non-utilization of the subjected license even after 30 days has been lapsed. Further one more week time (as final opportunity) has been given to the Petitioner vide mail dated 13.07.2023 to submit the corroborative evidence of non-utilization of the subjected license.

6.1 Firm vide letter dated 24.07.2023, intimated that their license was issued during the period 1996, and all the licenses were manually processed, no information could be gathered on the ground that at that time it was manual processed. They have however given affidavit regarding non utilization of license along with the Review Petition. Hence, the Petitioner requested to allow their Review Petition, condone the delay and remand back to the original authority for a decision on merit.

7. I have gone through the facts and records of the case carefully. The Petitioner had obtained the Advance Authorization No.P/K/0002005 dated 19.03.1996 from RA, CLA, New Delhi under Duty Exemption Scheme for a CIF value of Rs.24,55,704/- with condition to fulfill the export obligation for a FOB value of Rs.34,38,000/- in free foreign exchange. The export obligation period (EOP) had expired on 31.03.1997. The petitioner did not submit the documents evidencing fulfillment of export obligation against the subject authorisation. The Adjudicating Authority had passed an Adjudication Order No.ADV/LIC/UDES/654/AM94/NMS-I/CLA dated 11.12.2007 imposing a penalty of Rs.50,00,000/- on the petitioner and its Directors.

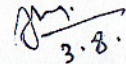
8. I therefore, in exercise of powers vested in me under Section 16 of the Act pass the following order:-

ORDER

F.No. 18/03/2022-23/ECA.I/138

Dated : 03.08.2023

The Review Petition dated 05.05.2022 is admitted. The Order-in-Appeal No.05/16/140/0094/AM19/Appeal/CLA dated 22.03.2022 and the Order-in-Original No.ADV/LIC/UDES/654/AM94/NMS-I/CLA dated 11.12.2007 are set aside. The case is remanded back to CLA-New Delhi for de-novo consideration.



(Santosh Kumar Sarangi)

Director General of Foreign Trade

Copy to:-

1. M/s Besta Vision Electronics Ltd., 6-B, Mathura Road, Jangpura, New Delhi-110014.
2. The Addl. Director General of Foreign Trade, CLA, New Delhi.



3. Central Economic Intelligence Bureau, 1st, 6th& 8th Floor, 'B' Wing, JanpathBhawan, Janpath, New Delhi – 110001.

✓ 4. DGFT Website.



(A.S. Lungreishang)

Dy. Director General of Foreign Trade