

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

F.No. 18/12/2021-22/ECA.I/

Date of Order : 28 .10.2022

Date of Dispatch: 31 .10.2022

Name of the Applicant:

Jaysun Ceramic, Survey No.123/P, 136/P,  
8-A, National Highway, At Dhuva, Tal.  
Wankaner, Morbi - 363 622, Gujarat (India)

IEC No.

2497003149

Order Reviewed against:

Order-in-Appeal No. 11/59/2012-13/ECA.I  
dated 20.09.2012 Additional DGFT, DGFT, New  
Delhi

Order-in-Review passed by:

Shri Santosh Kumar Sarangi, DGFT

**Order-in-Review**

Jaysun Ceramic (here-in-after referred to as the 'Petitioner') filed a Review Petition dated 16.07.2021 under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against 11/59/2012-13/ECA.I dated 20.09.2012 passed by Additional DGFT, DGFT, New Delhi upholding the Order-in-Original (OIO) dated 02.12.2011 imposing a penalty of Rs. 75.00 lacs on the Petitioner and in addition to payment of customs duty and applicable interest, on the Petitioner.

**Brief of the case**

2.1 The Petitioner obtained an EPCG Authorization No. 2430000116 dated 07.10.2003 from the office of the Joint DGFT, Rajkot as per the provisions of the Foreign Trade Policy (FTP) prevalent during that period, for import of capital goods for a Duty Saved value of Rs. 14,49,570/-with an obligation to export for an FOB value of US\$ 2,42,352.35 to be completed within a period of 8 years from the date of issue of the Authorization. The Petitioner was required to maintain annual average export of Rs. 87,02,200/-. As per conditions of the Authorization, the Petitioner was required to submit the prescribed documents showing fulfillment of export obligation within three months from the date of expiry of Authorization.





2.2 Export Obligation Period expired on 06.10.2011. The Petitioner did not submit prescribed export documents towards fulfillment of export obligation. A Show Cause Notice dated 01.07.2009 for action under Section 11(2) of the Act and opportunity of personal hearing was granted on 14.07.2009. A Penalty Notice was also issued to all the partners on 13.10.2011. The Petitioner neither responded nor attended personal hearing. The Adjudicating Authority observed that the Petitioner and all its partners guilty for violation of conditions of the licence and imposed a penalty of Rs.75.00 lacs on the Petitioner and Rs. 2.00 lacs on each of its partners vide OIO dated 02.12.2011.

2.3 The Petitioner had deposited the customs duty saved of Rs.14,64,066 and interest thereon of Rs.17,64,200/- vide challans No. 48 & 27 both dated 07.02.2012.

3. The Petitioner submitted an appeal on 26.03.2012 against the OIO dated 02.12.2011. However, the Appellate Authority dismissed the appeal as time barred vide the Order-in-Appeal dated 20.09.2012.

4.1 The Petitioner submitted a Review Petition dated 16.07.2021 to the undersigned stating that: -

(i) it imported and installed the capital good but it faced so many troubles regarding quality and production in the machinery imported right from the beginning and as a result it could not achieve targeted quality product and lost overseas market. It suffered a lot financially and could not fulfill export obligation,

(ii) it was struggling with financial arrangements as there were no commercial activities during the notice period. Despite this it arranged funds with great difficulty and paid 100% duty saved amount alongwith interest vide two challans both dated 07.02.2012,

(iii) It submitted appeal immediately after 97 days of passing of OIO and could not submit the within the prescribed limit of 45 days due to unavoidable circumstances,

4.2 The Petitioner has prayed to set aside the OIA dated 20.09.2012 and condone the penalty. It has also submitted the Commissioner of Customs, Kandla's letter dated 22.07.2022 regarding deposit of customs duty and interest alongwith calculation sheet vide its letter dated 26.07.2022.

5. The Petitioner was granted personal hearing on 11.10.2022 which was attended by Shri Kaushal R. Gangadiya, Manager of the Petitioner. The Manager requested to allow the Review Petition. He informed that the Petitioner could not fulfill export obligation as the imported machinery did not work properly. Further, the Petitioner could not respond to the notices issued by RA, Rajkot as the whole business had stopped and all staff left and Partners were not



28.10



aware of the procedure. The Petitioner has also deposited entire duty save amount plus interest and deposited the challans to Rajkot DGFT office. During the personal hearing Shri JM Bisnoi, JDGFT was also present. He informed that the Petitioner did not fulfill the export obligation and therefore penalty imposed. Thereafter, the Petitioner deposited customs duty saved and interest thereon and deposited the challans.

6. I have gone through the facts and records carefully. It is observed that the Petitioner could not fulfill export obligation due to faulty imported capital goods and stoppage of its entire business. However, the Petitioner has deposited entire customs duty saved alongwith interest thereon.

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

**ORDER**

F.No. 18/12/2021-22/ECA.I/ 349

Date: 28 .10.2022

The Review Petition dated 20.10.2020 is admitted. The Order-in-Appeal No. 11/59/2012-13/ECA.I dated 20.09.2012 and Order-in-Original No. 24/36/021/00072/AM04 dated 02.12.2011 are set aside.



*(Signature)*  
28.10.2022  
(Santosh Kumar Sarangi)

Director General of Foreign Trade

Copy to:-

- Jaysun Ceramic, Survey No.123/P, 136/P, 8-A, National Highway, At Dhuva, Tal. Wankaner, Morbi - 363 622, Gujarat (India).
- Joint Director General of Foreign Trade, Amruta Estate (Jasani Building), 4th Floor, M.G. Road, Rajkot - 360 001.
- CEIB, 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi - 110001.
- ✓ DGFT Website.

*(Signature)*

(Dilip Kumar)

Dy. Director General of Foreign Trade