

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

F.No. 18/26/2019-20/ECA.I

Date of Order: 14.10.2022

Date of Dispatch: 14.10.2022

Name of the Petitioner:

Shamrock International Ltd., 83-E,
Hansraj Pragji Building,
Off: Dr. E. Moses Road, Worli,
Mumbai-400 018

IEC No. :

0394015819

Order reviewed against:

Order-in-Appeal No. 03/16/144/
00042/AM.18 dated 26.03.2018
passed by Addl. DGFT, Mumbai

Order-in-Review passed by:

Shri Santosh Kumar Sarangi, DGFT

Order-in-Review

Shamrock International Ltd., Mumbai (here-in-after referred to as the 'Petitioner') filed a Review Petition dated 11.03.2019 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. 03/16/144/00042/AM.18 dated 26.03.2018 passed by the Appellate Authority (Addl. DGFT, Mumbai) upholding the Order-in-Original (OIO) dated 06.09.2017 passed by the Adjudicating Authority (Deputy DGFT, Mumbai) imposing a penalty of Rs.68,00,000/- on the Petitioner.

Brief of the Case

2.1 The Petitioner obtained an Advance Authorization No. 0310321830 dated 17.03.2005 for a CIF value of Rs. 68,25,000/- with an obligation to export for an FOB value of US\$185,000 (Rs.81,40,000/-) to be completed within a period of 24 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 months of expiry of EO period.



2.2 The EO period expired in March 2007. Norms Committee rejected the Petitioner's request for the fixation of norms. RA, Mumbai, therefore directed the Petitioner to deposit the customs dues, etc. and submit documentary proof towards payment of customs dues vide the letter dated 07.07.2007. The Petitioner did not respond to the letter of RA, Mumbai and a Demand Notice dated 01.05.2007 and Show Cause Notice (SCN) dated 06.07.2009 was issued for submission of documents. The Petitioner again did not respond and therefore it was declared defaulter vide the letter dated 12.03.2008. The Petitioner was once again requested to submit documents vide letter dated 05.07.2016. It was also issued notices for personal hearings on 03.08.2010, 19.05.2016 and 14.07.2016 but, the Petitioner neither attended personal hearings nor submitted the relevant documents. The Adjudicating Authority found the Petitioner guilty for non-submission of the required documents towards closure of the case under Rule 7(1)(k) of the Foreign Trade (Regulation) Rules, 1993 and for contravening Section 11(2) & (3) of the Act. The Adjudicating Authority imposed a penalty of Rs.68.00 lacs vide OIO No.03/24/042/002700/AM05 dated 06.09.2017.

2.3 The Petitioner filed an appeal on 29.11.2017 before the Appellate Authority. The Appellate Authority (Additional DGFT, Mumbai) observed that the Petitioner is liable to pay customs dues towards import made as the Norms Committee rejected the fixation of norm and rejected the appeal vide OIA dated 26.03.2018.

3.1 The Petitioner has now submitted a Review petition dated 11.03.2019 to the undersigned stating that:

- (i) it had made imports for CIF value of Rs.5,99,212/- and the assessable value as per customs department is 6,05,204/-. The amount of duty foregone against the said import was Rs.2,08,453/- and on these facts, the imposition of penalty of Rs.68,00,000/- is certainly an error apparent,
- (ii) it had made export of Rs.9,11,910/- being more than 150% of the value of the imported goods against the value addition of 20%,
- (iii) it was declared defaulter vide the letter dated 12.03.2008 and subsequently forfeited legal undertaking/BG ,
- (iv) it paid the amount of duty foregone vide Mundra Custom House Challan No.603 dated 21.06.2018.

3.2 The Petitioner has prayed that:

- (i) the OIO dated 06.09.2017 and OIA dated 23.03.2018 be set aside,
- (ii) the BG forfeiture may be revoked and forfeited amount be refunded,
- (iii) it be granted EO Discharge Certificate.



[Handwritten signature]

4. The Petitioner was granted an opportunity of Personal Hearing on 05.11.2020 which was attended by Shri Shivam Mishra, Consultant on behalf of the Petitioner. He sought time for filing additional documents and was allowed ten days time. The Petitioner was granted second personal hearing on 29.10.2021. RA, Mumbai was directed to confirm the original duty payment challans submitted to them by the Petitioner or seek duty payment confirmation from Mundra Customs and submit a report. RA, Mumbai vide the letter dated 20.09.2022 confirmed the receipt of customs dues of Rs.6,54,000/ {Rs.208,453/- (customs duty) + Rs.4,45,547/- (interest)} vide challans No. 603 dated 21.06.2018 and challan No. 1312 dated 21.12.2020 for part import in respect of Advance Authorization No. 0310321830 dated 17.03.2005

5. I have gone through the records and facts carefully. The Petitioner has claimed that it has made exports of Rs. 9,11,910/ which is for in excess of the value addition norms against import of Rs 5,99,212/. However, the Norm for the exported product was rejected and therefore the exported product of meta chloro phenyl ethyl ketone cannot be counted towards fulfilment of EO. RA, Mumbai now vide their letter dated 20.09.2022 has confirmed that the Petitioner has paid the Custom Duty and interest for the item imported.

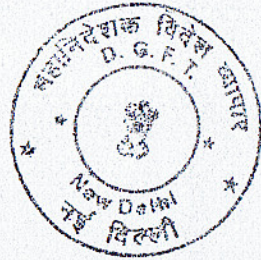
6. I, therefore, in exercise of powers vested in me under Section 16 of the Act pass the following order:

Order

F.No. 18/26/2019-20/ECA.I /331

Dated: 14.10.2022

The Review Petition dated 11.03.2019 is admitted. The Order-in-Appeal No. 03/16/144/00042/AM.18 dated 26.03.2018 and the Order-in-Original No. 03/24/042/002700/AM05 dated 06.09.2007 are set aside.



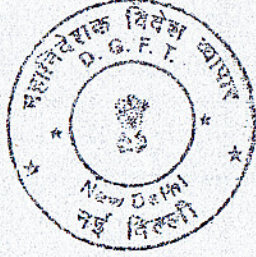
Santosh Kumar Sarangi
14.10.2022

(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy To:

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- (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.



Dilip Kumar

(Dilip Kumar)

Dy. Director General of Foreign Trade