

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

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

Date of Order: 22.12.2021

Date of Dispatch: 23.12.2021

Name of the Applicant:

Dulari Exports Pvt. Ltd.,  
D 14/4, Okhla Industrial Area, Phase-II,  
New Delhi -110020.

IEC No.

0588078557

Order reviewed against:

Order-in-Appeal No. 05/16/140/0022/AM20/  
Appeal/CLA/408016 dated 10.03.21 passed by  
Addl. DGFT, CLA, New Delhi.

Order-in-Review passed by:

Shri Amit Yadav, DGFT

**Order-in-Review**

Dulari Exports Pvt. Ltd., New Delhi (here-in-after referred to as the 'Petitioner') filed a Review Petition dated 12.04.2021 under Section 16 of Foreign Trade (Development & Regulation) Act, 1992 as amended (here-in-after referred to as 'the Act') against Order-in-Appeal No. 05/16/140/0022/AM20/Appeal/CLA/408016 dated 10.03.21 rejecting the appeal submitted on 24.09.2019 against Order-in-Original (OIO) dated 17.09.2012 and imposing a penalty of Rs.3,21,900/-. The Adjudicating Authority had imposed a penalty of Rs.64,38,000/- in addition to payment of customs duty plus interest @15% per annum on the Petitioner vide the OIO No.05/36/21/845/AM02/EPCG.I/CLA dated 17.09.2012.

**Facts of the case:**

2.1 The Petitioner obtained an EPCG Authorisation No. 0530132584 dated 18.02.2002 from office of the Zonal Addl. DGFT, CLA, New Delhi. 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. 7,25,000/- , there is an obligation to export products for an FOB value of US\$3,34,615 (Rs.1,60,95,000/-) 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 of RS.16,55,49,732/- till completion of export obligation. As per conditions of the Authorization, the Petitioner was required to submit the prescribed documents showing fulfilment of export obligation within the stipulated period which had expired on 17.02.2010.

2.2 The Petitioner did not furnish any document showing fulfilment of export obligation. It was directed to submit prescribed export documents vide letter dated 26.03.2008 by Zonal Addl. DGFT, CLA, New Delhi to which the Petitioner did not respond. A Show Cause Notice dated 19.03.2010 under Section 14 of the Act was issued to the Petitioner for taking action under Section 11(2) of the Act and Rule 7 of the Foreign Trade (Regulations) Rules, 1993, as amended. The Petitioner was also granted personal hearing. The Petitioner did not respond to the Show Cause Notice nor appeared during the personal hearing. The Adjudicating Authority passed OIO dated 17.09.2012 imposing a penalty of Rs.64,38,000/- in addition to payment of customs duty plus interest @15% per annum on the Petitioner. It was placed under Denied Entity List vide order dated 27.07.2011.

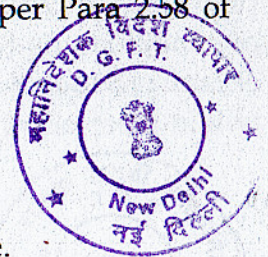
2.3 The Petitioner filed an appeal on 24.06.2019 before the Appellate Authority against the Order-in-Original dated 17.09.2012. The Appellate Authority observed that the appeal is filed after 6 years and 7 months of Adjudication Order. Secondly, even after expiry of so many years, appellant has neither paid duty plus interest nor penalty amount. There is no reason that can explain delay in filing appeal. It appears that appeal was filed only with the intention to taking new benefits otherwise appellant did not take cognizance of Adjudication Order. The Appellate Authority rejected the appeal, but reduced the penalty to Rs. 3,21,900/- in addition to payment of customs duty and applicable interest.

3.1 The Petitioner submitted a Review petition dated 12.04.2021 stating that:

- (i) it had submitted documents for redemption vide its letter dated 18.06.2011 but the OIO dated 17.09.2012 was passed without considering the fact that application for redemption was under process,
- (ii) the OIA was passed without granting personal hearing,
- (iii) its annual average revised as Rs.11,29,22,717/- in terms of Para 5.12 of Handbook of Procedure,
- (iv) it had deposited composition fee of Rs.38,063/ towards extension of two years of export obligation period in the second block as per Para 2.58 of FTP-2015-20.

3.2 The Petitioner has prayed that:

- (i) its IEC may be kept in abeyance from DEL for 60 days,
- (ii) OIO dated 17.09.2012 and OIA dated 10.03.2021 may be set aside.



4. The Petitioner was granted personal hearing on 11.11.2021 which was attended by Shri Parveen Kumar, Export Manager. He informed that composition fee of Rs.1,38,982/- as calculated by Zonal Addl. DGFT, CLA, New Delhi will be paid by the Petitioner and the case may be closed. Later on, the Petitioner vide its letter dated 23.11.2021 has stated that the correct composition fee is Rs.38,063/- and it has already deposited the amount. A confirmation was sought from CLA, New Delhi on the correctness of composition fee and its payment as claimed by the Petitioner. Zonal Addl. DGFT, CLA, New Delhi vide their email dated 10.12.2021 has intimated that the correct composition fee is Rs.38,063/- and the Petitioner has deposited the same.

5. I have gone through the facts and records carefully. It is observed that the Petitioner was not heard in person while passing the appellate orders and that the Petitioner had submitted complete export documents and has also deposited the composition fee of Rs.38,063/- towards extension of the export obligation period for two years of the second block.

6. I, therefore, in exercise of powers vested in me under Section 16 of Foreign Trade (Development & Regulation) Act, 1992, as amended pass the following order:

### ORDER

F.No. 18/21/2020-21/ECA-I /389

Dated: 22.12.2021

The Review Petition dated 12.04.2021 is upheld. Order-in-Appeal No. 05/16/140/0022/AM20/Appeal/CLA/408016 dated 10.03.21 and Order-in-Original No. 05/36/21/845/AM02/EPCG.I/CLA dated 17.09.2012 are set aside.



*(Signature)*

(AmitYadav)

Director General of Foreign Trade

Copy to:

- (1) Dulari Exports Pvt. Ltd., D 14/4 Okhla Industrial Area, Phase-II, New Delhi-110020
- (2) Additional DGFT, CLA, New Delhi-110002.
- (3) CEIB, 8<sup>th</sup> Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi -110001
- ✓(4) DGFT Website.

*(Signature)*

(Dilip Kumar)

Dy. Director General of Foreign Trade