

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

F. No. 18/24/2023/ECA.I/P-38716/270

Date of Order : 21 .03.2024

Date of Dispatch : 22 .03.2024

Name of the Petitioner:

M/s Pioneer Leder Tex Private Limited
No.9, Srinivasa Pillai Street, Egmore
Chennai -600008, Tamil Nadu.

IEC No.

0496018043

Order Reviewed against:

Orders-in-Appeal CHNECAAPPEAL
00000097AM24 Dated 15.05.2023

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

Order-in-Review

M/s Pioneer Leder Tex Pvt. Ltd., Chennai (here-in-after referred to as 'the petitioner') having IEC No. 0496018043 filed Review Petition dated 29.09.2023 under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against Orders-in-Appeal (O-I-A) No. CHNECAAPPEAL00000097AM24 Dated 15.05.2023 passed by Zonal Addl. DGFT, Chennai and the appeal was dismissed. The adjudicating authority vide Order-in-Original (O-I-O) F.No.04/21/021/00319/AM16 dated 18.02.2023 imposed a fiscal



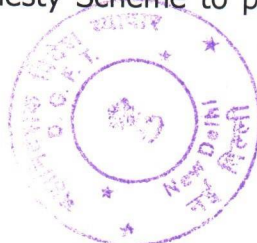
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penalty of Rs.1,00,000/- in addition to the customs duty (duty saved value utilized) and interest thereon under Section 11(2) of Foreign Trade Development & Regulation) Act, 1992 readwith Foreign Trade (Development & Regulation) Amendment Act, 2010 to the petitioner.

Brief of the Case

M/s Pioneer Leder Tex Pvt Ltd, Chennai had obtained EPCG Authorization No.0430014897 dated 04.08.2015 for a duty saved value of Rs.29,48,400/- from the Office of Zonal Additional DGFT, Chennai, with an export obligation for a FOB value US\$ 274,057.31 to be fulfilled within a period of 6 years from the date of issue of the authorizations. The petitioner submitted export documents and upon scrutiny, deficiency letter No.04/36/165/00310/AM20 dated 13.07.2019/16.07.2019 was issued. In reply to this, the firm vide their letter dated 21.08.2019 had informed that they have approached EPCG committee for the waiver of shortfall in Annual Average. Since, there is no provision of waiver of shortfall in Annual Average in the Foreign Trade Policy and Hand Book of Procedures, a Show Cause Notice dated 27.08.2022/30.08.2022 was issued with an opportunity of personal hearings on 15.09.2022 or 22.09.2022 or 29.09.2022 to explain the reasons and facts within a period of 15 days. In reply to this, the petitioner vide letter dated 20.09.2022 had informed that a revised statement will be submitted within a period of 8 to 10 weeks time. However, the petitioner neither cared to settle the issue by fulfilling the export obligation imposed against the subject EPCG authorization nor by paying the applicable customs duty and interest in case of default in fulfillment of export obligation. Hence, the Order-in- Original F.No.04/21/021/00319/AM16 dated 18.02.2023 passed by Deputy DGFT, Chennai imposing a fiscal penalty of Rs.1,00,000/- to the petitioner.

2. Aggrieved by the above Orders-in-Original, the Petitioner filed an appeal on 27.04.2023 in which appellant had stated that they could not fulfill the export obligation due to bad market conditions. The appeal was closed by the Additional DGFT, Chennai vide Orders-in-Appeal No.CHNECAAPPEAL00000097AM24 Dated 15.05.2023 advising the petitioner to use the Amnesty Scheme to pay the customs duty plus interest and



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3. The firm has stated that the EPCG Authorization No.0430014897 dated 04.08.2015 was issued to the petitioner with a duty saved amount of Rs.29,48,400/- only. However, the actual duty saved amount was Rs.28,84,235/-. Further, the petitioner has claimed that the total Specific EO within the initial Export obligation period to the extent of 104.90% and this may be considered in terms of Para 5.09 of the FTP 2015-2020 having completed more than 75% of the specific EO. The Petitioner has further stated the reasons for non-fulfilment of average EO which are as under:

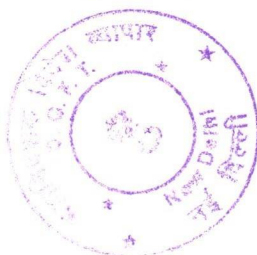
i. Leather business was set up and maintained by Mr. Mohamed Farooq who was also the Managing Director. After his sudden demise in 2018, the business came to a standstill.

ii. The business failed as the family members did not have acumen to handle this business and younger generation was not keen on joining the business. Also after the demise, the overseas buyer did not honor their commitment of placing the order and many orders also got cancelled.

iii. Thus, the business came down substantially over the years and further got affected due to COVID. The sales came down from Rs.22.68 Crores in FY 2017-18 to Rs.4.66 Crores in FY 2020-21 and also the production from 31.28 lacs sq ft to 5.59 lacs sq ft due to financial crunch.

4. The petitioner has prayed that they were unable to maintain the average EO as it has gone beyond their control and hence Addl. DGFT, Chennai may be directed to waive this condition and also requested to waive off the penalty imposed by adjudicating authority.

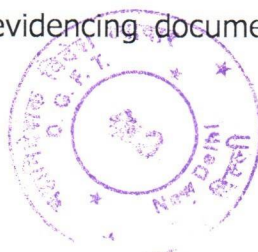
5. The Reviewing Authority granted the personal hearing to the petitioner on 31.01.2024. Shri A. Abdul Careem, Director attended the personal hearing on behalf of M/s Pioneer Leder Tex Pvt Ltd. He has submitted that they have completed the total Specific EO within the initial Export obligation period but the average EO have not been



fulfilled due to the circumstances arised with petitioner and also requested to consider the case under Amnesty Scheme.

6. Shri Vishwas B N, Joint DGFT, RA, Chennai attended the meeting and confirmed that the period of issue of the authorizations are not covered under Amnesty Scheme.

7. I have gone through the facts and records of the case carefully. M/s Pioneer Leder Tex Pvt. Ltd., Chennai had obtained EPCG Authorization No.0430014897 dated 04.08.2015 for a duty saved value of Rs.29,48,400/- from the Office of Zonal Additional DGFT, Chennai, with an export obligation for a FOB value US\$ 274,057.31 to be fulfilled within a period of 6 years from the date of issue of the authorizations. The petitioner submitted export documents. Upon scrutiny, deficiency letter No.04/36/165/00310/AM20 dated 13.07.2019/16.07.2019 was issued. In reply to this, the firm vide their letter dated 21.08.2019 had informed that they have approached EPCG committee for the waiver of shortfall in Annual Average. Since, there is no provision of waiver of shortfall in Annual Average in the Foreign Trade Policy and Hand Book of Procedures, a Show Cause Notice dated 27.08.2022/30.08.2022 was issued with an opportunity of personal hearings on 15.09.2022 or 22.09.2022 or 29.09.2022 to explain the reasons and facts within a period of 15 days. In reply to this, the petitioner vide letter dated 20.09.2022 had informed that a revised statement will be submitted within a period of 8 to 10 weeks time. However, the petitioner neither cared to settle the issue by fulfilling the export obligation imposed against the subject EPCG authorization nor by paying the applicable customs duty and interest in case of default in fulfillment of export obligation. Therefore, the adjudicating authority passed O-I-O dated 18.02.2023. Aggrieved by the O-I-O, the Petitioner filed an appeal dated 27.04.2023 which was closed by the Additional DGFT, Chennai vide Orders-in-Appeal No.CHNECAAPPEAL00000097AM24 Dated 15.05.2023 advising the petitioner to use the Amnesty Scheme to pay the customs duty plus interest and remanded back to adjudicating authority for regularization of the case after verifying the payment of customs duty plus interest through the amnesty scheme. The petitioner was advised during the PH to furnish all evidencing document in support of fulfillment of export



obligation to RA for examination. RA, Chennai has informed that after the hearing in review petition, efforts were made to contact the Authorisation holder who neither responded to the call nor furnished any document in support of the claim made during the PH. RA, Chennai has further intimated that the copies of Show Cause notice sent to all the Directors have been returned undelivered with remarks as 'left'.

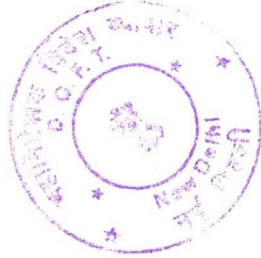
8. I therefore, in exercise of powers vested in me under Section 16 of the Act pass the following orders:

ORDER

F. No. 18/24/2023/ECA.I/P-38716 /270

Dated: 21.03.2024

The Review Petition dated 29.09.2023 is dismissed. Order-in-Original F.No.04/21/021/00319/AM16 dated 18.02.2023 passed by Deputy DGFT, Chennai and Orders-in-Appeal No. CHNECAAPPEAL00000097AM24 Dated 15.05.2023 passed by Zonal Addl. DGFT, Chennai are upheld.



(Signature)
21.3.2024

(Santosh Kumar Sarangi)

Director General of Foreign Trade

1. M/s Pioneer Leder Tex Private Limited, No.9, Srinivasa Pillai Street, Egmore, Chennai -600008, Tamil Nadu.
2. The Joint Director General of Foreign Trade, Chennai.
3. The Addl. Director General of Foreign Trade, Chennai.
4. Central Economic Intelligence Bureau, 1st, 6th& 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi – 110001.
5. DGFT Website.

(Signature)
(Manoj Kumar Meena) 21/3/24

Dy. Director General of Foreign Trade