

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

F.No. 18/48/2019-20/ECA.I(E) 181 Date of Order: 14.10.2020
Date of Dispatch: 15.10.2020

Name of the Applicant: Sri Renga Apparels (India) Pvt. Ltd.,
No.68, Bharathi Park 7th Cross,
Coimbatore -641011

IEC No. : 3203002680

Order reviewed against: Order-in-Appeal No. A(23)/Addl.
DGFT/ECA/Che/AM19-Cbe dated
20.02.2019 passed by Addl. DGFT,
Chennai.

Order-in-Review passed by: Shri Amit Yadav, DGFT.

Order-in-Review

Sri Renga Apparels (India) Pvt. Ltd., Coimbatore (here-in-after referred to as 'the Petitioner') filed a Review Petition dated 18.12.2019 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. A(23)/Addl.DGFT/ECA/Che/AM19-Cbe dated 20.02.2019 passed by Addl. DGFT, Chennai upholding the Order-in-Original (OIO) dated 14.03.2018 passed by the adjudicating Authority i.e. Dy. DGFT, Coimbatore, imposing a penalty of 90 lakhs on the Petitioner.

Brief Facts of the Case

2.1 The Petitioner obtained an Advance Authorization No.3210064100 dated 14.06.2013 for import of duty-free inputs (Fabrics etc.) for a CIF value of Rs.90,00,000/- with an obligation to export specified products for an FOB value of US\$190,433/- within a period of 18 months from the date of issue of said authorization. As per conditions of the Authorisation, the Petitioner was required to submit the prescribed documentary evidence of having fulfilled the prescribed export obligation (EO) and to pay duties on the imported raw materials left unutilized with it. However, the Petitioner failed to submit the prescribed documents.



2.2 A Demand-cum-Show Cause dated 20.11.2017 was issued to the Petitioner under Section 13 for action under Section 11(2) of the Act for imposition of penalty and to pay customs duty + interest or produce the documents showing the fulfilment of EO. As the Petitioner failed to submit the requisite documents, an OIO dated 14.03.2018 was passed by Dy. DGFT, Coimbatore imposing a penalty of Rs.90 lakhs.

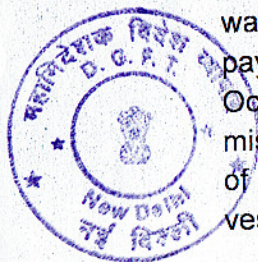
2.3 The Petitioner filed an appeal in May 2018 before the Additional DGFT, Chennai against the above OIO under Section 15 of the Act. The Appellate Authority granted personal hearing to the Petitioner on 11.02.2019. The Petitioner sought time of one year to regularize the case. The Appellate Authority observed that the Petitioner, in its appeal, had sought six months period to regularize the case and that period of six months had already elapsed. During the personal hearing the Petitioner again asked one-year time to pay custom duty + interest. The Appellate Authority noted that the Petitioner had been only seeking time and not making any payment. The Appellate Authority, vide the Order-in-Appeal dated 20.02.2019 dismissed the appeal.

3.0 The Petitioner submitted a Review Petition dated 18.12.2019 to the undersigned. The Petitioner submitted that:

- (i) It submitted EO documents on 30.12.2015. There was shortfall in export quantity due to production problem and cancellation of some order by the buyer.
- (ii) It paid duty and interest on the unutilised imported items and there is no loss to the Government.

4.0 A report was sought from RA, Coimbatore. RA, Coimbatore in its report dated 04.06.2020 intimated that the Petitioner has paid an amount of Rs. 19,42,410/- against duty and interest on the excess imports made by it vide challans dated 19.03.2019 and 23.10.2019.

5.0 I have gone through the facts and records carefully and note that the Petitioner obtained the Authorisation in June 2013 and the export obligation period expired in December 2014. As per Para 4.24(b) of the Hand Book of Procedures (HBP) 2009-2014, the Petitioner was to get its case closed by way of submitting the prescribed export documents within two months of the expiry of the export obligation period i.e. by February 2015. However, the Petitioner submitted the documents on 30.12.2015. Further as per Para 4.29 of the HBP, the Petitioner was to get regularisation of the default by making payment of the customs duty and interest on the material left unutilised within 30 days of the demand raised on it. The demand was raised vide letter dated 04.02.2016. The Petitioner was required to make the payments by 05.03.2016 whereas the payments were made in March 2019 and October 2019. Since the Petitioner has made the due payments, there is no misutilisation of the goods imported under the authorisation. The only lapse on part of the Petitioner is not adhering to the time lines. I, therefore, in exercise of powers vested in me under Section 16 of the Act pass the following order:



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Order

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Dated: 14.10.2020
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Penalty imposed vide Order-in-Original No. 32/21/039/00004/AM14 dated 14.03.2018 is reduced to Rs. 10,000/-. The case is remanded back for de-novo consideration by the Adjudication Authority.



(Handwritten signature)

(Amit Yadav)
Director General of Foreign Trade

Copy To:

- (1) Sri Renga Apparel (India) Private Limited, No.68, Bharathi Park 7th Cross, Coimbatore - 641011
- (2) Addl. DGFT, 26 Haddows Raod, Shashtri Bhawan Annexe, Chennai -600006.
- (3) Joint DGFT, 1544, India Life Building (annexe), I Floor, Trichy Road, Coimbatore - 641018
- (4) DGFT website

(Handwritten signature)

(Dilip Kumar)
Dy. Director General of Foreign Trade

o/c

Issued

