

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

F.No. 18/21/2012-13/ECA.I

Date of Order: 24.11.2021

Date of Dispatch: 25.11.2021

Name of the Applicant:

Sunbright Fashions (India) Pvt. Ltd.,
Module No.7, Garment Complex Ind.
Estate, Guindy, Chennai - 6000-032

IEC No. :

0499016475

Order reviewed against:

Order-in-Original No. 04/84/040/81/
AM05 dated 21.12.2010 passed by Joint
DGFT, Chennai.

Order-in-Review passed by:

Shri Amit Yadav, DGFT

Order-in-Review

Sunbright Fashions (India) Pvt. Ltd., Chennai (here-in-after referred to as the 'Petitioner') filed a Review Petition dated 17.09.2012 under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against Order-in-Original (OIO) No. 04/84/040/81/AM05 dated 21.12.2010 passed by Jt. DGFT, Chennai imposing a penalty of Rs. 5,98,100/- in addition to payment of customs duty and applicable interest on the Petitioner and its Proprietor/Partners/Directors for non fulfillment of export obligation and also ordered not to issue further license to the Petitioner or any other firm/company in which the Petitioner's Proprietor/Partners/Directors are directly or indirectly involved.

Brief of the case

2.1 The Petitioner obtained an Advance Authorization No. 0410046585 dated 29.11.2004 for a CIF value of Rs. 4,01,714/- with an obligation to export for an FOB value of US\$ 18900 within a period of 18 months from the date of issue of said authorization. As per conditions of the Authorization, the Petitioner was required to submit the prescribed documentary evidence of having fulfilled its export obligation (EO).

2.2 EO expired on 28.11.2006. The Petitioner did not submit any documents. RA, Chennai declared the Petitioner defaulter on 03.02.2010 and issued a Show Cause Notice dated 30.06.2010 under Sections 13 & 14 for action under Sections 8, 9 & 11 of the Act and Rule 7 of Foreign Trade (Regulation) Rules, 1993. It was also granted an opportunity of personal hearing. The Petitioner neither submitted documents nor appeared for personal hearing. As the Petitioner failed to submit complete requisite documents, an OIO dated 21.12.2010 was passed by Adjudicating Authority imposing a penalty of Rs. 5,98,100/- in addition to payment of customs duty and applicable interest on the Petitioner and its Proprietor/Partners/Directors for non fulfillment of export obligation.

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2.3 The Petitioner did not file an appeal against OIO No. 04/84/040/081/AM05 dated 21.12.2010. The Petitioner submitted Review petition dated 17.09.2012 to the undersigned. The Petitioner has submitted that:

- i. it submitted all the documents for redemption vide its letter dated 18.02.2008. The shortfall in EO was just 2.3% which is negligible,
- ii. there was severe labour trouble on account of retrenchment and the petitioner was continuously incurring loss which caused great agony and therefore could not file an appeal against the OIO.
- iii. it was under impression that on the basis of documents furnished, the matter will be regularized by JDGFT, even after passing the OIO.

3. The Petitioner was granted personal hearing on 12.11.2021 which was attended by Shri Gokulraj, counsel for the Petitioner. He informed that the Petitioner paid custom duty and interest on the excess import on 26.04.2011. Shri N. Vaidyanathan, Dy. DGFT, the representative from RA, Chennai present in the personal hearing informed that the documents submitted by the Petitioner towards payment of duty amount and interest for excess import are in order, which were paid after the OIO was passed by the Adjudicating Authority.

4. I have gone through the facts and records carefully and the confirmation of RA, Chennai office that the Petitioner had submitted complete export documents towards fulfilment of export obligation and original challan towards payment of duty amount and interest for excess import albeit after the OIO was passed by the Adjudicating Authority.

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


ORDER

F.No.18/21/2012-13/ECA.I/349

Dated : 24 .11.2021

Review Petition dated 17.09.2021 is upheld and Order-in-Original No. 04/84/040/81/AM05 dt. 21.12.2010 passed by Jt. DGFT, Chennai is dismissed. The case is remanded to RA, Chennai for de-novo consideration with directions to decide the matter within 8 weeks from the date of issue of this Order.




(Amit Yadav)
Director General of Foreign Trade

Copy to:-

1. Sunbright Fashions (India) Pvt. Ltd., Module No. 7, Garment Complex Industrial Estate, Guindy, Chennai-600 032.
2. The Addl. Director General of Foreign Trade, 26, Haddows Road, Shashtri Bhavan Annex, 4th & 5th Floor, Chennai-600 006.
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