

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

F. No. 18/42/2022-23/ECA.I/184

Date of Order : 31.10.2023  
Date of Despatch: 06.11.2023

Name of the Appellant:

M/s CICB-Chemicon Pvt. Ltd.  
No. 239, 12<sup>th</sup> cross,  
3<sup>rd</sup> Main Mahalakshmi Layout,  
Bangalore, Karnataka – 560086.

IEC No.

0797001972

Order Reviewed against:

Order-in-Original  
BNGECAAPPLY00030695AM22  
22.05.2022 passed by Dy. DGFT,  
Bengaluru.

No.  
dated  
DGFT,

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

**Order-in-Appeal**

M/s CICB-Chemicon Pvt. Ltd. (here-in-after referred to as 'the Appellant') having IEC No. 0797001972 filed an Appeal dated 17.12.2022 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against Order-in-Original No. BNGECAAPPLY00030695AM22 dated 22.05.2022 passed by Dy. DGFT, Bengaluru imposing a penalty of Rs. 75,000/- on the firm in addition to its liability for the payment of amount equivalent to the Customs duty saved along with applicable interest thereon.

**Brief of the Case**

2. The Appellant had obtained Advance Authorization No. 0710093506 dated 01.02.2013 for CIF Value of Rs 2,71,03,228.97 subject to an export obligation equivalent to the US\$10,26,316.00 (Rs.5,85,00,000.00). The export obligation period was valid upto 31.07.2014. The appellant had failed to submit documentary evidence regarding fulfillment of EO and therefore, RA, Bangalore had adjudicated the firm after following due procedure and imposed a penalty of Rs.75,000/- on the firm vide Order-in-Original No. BNGECAAPPLY00030695AM22 dated 22.05.2022 in



addition to its liability for the payment of amount equivalent to the Customs Duty saved along with applicable interest thereon.

3. Aggrieved by the Order-in-Original dated 22.05.2022, the appellant had preferred the present appeal dated 17.12.2022 on the following grounds :-

(i) The appellant's only lapse is non-submission of proof of export obligation fulfillment in time. But for this procedural lapse arising out of bonafide circumstances of shifting of factory from Mangalore to Bengaluru, leaving away of staff looking after Export-Import work, misplacement of files relating to this advance authorization Impugned order was passed without considering the material available on record namely the documents submitted for grant of Terminal Excise Duty Refund. The said documents contained the details of supply invoices made against deemed export category, endorsement from the jurisdictional range Superintendent of the Customs jurisdiction and details of realization for the deemed export made certified by its banker. These documents were sufficient enough for the adjudicating authority to arrive at a conclusion on the export obligation fulfillment in respect of the subject Advance Authorization(AA).

(ii) The appellant stated that submission of EODC/ redemption letter in ANF format is only a procedural lapse which by itself can't lead to a situation of holding that they has not at all fulfilled the export obligation.

(iii) The appellant stated that the fact of import of components under AA scheme, manufacture of Air compressors and spares for the said compressors, supply of the said compressors and spares under deemed export category, endorsement of AA on the sales invoices endorsement by central excise authorities by customer's jurisdiction should have been treated as documents sufficient enough for holding that the applicant has fulfilled the export obligation in respect of subject AA.

(iv) The appellant stated that the notice date 16.09.2021 proposing imposing penalty under section 11 the Act, 1992, Ibid and keeping the appellant company under DEL was issued by Assistant DGFT, Bengaluru requiring the appellant to appear before Sri. Ponnum Kumar, DDGFT, Bengaluru, before whom the appellant appeared for the hearing personally and explained the case including the grant of TED benefit. However the appellant finds that the order of keeping the appellant - company under DEL is passed by Sri. Praveen S Nalawade, Deputy DGFT the adjudicating authority. It is submitted that in terms of established quasi-judicial practice, authority to whom the notice is made answerable, authority which held the personal hearing and the authority which passes the adjudication order in respect of the notice can't be different.



3.1 The Appellant has prayed for :-

- (i) To condone the lapse of not filing the appeal before the Zonal Addl DGFT, Chennai under section 15 of the FTDR Act against the Order in Original No BNGECAAPPLY00030695AM22 passed by the Dy. DGFT, Bengaluru.
- (ii) To set aside the order in original dated 22 May 2022 Issued by the Additional Director General of Foreign Trade including the imposition of penalty Rs. 75,000.00/.
- (iii) To allow personal hearing to the appellant.

4. The Appellate Authority granted the personal hearing to the Appellant on 06.10.2023. Shri R. Rangaswamy, Authorised Representative of the firm attended the PH. He stated that they had obtained the subject advance authorization from RA, Bangalore for import of goods required for manufacturing compressor. They had imported the goods and supplied to Reliance Industries against the invalidation letter dated 08.01.2013 issued by RA, Mumbai. On completion of the supply of goods, they had submitted the application for Terminal Excise Duty (TED) refund to RA in 2013. TED was also granted and money had also been received by them through normal banking channel. Thereafter, they were issued a notice to submit the documents for EODC. They had given all the documents evidencing the imports, consumptions, supply to reliance industries and certification from jurisdictional central excise authority. Thereafter, they applied for EODC, submitting the ANF 4F along with certificates and all other supporting documents required for EODC. They submitted that the validity to prefer an appeal on the matter was also over. They requested to remand back the matter to RA, Bangalore to look into the matter based on the documents submitted by them in May, 2022, which clearly prove that they have fully complied with terms and conditions of the advance authorizations.

4.1 Shri Premchandran Nair, DDG RA, Bangalore had attended the meeting. He has intimated that the Petitioner had submitted the required documents for redemption of their advance authorization on 01.06.2022 i.e. after the Order-in-Original was passed by RA, Bangalore on 22.05.2022. The Petitioner had already submitted the documents in the prescribed format for redemption.

5. I have gone through the facts and records of the case carefully. The Petitioner had obtained the Advance Authorization No.0710093506 dated 01.02.2013 for CIF Value of Rs.2,71,03,228.97/- subject to an export obligation equivalent to the US\$10,26,316.00 (Rs.5,85,00,000.00). The export obligation period was valid upto 31.07.2014. The Petitioner had failed to submit documentary evidence regarding fulfillment of EO and therefore, RA, Bangalore had passed Order-in-Original dated 22.05.2022 imposing a penalty of Rs.75,000/- on the firm in addition to its liability for



the payment of amount equivalent to the customs duty saved along with applicable interest thereon. The Petitioner had already submitted the required documents for redemption of the subject advance authorization in the prescribed format.

6. I therefore, in exercise of powers vested in me under Section 15 of the Act pass the following order:-

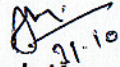
**ORDER**

F.No. 18/42/2022-23/ECA.I/184

Dated : 31.10.2023

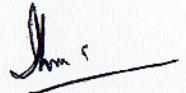
The Appeal dated 17.12.2022 is admitted. The Order-in-Original dated 22.05.2022 passed by Dy. DGFT, RA, Bangalore is set aside. The case is remanded back to RA, Bangalore for de-novo consideration.



  
(Santosh Kumar Sarangi)  
Director General of Foreign Trade

Copy to:-

1. M/s CICB-Chemicon Pvt. Ltd., No. 239, 12<sup>th</sup> cross, 3<sup>rd</sup> Main Mahalakshmi Layout, Bangalore, Karnataka – 560086.
2. The Addl. Director General of Foreign Trade, Bangalore.
3. Central Economic Intelligence Bureau, 1<sup>st</sup>, 6<sup>th</sup> & 8<sup>th</sup> Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi – 110001.
- ✓ 4. DGFT Website.

  
(A.S. Lungreishang)  
Dy. Director General of Foreign Trade