

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

F.No. 18/04/2021-22/ECA.I/

Date of Order: 23.06.2022

Date of Dispatch: 23.06.2022

Name of the Applicant:

Shidimo Interaux Pvt. Limited, J.K.
Tower, 6th Floor, Nr. Sub Jail, Ring
Road, Surat, Gujarat – 395002

IEC No. :

0888003579

Order reviewed against:

Order-in-Original No.
52/21/040/00135/ AM14 dated
13.05.2021 passed by Addl. DGFT,
Surat.

Order-in-Appeal passed by:

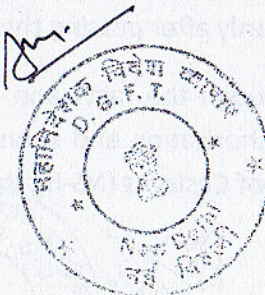
Shri Santosh Kumar Sarangi, DGFT

Order-in-Appeal

Shidimo Interaux Pvt. Limited, Surat (here-in-after referred to as 'the Appellant') filed an Appeal dated 19.06.2021 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 (OIO) No. 52/21/040/00135/AM14 dated 13.05.2021 passed by Additional DGFT, Surat, imposing a penalty of 3 lakhs in addition to payment of customs duty plus interest thereon, on the Appellant.

Brief Facts of the Case

2.1 The Appellant obtained an Advance Authorization No. 5210041911 dated 27.05.2016 for a CIF value of Rs. 1,19,12,467/- (US\$ 189,237) with an obligation to export for an FOB value of US\$ 321,994 within a period of 18 months from the date of issue of said authorization. The Appellant was required to submit export documents within two months of expiry of export obligation period. The export obligation expired on 27.11.2017. The Appellant did not submit any documents evidencing fulfilment of export obligations.



2.2 The Appellant was directed to submit the prescribed documents evidencing fulfilment of export obligation vide the letter dated 07.03.2018. The Appellant didn't respond. A Show Cause Notice dated 12.04.2021 under Sections 11 (2) & (3) of the Act, and Rules 7(3) of Foreign Trade (Regulation) Rules, 1993, as amended was issued for imposition of fiscal penalty and placing the Appellant's IEC in DEL. The Appellant was also granted personal hearing on 28.04.2021. The Appellant neither submitted the prescribed documents nor attended personal hearing. The Adjudicating Authority observed that the Appellant imported the materials allowed under the authorisation and failed to regularize it by remitting the customs duty as per para 4.49 of Handbook of Procedure 2015-20 and passed an OIO dated 13.05.2021 imposing a penalty of Rs. 3 lakhs in addition to payment of Customs Duty and applicable interest thereon. Appellant's IEC was also suspended.

3.1 The Appellant has now submitted an appeal dated 19.06.2021 to the undersigned stating that:

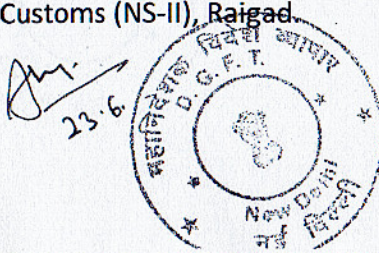
- (i) It did not make any import under the Advance Authorization. It could not surrender the Authorization as the concerned employee left the job without intimating about the pendency of the Authorization.
- (ii) It misplaced the Advance Authorization file during shifting of office.
- (iii) It received SCN for personal hearing on 28.04.2021, but could not reply due to misplacement of file and Covid-19 pandemic.

3.2 The Appellant has prayed to quash OIO dated 13.05.2021 and set aside fiscal penalty of Rs. 3 lakh.

3.3 The Appellant vide their letter dated 16.07.2021 submitted non utilization certificate dated 02.07.2021 from the office of Commissioner of Customs (NS-II), Raigad.

4. The Appellant was granted personal hearing on 16.06.2022 which was attended by Shri Naitam S. Kapadia, Director of the Appellant. He informed that the Appellant did not utilize the advance authorisation and only fault is that it could not surrender the advance authorisation on time. Shri Virender Singh, ADG Surat was also present during the hearing. He informed that the Appellant submitted non-utilization certificate in July 2021 only after passing the OIO.

5. I have gone through the facts and records carefully. The Appellant did not utilize the Advance Authorization and submitted non-utilization certificate from the office of Commissioner of Customs (NS-II), Raigad.



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

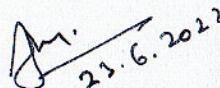
Order

F.No. 18/04/2021-22/ECA.1/ 141
22.06.2022

Dated: 23-06-2022

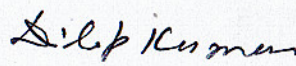
The Appeal dated 19.06.2021 is admitted. The Order-in-Original No. 52/21/040/00135/AM14 dated 13.05.2021 is set aside.




(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy To:

- (1) Shidimo Interaux Pvt. Limited, J.K. Tower, 6th Floor, Nr. Sub Jail, Ring Road, Surat, Gujarat – 395002
- (2) Addl. DGFT, 6th Floor, Resham Bhawan, Laldarwaja, Surat – 395003.
- (3) Central Economic Intelligence Bureau, 1st, 6th & 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi - 110001
- ✓(4) DGFT website


(Dilip Kumar)
Dy. Director General of Foreign Trade