

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

F.No.18/15,17,18&21/202223/ECA.I/

Date of Order: 21 .02.2023

Date of Dispatch: 23 .02.2023

Name of the Applicant:

M/s Clarion Organics Ltd.
Village Dewadi, Post Tumsar Road,
Dist Bhandara, Maharashtra-441912.

IEC No.

0394065328

Order appealed against:

Four Orders-in-Original passed by Addl.
DGFT, Nagpur as follows:

1.	50/24/040/00002/AM16	dated
	15.03.2022	
2.	50/24/040/00001/AM18	dated
	16.03.2022	
3.	50/24/040/00012/AM14	dated
	14.03.2022	
4.	50/24/040/00013/AM17	dated
	10.06.2022	

Order-in-Appeal passed by:

Santosh Kumar Sarangi, DGFT

Order-in-Appeal

M/s Clarion Organics Ltd. (here-in-after referred to as the 'Appellant') having IEC No. 0394065328 filed four appeals dated 25.04.2022 (three appeals) & 25.06.2022 (fourth appeal) under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against four Orders-in-Original passed by Adjudicating Authority detailed in para 2 below. The Adjudicating Authority ordered that no further license shall be issued to the firm or to any other firm in which the Proprietor/ Partners/Directors of the firm is/are directly involved in the day-to-day

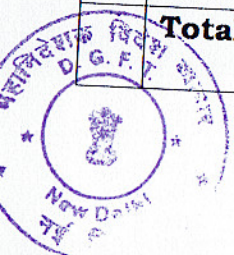


activities of that firm as per Provision of Handbook read with Clause 7(1) of the Foreign Trade (Development & Regulation) Act, 1992.

Brief Facts of the Case

2. The firm M/s Clarion Organic Ltd. obtained four Advance Authorizations during March, 2014 to December, 2016. The Firm had to fulfill export obligation within a period of 18 months from the date of issue of Authorizations. The Firm did not submit prescribed export documents. RA, Nagpur issued Demand Cum Show Cause Notices to the firm against the four Advance Authorizations under Section 14 for action under Section 11(2) of Foreign Trade (Development & Regulation) Act, 1992. The Adjudicating Authority, Addl. DGFT, Nagpur passed four Orders-in-Original in respect of four Advance Authorizations. The details (here-in-after referred to as 'the table') of four Advance Authorizations are as follows :

S. N o.	Adv. Authorizat ion No. & date	CIF value (Rs.)	FOB value (US\$)	OIO No. and Date	Penalty Imposed (Rs.)	Order in addition to financial penalty
1.	50100022 11 dated 29.06.201 5	3,36,96,0 00/-	17,10,0 00	50/24/040 /00002/A M16 dated 15.03.2022	5,14,00,0 00/-	No further license shall be issued to the firm or to any other firm in which the Proprietor/Partners/Directors of the firm is/are directly involved in the day-to-day activities of that firm under Rule 7(1) of Foreign Trade Regulation Rules, 1993.
2.	50100023 48 dated 12.04.201 7	1,50,72,7 50/-	11,13,5 82	50/24/040 /00001/A M18 dated 16.03.2022	2,31,14,9 45/-	
3.	50100019 98 dated 04.03.201 4	73,92,000 /-	5,22,75 0	50/24/040 /00012/A M14 dated 14.03.2022	1,13,00,0 00/-	
4.	50100023 12 dated 16.12.201 6	1,04,66,0 00/-	7,72,08 4	50/24/040 /00013/A M17 dated 10.06.2022	2,09,32,2 00/-	
Total		6,66,26,7 50/-	41,18,4 16		10,67,47, 145/-	



(Handwritten signature)

3. The Appellant has now submitted four appeals dated 25.04.2022 & 25.06.2022. The Appellant has submitted that:

(i) it imported the Raw Materials allowed under the Authorisation and used in manufacture of export product and exported for fulfillment of export obligation,

(ii) due to inadvertent oversight and human error all shipping bills for export were filed under 'Free' scheme instead of 'AA' scheme. It did not indicate authorisation number on the shipping bills. Therefore the exports made by it have not been reflected towards fulfillment of EO,

(iii) Adjudicating Authority passed four Orders-in-Original ex-party without considering the documents evidencing export placed on record and without affording an opportunity of hearing,

(iv) it filed an application before the PRC vide File No. HQPRCAPPLY00001056 AM23 dated 22.04.2022 with a request to consider export made vide 'Free' Shipping Bills towards fulfillment of EO or grant 12 months extension in export obligation,

(v) it is also in process of requesting customs department to permit conversion of these shipping bills from 'Free' to 'AA' Scheme,

(vi) no penalty under the provisions of Section 11(2) of the Act, can be imposed on the appellant for non-fulfillment of EO,

(vii) penalty cannot be imposed jointly on the appellant and its Directors /Partners without specific quantification,

4. The Appellant has prayed for:

(i) allowing its appeals and all four Orders-in-Original be set aside or recalled or withdrawn,

(ii) issuing clarification as to whether penalty imposed is only on the Appellant and not on its Directors and accordingly appeal filed by the Directors may be allowed,

5. The Appellate Authority granted the personal hearing to the appellant on 16.02.2023. Shri Vivek Tiwari, Director attended the PH in person. Shri Vivek



Tiwari, Director stated that the firm had completed the exports within the given time period and fulfilled its export obligation. However, due to lack of knowledge and oversight of its Customs House Agent, the Advance Authorisation numbers were not endorsed on the shipping bills. He has also stated that e-BRCs are also available indicating realization of funds against the export done by the firm. On being queried regarding additional evidence of export, Director informed that they have ARE-1 form which indicates assessable value of goods for export and are in a position to submit the same to the DGFT.

6. I have gone through the facts and records of the case carefully. The Appellant has claimed that they have fulfilled the export obligation but due to oversight and inadvertent error on their part, the Advance Authorisation numbers were not endorsed on the shipping Bills. The Appellant has claimed that they have ARE-1 form which further indicates export completion on the part of firm and can file the said ARE-1 form, as further evidence of export.

ORDER

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Date: 21.02.2023

The Appeals against the four OIOs as shown in the table at para 2 is admitted. The Appellant is directed to submit all the ARE-1 forms to RA, Nagpur within four weeks of issue of the order. The case is remanded to RA, Nagpur for de-novo consideration taking into account the ARE-1 forms submitted by the Appellant.



[Signature]
21.2.2023

(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy to:-

1. M/s Clarion Organics Ltd., Village Dewadi, Post Tumsar Road, Distt. Bhandara, Maharashtra - 441912.
2. The Addl. Director General of Foreign Trade, Nagpur.
3. Central Economic Intelligence Bureau, 1st, 6th & 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi.
4. DGFT Website.



[Signature]

(Dilip Kumar)
Dy. Director General of Foreign Trade