

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

\*\*\*\*\*

F.No. 18/27/2019-20/ECA-I(E)/134 Date of Order: 29 .07.2021  
Date of Dispatch: 29 .07.2021

Name of the Applicant: Digipulse India (Pvt) Ltd., Plot No.26, Sector-34,  
EHTP, Gurgaon -122002

IEC No. 0596057300

Order reviewed against: Order-in-Appeal No. 05/16/140/005& 006/ AM20/  
Appeal/ CLA dated 31.07.2019 passed by  
Addl. DGFT, CLA, New Delhi.

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

**Order-in-Review**

Digipulse India (Pvt) Ltd., Gurgaon (here-in-after referred to as 'the Petitioner') filed a Review Petition dated 24.08.2019 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. 05/16/140/005& 006/AM20/ Appeal/ CLA dated 31.07.2019 passed by Addl.DGFT, CLA, New Delhi, dismissing two appeals as time barred. The appeals were against two Orders-in-Original passed by Joint DGFT, and FTDO, CLA, New Delhi for non-submission of documents evidencing fulfilment of export obligation in respect of two EPCG Authorizations. The details of the two Orders-in-Original (OIO) are as follows:

Sl. No.	Order Number	Date	Penalty Imposed
1.	05/36/21/0393/AM-98/EPCG-I	15.12.2009	Rs.5,53,05,860/-
2.	05/36/21/038/AM-99/EPCG-I	20.05.2011	Rs.3,23,25,600/-



**Facts of the case:**

2.1 The Petitioner obtained two EPCG Authorisations from office of CLA, New Delhi Delhi, as per provisions of the Foreign Trade Policy (FTP) prevalent during that period. The details of two EPCG Authorizations are as follows:

Sl. No.	EPCG Authorization No.	Date	FOB value (US\$) of export obligation	Duty Saved (Rs.)
1.	0090262	22.01.1998	11,11,675.88	28,45,194.97
2.	0093572	03.06.1998	22,31,550.00	61,36,763.00

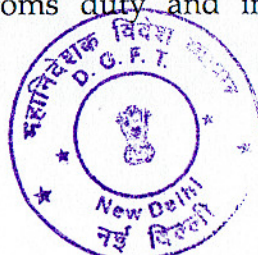
2.2 Both the authorisations were carrying obligations to export products manufactured with the imported machinery, for the FOB values as indicated in para 2.1 to be completed within a period of 5 and 8 years respectively from the dates of issue of the respective Authorizations. As per conditions of the Authorizations, the Petitioner was required to submit the prescribed documents showing fulfilment of export obligations within the time frame as mentioned in the FTP.

2.3 The export obligation period expired on 21.01.2003 and 02.06.2006. The Petitioner did not furnish any documents showing fulfilment of export obligations in respect of two EPCG Authorizations. Demand-cum-Show Cause Notices were issued by CLA, New Delhi to the Petitioner under Section 14 of the Act for taking action under Section 11(2) of the Act. The Petitioner did not respond to the Show Cause Notices. The Adjudicating Authority passed two Orders-in-Original imposing penalty on the Petitioner as per details in para 1.

3. Against the above said OIOs, the Petitioner filed two appeals on 01.04.2019 to the Zonal Addl. DGFT, under Section 15 of the Act. The Appellate Authority rejected the appeal as time barred by passing an Order-In-Appeal dated 31.07.2019.

4.1 The petitioner has submitted a Review Petition dated 24.08.2019 before the undersigned stating that:

- i. It did not make any export under the EPCG Authorizations as the export item 'Blank Audio Cassettes' became obsolete in early 2000 in the international market due to introduction of compact disk.
- ii. It paid total customs duty and interest thereon in respect of both EPCG Authorizations.



4.2 The Petitioner has prayed that :

- (a) the Adjudication Order in respect of both EPCG authorizations to be withdrawn,
- (b) the recovery orders dated 10.12.2018 and 09.01.2019 be withdrawn,
- (c) the penalty imposed in the Adjudication Orders be waived off, and
- (d) O/o Addl. DGFT CLA, New Delhi be directed to redeem both the authorizations.

5. I have gone through the facts and records carefully. The petitioner was granted personal hearing on 10.01.2020. Shri Charanjeet Singh, Director and Shri Anil Arora, Adviser appeared before me. They informed that the Petitioner has paid the applicable customs duty and interest and all original documents are available. The Petitioner was directed to produce all original documents to CLA, New Delhi. A report was sought from CLA, New Delhi. The Zonal Addl. DGFT, CLA, New Delhi vide their letter F. No. 05/16/140/005 & 006/AM.20/Appeal/CLA dated 11.03.2020 and letter No. 5/36/021/0038/AM-99/EPCG-I/CLA & 5/36/021/00393/AM-98/EPCG-I/CLA dated 16.10.2020 have confirmed that the Petitioner has deposited the total customs duty and interest thereon in respect of both EPCG Authorizations.

6. I, therefore, in exercise of powers vested in me under Section 16 of Foreign Trade (Development & Regulation) Act, 1992, as amended pass the following order:

### ORDER

F.No.18/27/2019-20/ECA-I(E)

Dated: 29 .07.2021

The Review petition is admitted and the Orders-in-Original no. 05/36/ 21/ 0393/ AM-98/EPCG-I dated 15.12.2009 and 05/36/21/038/AM-99/EPCG-I dated 20.05.2011 are set aside. The case is remanded for de-novo consideration by the Adjudicating Authority.



*(Signature)*

(Amit Yadav)

Director General of Foreign Trade

**Copy To:**

- ✓ 1. Digipulse India (Pvt) Ltd., Plot No.26, Sector-34, EHTP, Gurgaon -122002
2. Additional DGFT, CLA, A-Wing, Indraprastha Bhawan, I.P. Estate, New Delhi
3. CEIB, New Delhi
4. DGFT Website.

*Dilip Kumar*

(Dilip Kumar)

Dy. Director General of Foreign Trade

*[Handwritten signature]*

