

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

F.No.18/13/2022-23/ECA.I/

Date of Order : 09 .03.2023

Date of Dispatch: 10 .03.2023

Name of the Applicant:

M/s Jadhao Layland Pvt. Ltd.,
A-77, M.I.D.C Area Amravati,
Maharashtra - 444605

IEC No.

5011005038

Order appealed against:

Order-in-Original No. 50/21/021/00132
/AM13 dated 16.03.2022 passed by Addl.
DGFT, Nagpur

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

Order-in-Appeal

M/s Jadhao Layland Pvt. Ltd., Amravati (here-in-after referred to as the 'Appellant') filed an appeal dated 30.05.2022 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against the Order-in-Original No. 50/21/021/00132 /AM13 dated 16.03.2022 (OIO) passed by Adjudicating Authority (Addl. DGFT, Nagpur) imposing a penalty of Rs.96,07,266/- in addition to payment of customs duty plus interest on the Appellant and its Proprietor/Partners/Directors and also ordered that no further licence shall be issued to the Appellant or any other firm in which the Proprietor/Partners/ Directors of the Appellant is/are directly involved in the day to day activities of the firm in terms of Section 7(1) of the Act.

Brief Facts of the Case

2.1 The Appellant obtained an EPCG Authorization No. 5030000319 dated 31.12.2012 from the office of Additional DGFT, Nagpur as per the provisions of Foreign Trade Policy (FTP), for import of capital goods for a duty saved value of Rs.48,03,633/- under 3% duty EPCG Scheme with a specific Export Obligation (EO) for FOB value of US\$ 6,92,415.56 to be completed within a period of 8 years from the



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date of issue of authorization. The average Export Obligation was nil. As per conditions of the Authorization, the Appellant was required to submit the prescribed documents showing fulfilment of export obligation.

2.2. Export obligation period expired 31.12.2020. The Appellant did not submit the prescribed documents evidencing fulfilment of EO. RA, Nagpur issued Show Cause Notice dated 18.10.2021 under Section 14 for action under Sections 11(2) of the Act.

2.3 The Adjudicating Authority (Additional DGFT, Nagpur) observed that the Appellant and its Proprietor/Partners/Directors, as the case may be, are guilty of violating of conditions authorization thereby liable to a penalty u/s 11(2) of the Act. The Adjudicating Authority passed an OIO dated 16.03.2022 imposing a penalty of Rs.96,07,266/- in addition to payment of customs duty plus interest thereon, on the Appellant and its Proprietor/Partners/Directors as there was no reply to the SCN. The Adjudicating Authority also ordered that no further licence shall be issued to the Appellant and or any firm in which the Proprietor/Partners/ Directors of the Appellant is/are directly involved in the day to day activities of the firm in terms of Section 7(1) of the Act.

3.1 The Appellant has filed an appeal dated 30.05.2022 to the undersigned stating that :-

(i) It could not fulfill export obligation due to slow down in international market, financial crises and COVID-19,

(ii) It has some export orders and can fulfill the export obligation. It has requested EPCG Committee for extension of EO period and on receipt of EO extension, it will start export and fulfill export obligation.

3.2 The Appellant has prayed that its case be heard on merit in the interest of justice.

4. The Appellant was granted personal hearing on 19.01.2023 and 06.03.2023 which was attended by Shri Rohit Asrani, Chartered Accountant, of the Appellant. He informed that the Appellant could not fulfill the export obligation due to slow down in international market, financial crises and COVID-19. It has many export orders in hand and can fulfill the export obligation. He requested to grant two years extension in export obligation period so that the Appellant could fulfill the export obligation. Ms. Snehel, Assistant DGFT, Nagpur was also present during the personal hearing.



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5.1 I have gone through the facts and records carefully. EO period of the Authorisation No. 5030000319 expired on 31.12.2020. DGFT's Notification No. 28/2015-20 dated 23.09.2021 added a clause 5.17 (f) which allowed EO extension upto 31.12.2021 in respect of EPCG authorizations where EO period expired during the period 01.08.2020 and 31.07.2021, subject to 5% additional export obligation in value terms (in free Foreign Exchange) on the balance EO on the date of expiry of EO period. Thus, the EO period got extended upto 31.12.2021 in terms of the said Notification. There was a subsequent Public Notice No. 53/2015-20 dated 20th January 2023 which allowed EO extension for the number of days the existing EO period of an authorization fell within 01.02.2020 to 31.07.2021 which implied that the EO could be extended by 11 months, that is, upto 30.06.2022. However, if benefits of such extension is availed no benefits of relaxation can be obtained in terms of policy relaxation of para 2.58 of Foreign Trade Policy. Thus the firm can only avail either the policy relaxation granted for two years (from 8th to 10th year) which expired on 31.12.2022 or the relaxation in terms of Public Notice No. 53 mentioned above which expired on 31.07.2022. Therefore, there is no further scope for any extension to enable the Appellant to fulfill its export obligation.

5.2 Ms. Snehel, Assistant DGFT, Nagpur was also present during the personal hearing. She informed that the Appellant has not submitted Installation Certificate from jurisdictional Central Excise Authority However the same can now be certified by a Independent Chartered Engineer as per existing policy.

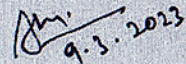
6. I therefore, in exercise of powers vested in me under Section 16 of the Act pass the following order:

ORDER

F.No.18/13/2022-23/ECA.I/ 525

Date: 09 .03.2023

The appeal dated 30.05.2022 is rejected. The Appellant is directed to pay the customs duty plus interest on the unfulfilled EO within 1 month of issuance of the order along with documentary evidence of payment to RA Nagpur. The penalty shall stand remitted on payment of the customs duty and interest within the time period failing which RA Nagpur shall take appropriate action under the Act.


9.3.2023

(Santosh Kumar Sarangi)

Director General of Foreign Trade

Page 3 of 4



Copy to:-

1. M/s Jadhao Layland Pvt. Ltd., A-77, M.I.D.C Area Amravati, Maharashtra - 444605
2. The Addl. Director General of Foreign Trade, Nagpur.
3. Central Economic Intelligence Bureau, 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi.
4. DGFT Website.

Dilip Kumar

(Dilip Kumar)

Dy. Director General of Foreign Trade

