Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi -110011
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F.No. 18/26/2012-13/ECA.I/179

Date of Order: 17.08.2021
Date of Dispatch: 18.08.2021

Name of the Applicant:	Sunbright Fashions (India) Pvt. Ltd., Module No.7, Garment Complex Ind. Estate, Guindy, Chennai – 600032
IEC No. :	0499016475
Order reviewed against:	Order-in-Original No. 04/21/40/632/ AM06 dated 17.01.2011 passed by Joint DGFT, Chennai.
Order-in-Review passed by:	Shri Amit Yadav, DGFT

Order-in-Review

Sunbright Fashions (India) Pvt. Ltd.,Chennai (here-in-after referred to as 'the Petitioner') filed a Review Petition dated 17.09.2012 under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992 as amended (here-in-after referred to as 'the Act') against Order-in-Original (OIO) No. 04/21/40/632/AM06 dt.17.01.2011 passed by Adjudicating authority imposing a penalty of Rs.15,000/- with interest in addition to Customs duty and applicable interest on the Petitioner and its Proprietor/Partners/Directors for non fulfilment of export obligation and also ordered that no further license shall be issued to the Petitioner or to any other firm/company in which the Proprietor/Partners/Directors are directly or indirectly involved.

Brief Facts of the Case

2.1 The Petitioner obtained an Advance Authorization No.0410074712 dated 22.09.2005 for a CIF value of Rs. 5,69,581/- (US $ 12,974.50) with an obligation to export for an FOB value of US$ 43,673.05 within a period of 24 months from the 18 date of issue of said authorization. As per conditions of the Authorisation, the Petitioner was required to submit the prescribed documentary evidence of having fulfilled its export obligation (EO).

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2.2 The EO Period expired on 30.09.2007 but the Petitioner did not submit prescribed documents. A Show Cause Notice dated 18.06.2010 under Sections13 & 14 for action under Sections 8, 9 & 11 of the Act and Rule 7 of Foreign Trade (Regulation) Rules, 1993 was issued. It was also granted an opportunity of personal hearing. The Petitioner neither submitted documents nor appeared for personal hearing. As the Petitioner failed to submit complete requisite documents, an OIO dated 17.01.2011 was passed by Adjudicating authority imposing a penalty of Rs. 15,000/- with interest in addition of Customs duty and applicable interest on the Petitioner and its Proprietor/Partners/Directors for non fulfilment of export obligation.

2.3 The Petitioner did not file an appeal against OIO No. 04/21/40/632/AM06 dt. 17.01.2011. The Petitioner submitted a review petition dated 17.09.2012 to the undersigned. The Petitioner has submitted that:

(i) it had already submitted all documents on 04.05.2009 and fulfilled the export obligation and has claimed that it has made export in excess of the obligation, and therefore the Joint DGFT should have ordered for redemption of the advance license instead of imposing a penalty of Rupees fifteen thousand,

(ii) there was severe labour trouble on account of retrenchment and the petitioner was continuously incurring loss which caused great agony and therefore could not file an appeal against the OIO.

(iii) it was under impression that on the basis of the documents furnished, the matter will be regularized by the JDGFT even after passing the OIO.

(iv) the Order-in-Original be set aside.

3.0 The Petitioner was granted personal hearing on 07.06.2021 which was attended by Shri Hari Radhakrishnan, Advocate for the Petitioner. He informed that he would submit written submissions. The Petitioner vide email 08.06.2021 submitted that it had fulfilled the export obligation. It submitted all documents towards fulfilment of export obligation on 04.05.2009 and 17.12.2009 well before passing the OIO dated 17.01.2011. The Adjudicating Authority considered none of the submissions made by it. RA, Chennai vide email dated 09.06.2021, has informed that the Petitioner while submitting the document for EO discharge did not submit the consumption certificate and debit sheet. After adjudication of the case, the firm submitted the consumption certificate and photocopy of printout from customs in lieu of debit sheet.

4.0 I have gone through the facts and records carefully and observed that the Petitioner had submitted complete export documents except the Debit Sheet.

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

Order

F.No. 18/26/2012-13/ECA.I Dated: 17.08.2021

The Review Petition is upheld and the Order-in-Original No. 04/21/40/632/AM06 dt. 17.01.2011 is dismissed. The case is remanded to RA, Chennai for de novo consideration with directions to decide the matter within 8 weeks from the date of issue of this Order.

(Amit Yadav) 17/08/2021
Director General of Foreign Trade

Copy To:

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(2) The Addl. Director General of Foreign Trade,26, Haddows Road,4th Floor, Shashtri Bhavan Annexe,Chennai-600 006.
(3) CEIB, 8th floor, 'B'- Wing, Janpath Bhawan, Janpath, New Delhi -110001
(4) DGFT website

(Dilip Kumar)
Dy. Director General of Foreign Trade