

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

F. No. 18/17/2023-24/ECA.I/ 102

Date of Order : 29.11.2023

Date of Despatch: 16.11.2023

Name of the Petitioner:

M/s PM Control Equipment Pvt. Ltd.  
302, Vaishno chambers,  
6, Brabourne Road,  
Near Regional Passport Office,  
Kolkata – 700001.

IEC No.

0205015972

Order Reviewed against:

Order-in-Appeal No. 18/122/17-  
18/ECA/KOL/Appeal-239 dated 27.09.2018  
passed by Addl. DGFT, Kolkata.

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

**Order-in-Review**

M/s PM Control Equipment Pvt. Ltd., Kolkata (here-in-after referred to as 'the petitioner') having IEC No.0205015972 filed Review Petition dated 24.08.2023 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 (OIA) No. 18/122/17-18/ECA/KOL/Appeal-239 dated 27.09.2018 passed by Addl. DGFT, Kolkata dismissing the appeal and Order-in-Original (OIO) No. 02/21/021/00495/AM10 dated 13.02.2018 issued by the Adjudicating authority is upheld.

**Brief of the Case**

2. The petitioner obtained an EPCG License No. 0230004771 dated 21.12.2009 (Zero duty EPCG scheme) for a duty saved value of Rs. 30,40,130/- for import of capital goods as specified in the license with an obligation for import of Punch Press Machine for Electrical Industry and Hydraulic Press brake machine to fulfill the Export Obligation within a period of six years.



3. The petitioner failed to fulfill export obligation, therefore, the Adjudicating Authority passed an Order-in-Original No. 02/21/021/00495/AM10 dated 13.02.2018 passed by Jt. DGFT, Kolkata imposing a penalty of Rs. 3,00,000/- on the petitioner and its Directors in addition to payment of Customs Duty along with 15% interest p.a. u/s 11(2) of the FT(D&R) Act, 1992.

4. Aggrieved by Order-in-Original, the petitioner filed an appeal on 29.08.2018 before Appellate Authority requesting for condonation of delay, waiver of penalty amount and to set aside the Order dated 13.02.2018. RA, Kolkata vide their Order-in-Appeal No. 18/122/17-18/ECA/KOL/Appeal-239 dated 27.09.2018 dismissed the appeal and upheld the OIO dated 13.02.2018.

5. Now, the petitioner has filed the present review petition dated 24.08.2023 on the following grounds:-

(i) they have taken over the company which was not functional and had financial issues.

(ii) they got to know that IEC of the firm was suspended when appeal order was found.

(iii) previous owner of the firm did not send/handover any documents related to above mentioned EPCG licence.

(iv) they have fulfilled export obligation up to 82.98%. Bank Guarantee (BG) of Rs.4,79,821/- (15% of Duty Saved as per BoE Rs.31,98,804/-) has also been encashed.

5.1 The Petitioner has prayed for :-

(i) to grant personal hearing to explain the facts of the case.

(ii) to set aside the OIO dated 13.02.2018 and OIA dated 27.09.2018.

(iii) to revoke suspension of IEC to resume export and import activities.

(iv) to allow for availing the Amnesty Scheme for any shortfall in export obligation.

6. The Reviewing Authority granted the personal hearing to the Petitioner on 06.11.2023. Shri Nikunj Toshniwal, Director and Ms. Debjani Ray, Authorised Representative attended the PH on behalf of the firm. The Petitioner stated that they have completed 82.98% of the exports. For the balance of exports they have already applied under the Amnesty Scheme. Further, stated that they had taken over the company only in 2021. They came to know from the Customs House when appeal order was found in June, 2023 that their IEC was suspended. Therefore, they are requesting for condonation of delay, waiver of penalty amount and to set aside



the OIA dated 27.09.2018 and to revoke the suspension of IEC in order to commence of exports and also to allow to avail the Amnesty Scheme.

7. I have gone through the facts and records of the case carefully. The Petitioner had obtained an EPCG License No. 0230004771 dated 21.12.2009 (Zero duty EPCG scheme) for a duty saved value of Rs. 30,40,130/- for import of capital goods as specified in the license with an obligation for import of Punch Press Machine for Electrical Industry and Hydraulic Press brake machine to fulfill the Export Obligation within a period of 6 years. The Petitioner completed 82.98% of the exports and for the balance they have already applied under Amnesty Scheme. The Bank Guarantee (BG) of Rs.4,79,821/- (15% of Duty Saved as per BoE Rs.31,98,804/-) has also been en-cashed. Now, they are left with an amount of Rs.64,615/- (2.02% duty saved but not met through EO).

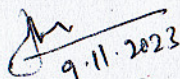
8. I therefore, in exercise of powers vested in me under Section 16 of the Act pass the following order:-

**ORDER**

F.No. 18/17/2023-24/ECA.I/Dated : <sup>202</sup>

09 .11.2023

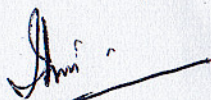
The Review Petition dated 24.08.2023 is admitted. The Order-in-Appeal No. 18/122/17-18/ECA/KOL/Appeal-239 dated 27.09.2018 and Order-in-Original No. 02/21/021/00495/AM10 dated 13.02.2018 passed by RA, Kolkata and IEC revocation are set aside so that firm can resume export/import activities. The case is remanded back to RA, Kolkata for de-novo consideration.

  
(Santosh Kumar Sarangi)

Director General of Foreign Trade

Copy to:-

1. M/s PM Control Equipment Pvt. Ltd., 302, Vaishno chambers, 6, Brabourne Road, Near Regional Passport Office, Kolkata – 700001.
2. The Addl. Director General of Foreign Trade, Kolkata.
3. Central Economic Intelligence Bureau, 1<sup>st</sup>, 6<sup>th</sup>& 8<sup>th</sup> Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi – 110001.
- ✓ 4. DGFT Website.

  
(A.S. Lungreishang)

Dy. Director General of Foreign Trade

