



**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE**

**OFFICE OF THE ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE
(CLA) A- WING, INDRAPRASTHA BHAWAN, I.P. ESTATE, NEW DELHI**

Email id: - cladelhi-dgft@nic.in; Phone no.: - 011-23379115 and Fax: - 011-23379114

Appeal File No.: - DLIECAAPPEAL00000696AM25/CLA/Date of Order: - ~~1690~~

Name of the Appellant:

M/s. Chintamani Sharma & Sons,
A-10, Jhilmil Industrial Area, Shahdara,
Delhi - 110095.

1690
01/12/2025

IEC No.:

0592045790

Order Appealed Against:

Adjudication Order No. 05/25/040/00353/AM20,
Dated 29.01.2024
Passed by the Assistant DGFT (CLA), New Delhi.

Order-in-Appeal passed by:

Smt. Vrunda Manohar Desai,
Appellate Authority & Zonal Additional DGFT (CLA),
New Delhi.

ORDER-IN-APPEAL

M/s. Chintamani Sharma & Sons {here-in-after referred to as, the 'Appellant'}, having IEC no. 0592045790, filed an appeal dated 16.04.2024 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, {hereinafter referred to as, the 'FT (D&R) Act, 1992'} as amended, before me against the Order-in-Original {herein after referred to as the 'impugned Order' or 'O-I-O'} bearing number 05/25/040/00353/AM20 dated 29.01.2024 issued by the Assistant Director General of Foreign Trade (CLA) {for short, 'Assistant DGFT'}, New Delhi, acting as Adjudicating Authority, imposing a penalty of INR 34,00,000/- (Indian Rupees Thirty Four Lakh Only) to be paid within the prescribed timeframe.

REMEDY AGAINST ORDER-IN-APPEAL

2. Any person/party aggrieved by this Order-in-Appeal may file a Review Application U/s.16 of the FT (D&R) Act, 1992, as amended, before the Director General of Foreign Trade {the 'DGFT'}, Vanijya Bhawan, Akbar Road, New Delhi.

BRIEF FACTS

3. The appellant, *vide* an online application dated 26.02.2016 filed under Chapter 4 of the Foreign Trade Policy, 2015-20 {for short, the 'FTP'}, obtained an Advance Authorization {for short, 'AA'} license numbered 0510397983 dated 18.03.2016 for the import of raw materials (as mentioned in the license) for a CIF value of INR 3,39,75,457/-, subject to fulfillment of an obligation to export the items (as per the condition sheet) amounting to INR 3,85,44,657/- within a stipulated duration of eighteen months from the date of its issuance i.e., by 18.10.2017, in accordance with the valid and/or relevant provisions of the Hand Book of Procedures, 2015-20 {for short, the 'HBP'}. However, the appellant failed to furnish documents showing fulfillment of the Export Obligation {for short, 'E.O.'} even two months after its expiry.

4. Resultant, a SCN dated 13.03.2023 was served upon the appellant U/s.11(2) of the FT (D&R) Act, 1992, as amended, read with Rule 7 of the Foreign Trade (Regulation) Rules, 1993, for contravening the import conditions undertaken under the said authorization by defaulting upon the E.O., but to no avail. Subsequently, a letter dated 18.12.2023 was sent to the appellant *via* the DGFT online portal, granting it an opportunity to submit replies and hear the arguments, but the appellant again did not respond. Neither the appellant availed any of the PH opportunity nor did it submit any documents towards fulfillment of E.O.

5. Considering the appellant's willful default/inadvertence towards submission of documents evidencing fulfillment of E.O. as per the relevant and/or applicable provisions of the FTP & HBP, 2015-20, the Adjudicating Authority, by invoking the provisions of Section 13& 11(2) of the FT (D&R) Act, 1992, as amended from time to time, issued an Order-in-Original bearing no. 05/25/040/00353/AM20 dated 29.01.2024, thereby imposing a penalty amount of INR 34,00,000/- upon the appellant & its Director(s), while refusing any further requests for issuance of licenses/scrips U/s.9(2) of the said Act read with Rule 7(1) of the Foreign Trade (Regulation) Rules, 1993, and placing it under the 'Denied Entity List' { for short, 'DEL' } or Black List.

GROUND OFS OF APPEAL

6. Aggrieved by the stand so taken, the appellant preferred an online appeal dated 16.04.2024 received on 15.05.2024, U/s. 15 of the FT (D&R) Act, 1992, as amended, challenging the above said O-I-O dated 29.01.2024, and contended that the impugned Order

carries a remark as "signature not verified", which undermines its authenticity and legal validity, rendering it an 'unsigned order'. The appellant further seeks to set aside the impugned Order dated 29.01.2024, including the levied penalty of INR 34,00,000/-, and restrain the Customs Department from recovering Customs Duty and interest. The grounds set forth in appeal memorandum are enumerated herein below: -

6.1 Impugned Order as well as the SCN though digitally signed by the Foreign Trade Development Officer {for short, 'FTDO'}, are not verified, and thus have no value in the eyes of law. Being so, impugned Order is *void-ab-initio* and *non-est* in the eyes of law.

6.2 Without prejudice to above, the impugned Order has not been signed by the competent and authorized officer.

6.3 Reasonable limitation period has not been adopted by department while initiating the proceedings.

6.4 Fiscal penalty which has been proposed to be imposed is without application of mind.

RECORD OF PERSONAL HEARINGS

7. Accordingly, *vide* letter dated 16.07.2024, the appellant was informed that the digital signature bearing such remark is authentic and was further advised to inform this office about the current position of E.O. fulfillment. Additionally, it was conveyed that the present appeal is time-barred under Section 15 of the FT (D&R) Act, 1992, as amended. However, the appellant didn't respond to thereto.

8. Subsequently, the Appellate Authority granted the appellant with an opportunity of being heard *in-person* on 12.08.2025, but the appellant, *via* an email dated 11.08.2025, sought an adjournment. A second PH was then scheduled for 06.10.2025, wherein the appellant's authorised representative namely, Advocate Akashdeep, marked his *appearance-in-person* before me and reiterated the grounds of appeal. He admitted that the EO had still not been discharged by the appellant and requested an adjournment of one week. Accordingly, a third PH was scheduled on 13.10.2025, but the appellant again sought an adjournment. Adhering to the principles of natural justice, the Appellate Authority scheduled a fourth PH on 30.10.2025 which was also unattended by the appellant, thereby demonstrating a lack of diligence on its part.

DISCUSSIONS-CUM-FINDINGS

9. Based on facts and the appellant's course of conduct/action, the following findings are hereby recorded: -

9.1 The appellant failed to discharge E.O. against the referenced license, despite availing benefits under the AA Scheme, and remained non-compliant even years after its expiry date i.e., 18.10.2017. Notably, the appellant did not ever file any extension request prior to the E.O. deadline. Furthermore, during the adjudication proceedings, the appellant failed to avail the PH opportunities and neglected to furnish the documents evidencing E.O. fulfillment, despite repeated notices. Such persistent non-compliance and negligent conduct amounts to a serious violation of applicable and/or relevant provisions under the FTP, 2015-20, HBP, 2015-20, FT (D&R) Act, 1992, as amended, and Foreign Trade (Regulation) Rules, 1993, warranting strict action. Consequently, the impugned Order was necessitated by the appellant's failure to meet the conditions undertaken under the above said license. Therefore, it is observed that there is no irregularity in initiation of the proceedings.

9.2 The impugned Order was duly served upon the appellant on the date of its issuance via B.O. portal i.e., 29.01.2024. The present appeal dated 16.04.2024, received on 15.05.2024, is filed after passage of 107days from the date of issuance of the said Order. Thus, the present appeal does not fall within the limitation period expressly defined under sub-clause (b) of Section 15(1) of the FT (D&R) Act, 1992, as amended, and the proviso thereto, which is reproduced herein below for reference: -

"(b) where the decision or order has been made by an officer subordinate to the Director General, to the Director General or to any officer superior to the Adjudicating Authority authorised by the Director General to hear the appeal, within a period of forty-five days from the date on which the decision or order is served on such person:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period, allow such appeal to be preferred within a further period of thirty days: "

In view of the statutory limitation breach, the present appeal is liable for rejection without examination of merits. Thus, the appellant is legally precluded from claiming entitlement to a PH and all other reliefs sought are extinguished.

9.3 The appellant has neither shown any sufficient cause for this inordinate delay nor even filed an application for condonation of delay with a proper justification. Notwithstanding the pendency of this appeal, the appellant has failed to respond to this office's letter dated 16.07.2024, seeking clarification regarding the position of E.O. fulfillment.

9.4 The appellant's challenge to the validity of the digital signature (allegedly 'not verified') is misconceived & legally untenable, as orders issued by this office via B.O. portal derives their statutory validity from *sub-clause (a) of Section 85(B)(2) of the Indian Evidence Act, 1872, read with Section 5 & 2(tp) of the Information Technology Act, 2000*. The appellant's challenge to the signing authority's competence is equally baseless & lacks merit, as the impugned order was issued by the designated Adjudicating Authority (Assistant DGFT), who possesses full jurisdictional competence to pass such orders. Furthermore, the appellant's allegation of arbitrary imposition of penalty is wholly unsubstantiated & not sustainable, as the penalty was levied strictly in conformity with the mandatory provisions of Section 11(2) of the FT (D&R) Act, 1992, as amended, and Rule 7 of the Foreign Trade (Regulation) Rules, 1993.

9.5 Moreover, as per Section 15 of the FT (D&R) Act, 1992, as amended, an appeal must be filed within 45 days from the date of service of the impugned decision or order, with a further condonable period of up to 30 days, subject to the Appellate Authority's satisfaction that the appellant had sufficient cause for not filing the appeal within the initial stipulated period. In the present matter, the appeal has been instituted after a lapse of 107 days, resulting in an overall delay of 62 days {30(condonable period) + 32(non-condonable)}.

10. Having considered all the aforementioned facts and findings, while upholding principles of natural justice and to prevent abuse of process, I, in exercise of the powers conferred upon me U/s.15 of the FT (D&R) Act, 1992, as amended, and after due consideration of all the documents placed on record, hereby pass the following Order: -

ORDER

10.1 The present appeal stands dismissed *in-limine* as being time-barred under the proviso to Section 15(1)(b) of the FT (D&R) Act, 1992, as amended, thereby upholding the Order-in-Original bearing number 05/25/040/00353/AM20 dated 29.01.2024, issued by the Adjudicating Authority.

10.2 This Order is issued without prejudice to any other action that may be initiated against the appellant under any prevailing and/or applicable Act, rule, regulation or Order made thereunder.

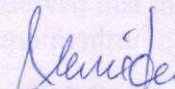
Sd/-

(VRUNDA MANOHAR DESAI)

Additional Director General of Foreign Trade

Copy to: -

1. DES-I branch (CLA) for information & necessary action at their end.


(VANITA RELAN)
Assistant Director General of Foreign Trade

o/c

01/12/2025