

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

F. No. 18/10&44/2022-23/ECA.I/180

Date of Order : 31.10.2023

Date of Despatch: 31.10.2023

Name of the Petitioner:

M/s. Raghav Industries Ltd.
No. 158, Krishna Talkies Road,
Erode, Tamilnadu – 638003.

IEC No.

3296015043

Order Reviewed against:

Order-in-Appeal
CHNECAAPPEAL00000832AM23 Nos. dated
11.04.2023 &
CHNECAAPPEAL00000833AM23 dated
31.03.2023 both passed by Addl. DGFT,
Chennai.

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

Order-in-Review

M/s Raghav Industries Ltd., Coimbatore(here-in-after referred to as 'the petitioner') having IEC No. 3296015043 filed two Review Petitions both dated 10.05.2023 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 Nos. CHNECAAPPEAL00000832AM23 dated 11.04.2023 & CHNECAAPPEAL00000833AM23 dated 31.03.2023 both passed by Addl. DGFT, Chennai dismissing both the appeals as being time barred against the Order-in-Original No. 32/21/021/02154/AM08 dated 26.10.2017& No. 32/21/021/01555/AM05 dated 04.03.2016 imposing a penalty of Rs. 77,82,992/- &Rs. 2,77,778/- respectively on the licensee and its Partners.

Brief of the Case

2. The petitioner had applied and obtained two EPCG Authorizations details of which are given in the table below :-



.No.	DGFT, Hqrs'sF. No.	EPCG Authoriz ation No./Date	FOB value (8 times duty saved)	OIO No./Date	Penalty imposed /-(2 times of duty saved)	OIA No./Date	Status of Appeal
1	18/44/2 022-23/ ECA.I	3230011 635/ 17.03.20 08	US\$ 774,427 /-	32/21/02 1/02154/ AM08 dt. 26.10.20 17	Rs. 77,82,992/ -	CHNECAAP PEAL00000 832AM23 dt. 11.04.2023	Dismiss- ed being time barred
2	18/10/2 022-23/ ECA.I	3230004 234/ 11.03.20 05	US\$ 25,281/-	32/21/02 1/01555/ AM05 dt. 04.03.20 16	Rs. 2,77,778/-	CHNECAAP PEAL00000 833AM23 dt. 31.03.2023	Dismiss- ed being time barred

2. The Petitioner neither submitted any documents towards fulfillment of export obligation after expiry of the EOP nor responded to the Show Cause Notice (SCN) issued by RA, Coimbatore. Since the petitioner had failed to fulfill the export obligation, the Adjudicating Authority passed two Orders-in-Originals dated 26.10.2017 and 04.03.2016 against the above two EPCG licenses imposing penalties (as stated above) on the licensee and its partners.

3. Aggrieved by the above two Orders-in-Originals, the petitioner has filed two Appeals both dated 30.12.2022 at RA, Chennai. However, both the appeals are dismissed by the Appellate Authority being time barred.

4. Now, the petitioner has filed two Review Petitions both dated 10.05.2023 against aforesaid two OIAs on the following grounds:-

(i) The Appellate Authority has grossly erred in rejecting the Appeals filed by them against Order-in-Originals. The impugned orders cannot be sustained under law and even on facts and hence needs to be quashed set aside forthwith.

(ii) The Appellate Authority ought to have considered that they have completed the export obligation within the valid export obligation period and have submitted the necessary documents for redemption of the EPCG Authorisation.

(iii) They have completed the export obligation within the time frame however, failed to do the compliances during the specified time frame.



(iv) They have contended before the Appellate Authority that due to severe financial crisis of the company, the operations have come to near standstill & the senior manager of the company who was entrusted with handling of matters of the DGFT left the organization without taking cognizance of the Order-in-Originald and without initiating necessary action for filing the appeals thereto.

(v) Now the management have taken it upon themselves to take immediate action to prepare the appeal/review and to file it without further delay & to represent before the authority of the facts of unavoidable circumstances which lead to such delays in filing of redemption application & the appeal to various orders/notices.

5. The Petitioner has prayed a under:-

(i) To quash and set aside OIOs & OIAs as the Export Obligation (EO) of both the authorisations were completed within the validity period.

(ii) The payment of all the above exports have been received by them.

(iii) The redemption applications with original documents have been submitted to Jt. DGFT, Coimbatore on 16.07.2019 & 31.12.2021 in respect of above two cases.

6. The Reviewing Authority granted the personal hearing to the Petitioner on 06.10.2023. Shri Vinay Khetan, Authorised Representative of the firm attended the PH. He had informed that they have taken many EPCG licenses. All exports have been completed and redeemed. However, in these two licenses they have missed out because of their troublesome period for the last 5/6 years. All their profits have been continuously going down and now the unit is completely stopped. They are into business of Polyster Yarn and now it is not viable to have polyster yarn units more or less in south area. They have fulfilled the obligations of both the licenses within the Export Obligation Period (EOP), but due to family dispute, they could not be submitted the applications for redemption on time.

6.1 Shri Sridhar Dharamarajan, Jt. DGFT RA, Coimbatore attended the meeting along with Shri R. Kumar, FTDO RA, Chennai. It was informed that the Petitioner has claimed that they have completed EO but did not submit the applications for redemption on time. By the time the Petitioner filed the EODC application, the O-I-O was already issued. When the Petitioner filed the appeal it was time barred.

7. I have gone through the facts and records of the case carefully. The petitioner had obtained 2 EPCG Authorisations (i) 3230011635 dated 17.03.2008 and (ii) 3230004234 dated 11.03.2005 with FOB value of US\$ 774427/- and US\$ 25,281/- respectively. The Petitioner had failed to submit any documents towards fulfillment of export obligation after the expiry of the EOP in both the licenses.



Adjudicating Authority passed two Orders-in-Originals dated 26.10.2017 and 04.03.2016 imposing penalties of Rs. Rs.77,82,992/- and Rs. Rs. 2,77,778/- respectively on the licensee and its partners. The Petitioner claimed to have completed the EO within the EOP, but did not submit the applications for redemption on time.

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

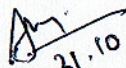
ORDER

F.No. 18/10&44/2022-23/ECA.I/180

Dated : 31.10.2023

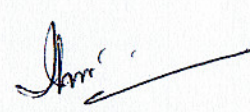
The two Review Petitions both dated 10.05.2023 filed by M/s Raghav Industries Ltd., Coimbatore are admitted. The Order-in-Originals dated 26.10.2017 & 04.03.2016 passed by RA, Coimbatore and Order-in-Appeals dated 11.04.2023 & 31.03.2023 passed by Addl. DGFT, Chennai are set aside. The case is remanded back to RA, Coimbatore for de-novo consideration.




(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy to:-

1. M/s Raghav Industries Ltd., No. 158, Krishna Talkies Road, Erode, Tamilnadu – 638003.
2. The Addl. Director General of Foreign Trade, Chennai.
3. The Jt. Director General of Foreign Trade, Coimbatore.
4. Central Economic Intelligence Bureau, 1st, 6th& 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi – 110001.
- ✓ 5. DGFT Website.


(A.S. Lungreishang)
Dy. Director General of Foreign Trade