

Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi-110 011

F.No. 18/20/2020-21/ECA.I/

Date of Order: 27 .05.2022

Date of Despatch: 23 .05.2022

Name of the Applicant:

Sri Venkateshwara CNC Tech,
#1, Ground Floor, Lakshmaiah Layout,
Abbigere, Chikkabanavara Post,
Bangalore-560 090.

IEC No.

0704020858

Order reviewed against:

Appellate Order No.
07/Addl.DG/Appeal/00003/AM21
dated 15.09.2020 passed by Dy. DGFT,
Bangalore.

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

Order-in-Review

M/s Sri Venkateshwara CNC Tech, Bangalore (here-in-after referred to as the 'Petitioner') filed a Review Petition dated 03.12.2020 under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against Appellate Order No. 07/Addl.DG/Appeal/00003/AM21 dated 15.09.2020 passed by the Appellate Authority rejecting the appeal as being time barred. The Adjudicating Authority vide Order-in-Original (OIO) No. 07/21/021/00695/AM09 dated 06.11.2019 imposed a penalty of Rs. 4,97,000/- in addition to cancellation of the EPCG authorization No. 0730007630 dated 28.11.2008 and denial of further benefits of any scheme of FTP/HBP to the Petitioner and its Directors.

Brief of the case

2.1 The Petitioner obtained an EPCG authorization No. 0730007630 dated 28.11.2008 for duty saved of Rs. 4,97,000/- with an export obligation for a FOB value of Rs. 39,76,000/- (US\$ 85,048.12) to be completed within 8 years from the date of issue of the authorization.

23.5.2022



2.2 The Export Obligation Period (EOP) expired on 27.11.2016. A Show Cause Notice (SCN) dated 26.09.2019 was issued to the Petitioner but the Petitioner did not submit the complete export documents towards fulfillment of export obligation. The Adjudicating Authority therefore passed an OIO No. 07/21/021/00695/AM09 dated 06.11.2019 (i) cancelling the EPCG authorization ab-initio, (ii) imposing a penalty of Rs.4,97,000/-, in addition of payment of duty plus applicable interest, and (iii) denial of further benefits of any scheme of FTP to the Petitioner. The Petitioner filed an Appeal dated 28.08.2020 which was rejected for being time barred vide Appellate Order No. 07/Addl.DG/Appeal/00003/AM21 dated 15.09.2020.

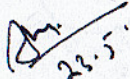
3.1 The Petitioner has now submitted a Review petition dated 03.12.2020 to the undersigned. The Petitioner has submitted that:-

- (i) it had fulfilled its export obligation within the stipulated time and had submitted documents to RA, Bangalore on 29.8.2011,
- (ii) due to employee issue in the Petitioner's firm, the Petitioner could not appear for the personal hearing and was not aware of the OIO dated 06.11.2019 and therefore could not file an Appeal against the OIO on time

3.2 The Petitioner has prayed that the penalty be waived off as it is a very small unit and they have fulfilled the export obligation within the stipulated time.

4. The Petitioner was granted Personal Hearing (PH) on 08.10.2021 which was attended by Shri Kruparkar Reddy, representative of the Petitioner. He admitted that the Petitioner had delayed in submitting all documents required for Export Obligation Discharge Certificate (EODC) and were submitted after one year of issuance of the OIO. Representative of RA, Bangalore informed that the documents were filed after issuance of the OIO dated 06.11.2019 by the Petitioner. RA, Bangalore also informed that there was a mismatch between the Bill of entry and the details submitted in ANF-5B and the installation certificate. The Petitioner was directed to submit the complete and accurate documents to RA, Bangalore who were directed to furnish a complete report on the documents submitted by the Petitioner. Another PH was granted to the firm on 17.05.2022 wherein the Petitioner informed that all the documents have now been submitted. The representative of the RA, Bangalore also confirmed that the Petitioner has now submitted the complete documents.

5. I have gone through the facts and records carefully. The Petitioner submitted some documents towards evidence of fulfilment of Export Obligation on 29.8.2011





but there were deficiencies in the documents which were required to be rectified. The firm, however, did not appear nor replied to the SCN dated 26.09.2019. It did not appeal against the adjudication order passed by RA, Bangalore within the stipulated time and was therefore rejected. Subsequently, the firm has submitted all the documents evidencing fulfilment of export obligation. RA, Bangalore has confirmed that the documents submitted by the firm are in order. Therefore, the firm, though belatedly, has submitted all the requisite documents required for Export Obligation Discharge Certificate (EODC).

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

ORDER

F.No. 18/20/2020-21/ECA.I/75

Dated: 23.05.2022

The Review petition dated 03.12.2020 is admitted. Appellate Order No. 07/Addl.DG/Appeal/00003/AM21 dated 15.09.2020 and Order-in-Original No. 07/21/021/00695/AM09 dated 06.11.2019 are set aside. The case is remanded to RA, Bangalore for de-novo consideration. The penalty is waived off subject to fulfilment of export obligation and issuance of EODC against the EPCG authorization No. 0730007630 dated 28.11.2008 by RA, Bangalore.



Santosh Kumar Sarangi
23.5.2022

(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy to:

- (1) M/s Sri Venkateshwara CNC Tech, #1, Ground Floor, Lakshmaiah Layout, Abbigere, Chikkabanavara Post, Bangalore-560 090.
- (2) The Addl. Director General of Foreign Trade, Kendriya Sadan, 6th Floor, C & E Wing, 17th Main Road, Koramangala, 2nd Block, Bangalore-560 034.
- (3) CEIB, New Delhi.
- ✓(4) DGFT website.

Dilip Kumar
Dilip Kumar

Dy. Director General of Foreign Trade