

Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi-110011

F.No.18/04/2019-20/ECA.I/144

Date of Order: 09.08.2021

Date of Dispatch: 09.08.2021

Name of the Applicant:

Singh Timbers ,15, Bhandara Road,
Lakadganj,Nagpur-440 008 (Maharashtra)

IEC No

0305051075

Order reviewed against:

Order-in-Appeal No. 03/16/144/00057
/AM17 dated 08.08.2017 passed by Addl.
DGFT, Mumbai

Order-in-Review passed by:

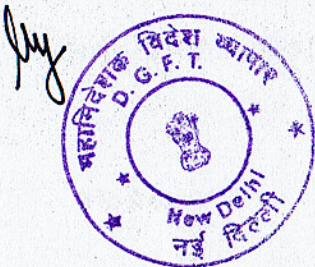
Amit Yadav, DGFT

Order-in-Review

M/s Singh Timbers, Nagpur (here-in-after referred to as the 'Petitioner') filed a Review Petitioner dated 14.03.2019 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 No. 03/16/144/00057/AM17/233 dated 08.08.2017 passed by the Appellate authority dismissing the appeal against the Order-in-Original (OIO) 50/21/002/00017/AM 17 dated 05.12.2016. The Adjudicating authority imposed a penalty of Rs. 50,00,000/- in addition of Customs duty and applicable interest on the Petitioner for non fulfilment of export obligation vide OIO dated 05.12.2016 and was placed in Denied Entity List on 06.07.2015.

Brief of the case

2.1 The Petitioner obtained an Advance Authorization No. 5010000549 dt. 21.02.2011 for a CIF value of RS. 2,34,74,062/- (US\$ 3,83,250.00) with an obligation to export for an FOB value of Rs. 3,05,48,438/- (US\$ 4,98,750/-) within a period of 36 months from the

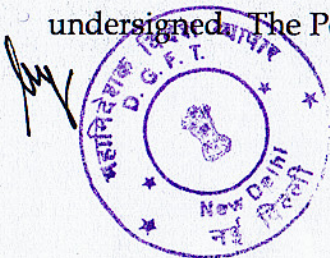


date of issue of the said authorization. As per conditions of the Authorization, the Petitioner was required to submit the prescribed documentary evidence of having fulfilled its export obligation (EO).

2.2 The Petitioner did not submit prescribed documents after expiry of the export obligation period. A Demand cum Show Cause Notice dated 16.02.2015 was issued directing the petitioner to submit the export documents. An opportunity of personal hearing (PH) on 20.02.2015 was granted to the Petitioner. The Petitioner did not respond to the notice nor submitted export documents. A Show Cause Notice dated 06.06.2016 under Section 14 for action under Section 11(2) of the Act and Rules 10, 13 and 14 of Foreign Trade (Regulation) Rules, 1993, as amended was issued. The Petitioner was again granted an opportunity on 13.07.2016 wherein the Petitioner informed that it had made partial exports and would submit relevant documents. It was in the process of paying customs duty and interest and requested for one month time. However, the Petitioner neither submitted export documents nor paid customs duty and applicable interest. The Petitioner was directed to appear on 04.08.2016, but it failed to appear. As the Petitioner failed to submit complete documents towards export obligation fulfilment, an OIO no. 50/21/002/00017/AM 17 dated 05.12.2016 was passed by Joint DGFT, Nagpur imposing a penalty of Rs. 50,00,000/- in addition to payment of Customs duty and applicable interest on the Petitioner.

2.3 The Petitioner filed an appeal on 27.12.2016 before the Appellate authority. The Appellate authority granted PH on 07.03.2017. The Appellate authority observed that the Petitioner had made excess imports vis-à-vis exports made and it did not furnish copies of e-Bank Realization Certificate (e-BRC) against shipping bills pertaining to the Advance Authorization and out of 9 shipping bills, 3 were free shipping bills. The Petitioner also furnished a copy of the letter dated 11.05.2017 stating that it had approached Policy Relaxation Committee (PRC) for condonation of non endorsement of Advance Authorization in certain shipping bills but it did not submit the decision of PRC. The Appellate authority did not find any justification to interfere with the OIO dated 05.12.2016 and dismissed the appeal vide the Order-in-Appeal (OIA) dated 08.08.2017.

3. The Petitioner has now submitted a Review petition dated 14.03.2019 to the undersigned. The Petitioner has submitted the following:



- (i) After receipt of Order-in-Appeal, it went through old records and found that due to oversight it had excluded some shipping bills pertaining to the Advance Authorization and hence submitted revised statement of export to RA, Nagpur for redemption/closure of the case,
- (ii) In each Shipping Bill, the details of Bill of Entry correlating the import with export made and the wastage claimed/consumption of material used in manufacturing of export product is mentioned,
- (iii) It had submitted Customs attested invoices towards the discharge of export obligation against the Advance Authorization.

4. The Petitioner was granted personal hearing on 06.02.2020 which was attended by Shri Surendra A. Gupta, authorized representative of the Petitioner. He sought three months' time to submit complete documents. A report was called from RA, Nagpur. RA, Nagpur vide its letter dated 08.03.2021 intimated that export made under two Shipping Bills are outside the Export Obligation Period and are also free Shipping Bills without Advance Authorization number being mentioned. As per the documents submitted, the Petitioner has made excess import of 36.981 cubic meters of Raw Timber Logs. I have gone through the facts and records carefully and observed that the Petitioner has not paid customs duty and interest on the excess import of 36.981 cubic meters of Raw Timber Logs.

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

ORDER

F.No.18/04/2019-20/ECA.I/145,146,147 Dated : 09.08.2021

The Review Petition dated 14.03.2019 is rejected and Order in Original no. 50/21/002/00017/AM 17 dated 05.12.2016 is upheld.



(Handwritten signature)

(Amit Yadav)

Director General of Foreign Trade

Copy to:-

- ✓(1) Singh Timbers, 15, Bhandara Road, Lakadganj, Nagpur-440 008.
- ✓(2) The Addl. Director General of Foreign Trade, New C.G.O. Building, Nishtha Bhawan, 48, Vithaldass Thackersey Marg, New Marine Lines, Churchgate, Mumbai-400 020..
- ✓(3) Joint DGFT, 1st Floor, N.S. Building, Opp. V.C.A. Ground, Nagpur-440 001.
- ✓(4) CEIB, New Delhi
- ✓(5) DGFT Website.



Dilip Kumar

(Dilip Kumar)

Dy. Director General of Foreign Trade