

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

F.No. 18/59/2017-18/ECA.I

Date of Order: 2 .03.2022

Date of Dispatch: 03.03.2022

Name of the Applicant:

Weldon Celloplast Ltd, 304, 3rd Floor,
9/2, East Patel Nagar, New Delhi -
110008

IEC No.:

0596046669

Order reviewed against:

Order-in-Appeal No. 05/16/140/
248&282/AM15/Appeal/CLA dated
19.01.2018 passed by Addl. DGFT, CLA,
New Delhi

Order-in-Review passed by:

Shri Santosh Kumar Sarangi, DGFT

Order-in-Review

Weldon Celloplast Ltd, New Delhi (here-in-after referred to as 'the Petitioner') filed a Review Petition dated 08.03.2018 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. 05/16/140/ 248&282/AM15/Appeal/CLA dated 19.01.2018 passed by Addl. DGFT, CLA, New Delhi dismissing the two appeals against two Orders-in-Original (OIO) dated 12.11.2012 and dated 25.11.2011. The Adjudicating Authority imposed penalties on the Petitioner for non-fulfilment of export obligation against duty free imports of items under Advance Authorization scheme. The details (here-in-after referred to as 'the Table') of two OIO are as follows:

S. No.	OIO No. & Date	Adv. Auth. No. & Date	CIF value	FOB value	Amount of penalty
1	05/88/40/00164/A M-05/ZALC-II/CLA dt. 16.11.2012	0511139543 dt. 01.10.2004	Rs.723800	\$726000 Rs. 3412200	Rs.20,00,000*
2	05/24/40/09/AM-06/ ZALC.II/CLA dt. 25.11.2011	0510156874 dt. 04.05.2005	Rs.502058	\$336000 Rs. 15624000	Rs.30,00,000*

* In addition to payment of customs duty plus 15% interest per annum.

The Petitioner was put under DEL vide the order dated 04.01.2012.



Facts of the Case

2.1 The Petitioner obtained two Advance Authorizations from the office of the CLA, New Delhi, as per provisions of the Foreign Trade Policy (FTP) prevalent during that period, for import of duty free items for CIF values with an obligation to export for FOB value as indicated against each Advance Authorization in the Table to be completed within 24 months. The Petitioner was required to submit export documents within two months of expiry of export obligation period. The export obligation expired in September/May 2007. The Petitioner did not submit any documents evidencing fulfilment of export obligations.

2.2 The Petitioner did not submit prescribed documents after expiry of the export obligation period. Show Cause Notices dated 14.05.2010 and 13.10.2011 were issued under Section 14 of the Act. The Petitioner did not submit prescribed documents. The Petitioner also did not attend personal hearing granted to it. The Adjudicating Authority passed two OIO dated 16.11.2012 and 25.11.2011 imposing penalties as indicated in the Table in addition to payment of Customs duty and 15% interest per annum on the Petitioner.

2.3 The Petitioner filed appeals before the Appellate Authority. The Appellate Authority granted personal hearing on 27.11.2017. The Appellate Authority dismissed the appeal as time barred vide the Order-in-Appeal dated 19.01.2018.

3.1 The Petitioner has now submitted a review petition dated 08.03.2018 to the undersigned stating that:

- i) it has fulfilled export obligation in respect of both Advance Authorizations,
- ii) it could not file appeals timely against both OIO as the concerned staff left and therefore its appeals were dismissed.

3.2 The Petitioner has prayed to remand back its case for de-novo consideration.

4.1 The Petitioner was granted personal hearing on 24.01.2020 which was attended by Shri Salvinder Singh, Director of the Petitioner. He informed that the Petitioner had fulfilled export obligation but could not submit the documents on time to CLA, New Delhi. The Reviewing Authority directed the Petitioner to submit all the prescribed original documents to CLA, New Delhi within 15 days. The Petitioner vide its letter dated 12.06.2021 informed that it sent the documents pertaining to both the advance authorizations to CLA, New Delhi Office. With reference to Petitioner's letter dated 12.06.2021, CLA, New Delhi were requested to furnish a report regarding fulfilment of export obligation and submission of all prescribed documents. CLA, New Delhi vide their letter dated 28.09.2021 furnished the report. They have informed that the Petitioner



submitted photocopies of invoices, shipping bills and BRC, Export & Import Statement. Shipping bills are either for Drawback or are free shipping bills and therefore cannot be counted for discharge of export obligation.

5. The Petitioner was granted personal hearing on 10.02.2022 which was attended by Shri Salvinder Singh, Director of the Petitioner. He informed that the Petitioner fulfilled the Export Obligation, but could not mention authorization number in the Shipping Bills due to ignorance. He requested for a way out to complete the record. Shri Kumar Rahul, JDG, CLA, New Delhi was also present during the hearing. He informed that none of the Shipping Bills submitted by the Petitioner qualify for fulfilment of Export Obligation as the Shipping Bills are either free shipping bills or for export made only for drawback.

6. I have carefully gone through the records and submissions made and it is observed that the Petitioner did not submit original prescribed documents. Further, photocopies of the shipping bills are either for Drawback or are free shipping bills.

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

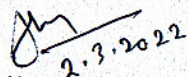
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Dated: 2.03.2022

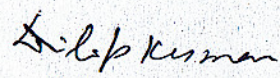
The Review Petition dated 08.03.2018 is admitted partly with the directions to the Petitioner to pay the Customs duty and interest within 3 months of passing of the order and submit the proof of deposit to CLA, New Delhi. The penalty imposed by the Adjudicating authority shall be waived off subject to payment of above.




(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy To:

- (1) Weldon Celloplast Ltd, 304, 3rd Floor, 9/2, East Patel Nagar, New Delhi -110008
- (2) Addl. Director General of Foreign Trade, CLA, A-Wing, Indraprastha Bhawan, I.P. Estate, New Delhi-110 002.
- (3) Central Economic Intelligence bureau, 1st, 6th & 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi -110001
- ✓(4) DGFT website


(Dilip Kumar)
Dy. Director General of Foreign Trade