

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

F.No. 18/05/2019-20/ECA.I/251 Date of Order: 24.09.2021
Date of Dispatch: 24.09.2021

Name of the Applicant: M/s. Singh Timbers, 15, Bhandara
Road, Lakadganj, Nagpur,
Maharashtra - 440008

IEC No. : 0305051075

Order reviewed against: Order-in-Appeal No. 03/16/144/
00003/AM.18/503 dated 20.12.2017
passed by Addl. DGFT, Mumbai

Order-in-Review passed by: Shri Amit Yadav, DGFT

Order-in-Review

M/s. Singh Timbers, Nagpur (here-in-after referred to as the 'Petitioner') filed a Review Petition 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. 03/16/144/00003/AM.18/503 dated 20.12.2017 passed by Addl. DGFT, Mumbai dismissing the appeal against the Order-in-Original (OIO) No.50/21/040/00013/AM12 dated 14.06.2016. The Adjudication Authority imposed a penalty of Rs. 5,00,000/- (five lakhs) in addition to Customs duty and applicable interest on the Petitioner for non fulfilment of export obligation vide OIO dated 14.06.2016. It was also put in Denied Entity List on 18.02.2015.

Brief Facts of the Case

2.1 The Petitioner obtained an Advance Authorization No.5010000734 dated 14.06.2011 for a CIF value of Rs. 3,05,81,708/- (US\$ 4,70,850.00) with an obligation to export for an FOB value of Rs.4,02,25,419/- (US\$ 6,19,329.00) within a period of 36 months from the date of issue of said authorization. As per conditions of the



Authorisation, 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 notice dated 14.01.2015 directing the Petitioner submit the export documents and a Show Cause Notice dated 03.03.2016 under Section 14 for action under Section 11(2) of the Act and Rules 10, 13 and 14 of Foreign Trade (Regulation) Rules, 1993 for initiation of action for imposing penalty, were issued. Opportunities of personal hearing (PH) on 30.01.2015 and 30.06.2016 were also granted. The Petitioner did respond to the notices and also did not submit export documents. It did not appear for personal hearings. As the Petitioner failed to submit any requisite documents, an OIO dated 14.06.2016 was passed by Joint DGFT, Nagpur imposing a penalty of Rs. 5,00,000/- in addition to payment of Customs duty and applicable interest on the Petitioner.

2.3 The Petitioner filed an appeal on 04.05.2017 before the Appellate Authority. The Appellate Authority granted personal hearing on 25.07.2017. The Appellate Authority observed that the Petitioner furnished photocopies of all seven shipping bills and e-BRC which are free shipping bills and not against Advance Authorization. She also observed that appeal was not submitted within the prescribed time limit. The Appellate Authority did not find any justification to interfere with the OIO dated 14.06.2016 and dismissed the appeal as time barred vide the Order-in-Appeal dated 20.12.2017.

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 excluded some shipping bills pertaining to the Advance Authorization and hence submitted revised statement of exports 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 also the wastage claimed/consumption of material used in manufacturing of export product are mentioned,
- (iii) It submitted Customs attested invoices towards the discharge of export obligation against the Advance Authorization.

4.0 The Petitioner was granted personal hearing on 06.02.2020 which was attended by Shri Surendra A. Gupta, authorised representative of the Petitioner. He sought three months' time to submit complete documents. A report was called from RA, Nagpur who have informed that the Petitioner has submitted 07



shipping bills indicating the quantity and the FOB value of the exports but none of the shipping bills do indicate authorization no. of the advance authorizations against which the exports have been made. The Petitioner has been unable to produce any confirmation of the genuineness of these shipping bills duly attested by the jurisdictional customs authority. The Petitioner has also made some export beyond the export obligation period (EOP) of 36 months from the date of issue of the authorization and has not obtained EOP extension and therefore the export made beyond the EOP cannot be taken into consideration towards fulfilment of export obligation.

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

Order

F.No. 18/05/2019-20/ECA.I/252,253,254,255

Dated: 24.09.2021

The Review Petition dated 14.03.2019 is rejected and Order-in-Original (OIO) No.50/21/040/00013/AM12 dated 14.06.2016 is upheld.



(Signature)
(Amit Yadav) 24/09/2021

Director General of Foreign Trade

Copy To:

- (1) Ms. Singh Timbers, 15, Bhandara Road, Lakadganj, Nagpur, Maharashtra - 4400082
- (2) Addl. Director General of Foreign Trade, New C.G.O. Building, Nistha Bhawan, 48, Vithaldass Thackersey Marg, New Marine Lines, Churchgate, Mumbai-400 020.
- (3) Joint DGFT, Ist Floor, N.S. Building, Opp. V.C.A. Ground, Nagpur - 440001
- (4) DGFT website
- (5) CEIB, New Delhi

(Signature)
(Dilip Kumar)

Dy. Director General of Foreign Trade