

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

F. No. 18/23/2022-23/ECA.I/210

Date of Order : 23 .11.2023
Date of Despatch: 23 .11.2023

Name of the Petitioner:

M/s Ruia Chemicals Pvt. Ltd.
105/2B, Ultadanga Main Road,
Kolkata – 700067.

IEC No.

0295007648

Order Reviewed against:

Order-in-Appeal No. 18/278/15-
16/ECA/KOL/Appeal-96 dated
11.01.2019 passed by Addl. DGFT,
Kolkata.

Order-in-Review passed by:

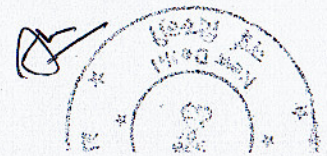
Santosh Kumar Sarangi, DGFT

Order-in-Review

M/s Ruia Chemicals Pvt. Ltd., Kolkata (here-in-after referred to as 'the petitioner') having IEC No. 0295007648 filed Review Petition dated 12.07.2022 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 (OIA) No. 18/278/15-16/ECA/KOL/Appeal-96 dated 11.01.2019 passed by Addl. DGFT, Kolkata dismissing the appeal and Order-in-Original (OIO) No. ALS-E1/02/21/040/00395/AM11 dated 01.04.2015 issued by the Adjudicating authority is upheld.

Brief of the Case

2. The petitioner obtained an advance authorization No. 0210155574 dt. 01.03.2011 for a CIF value of Rs. 36,95,000/- to fulfill export obligation for a FOB value of Rs. 59,77,000/- to be completed within 36 months from the date of issue of advance authorization. As per the authorization's condition, the petitioner was required to submit the documents evidencing fulfillment of export obligation within prescribed period.



3. The export obligation period (EOP) expired and despite several reminders and opportunities of personal hearing, the petitioner failed to furnish complete documentary evidence towards fulfillment of export obligation and therefore the petitioner was declared Defaulter vide Order dt. 08.12.2014.

4. The petitioner had contravened the provision of Foreign Trade (Development & Regulation) Act, 1992 by way of non-submission of complete export documents and therefore, the Adjudicating Authority passed an Order-in-Original (OIO) No. ALS-E1/02/21/040/00395/AM11 dt 01.04.2015 imposing a penalty of Rs. 5,00,000/- on the petitioner and its Directors/Partners/Proprietors. In addition, the petitioner and its Directors/Partners/Proprietors shall also be liable to pay entire customs duty saved on the authorization to Customs Authority.

5. The Petitioner filed appeal on 23.07.2015 against the OIO dt. 01.04.2015 requesting to set aside the OIO dt. 01.04.2015. The Appellate Authority granted personal hearing on 24.08.2015 when Mr. Bimal Ruia, Director & Mr. Amit Das, Manager of the petitioner appeared before the appellate authority. They stated that they have fulfilled the export obligation (EO), but due to their ignorance of the Policy/Procedure, they did not submit the relevant documents in time. The Petitioner was advised to deposit 10% of the pre-deposit of penalty amount or 100% Bank Guarantee of the penalty amount in order to hear the main appeal. On the petitioner's request, next date of hearing was fixed on 01.12.2015 when Mr. Amit Das, Manager appeared and requested for removal of their name from DEL and handed over a copy of receipts towards submission of Bank Guarantee as per pre-deposit of penalty amount.

6. The Petitioner vide its letter dt. 23.09.2015 submitted export documents evidencing fulfillment of export obligation. Next date of hearing was fixed on 01.03.2016 which was adjourned for 28.03.2016 on the request of the petitioner. The petitioner was advised to appear for personal hearing on 28.03.2016 with proper documents towards fulfillment of export obligation. In reply, the petitioner submitted copies of export documents. The documents were examined and the petitioner was advised vide letter dt. 02.01.2018 to submit remaining documents and revalidated Bank Guarantee towards pre-deposit of penalty amount. The petitioner failed to submit the required documents despite several reminders. In view of above, the Appellate Authority dismissed the appeal and upheld the OIO dt. 01.04.2015 vide Order-in-Appeal (OIA) No. 18/278/15-16/ECA/KOL/Appeal-96 dt. 11.01.2018.

7.1 Now, the petitioner has filed the Review Petition dated 12.07.2022 on the following grounds:-



(i) The Petitioner supplied Unsaturated Polyester Resin manufactured from imported material obtained through advance authorization No. 0210155574 dt. 01.03.2011 to M/s Paharpur Cooling Towers Ltd., Kolkata who fulfilled the export obligation as per agreement entered into between them and the petitioner. Petitioner supplied the material by factory gate pass raising invoice cum excise invoices. Hence, M/s Paharpur Cooling Towers Ltd. has fulfilled the export obligation, proof of export was only available with them.

(ii) Certificate from M/s Paharpur Cooling Towers Ltd is attached in support of petitioner's claim of supplying material to them.

7.2 The Petitioner has prayed for :-

(i) to waive off the penalty imposed on the petitioner and its Directors in addition to payment of customs duty along with interest.

8. The Reviewing Authority granted the personal hearing to the petitioner on 17.11.2023. Shri Prateek Ruia, Director, Shri Atin Ruia, Director and Shri Kinker Chatterjee, Purchase Manger attended the personal hearing on behalf of the firm. They stated that they have fulfilled the export obligation, but due the fire in their office, they did not submitted the documents of gate pass duly signed and stamped by M/s Paharpur Cooling Towers Ltd. at RA, Kolkata earlier. Now, all the required documents under export obligation has been submitted to RA, Kolkata.

9. Ms. Dona Ghosh, JDG, RA, Kolkata attended the meeting. She agreed on the petitioner's statement and stated that RA, Kolkata has received required documents on the based on earlier documents recently.

10. I have gone through the facts and records of the case carefully. The petitioner had obtained an advance authorization No. 0210155574 dated 01.03.2011 for a CIF value of Rs. 36,95,000/- to fulfill export obligation (EO) for a FOB value of Rs. 59,77,000/- to be completed within 36 months from the date of issue of advance authorization. After expiry of EO period, the petitioner failed to submit the original export documents towards fulfillment of export obligation. The Adjudicating Authority passed an Order-in-Original dated 01.04.2015 imposing a penalty of Rs. 5,00,000/- on the petitioner and its Directors/Partners/Proprietors. However, the petitioner had fulfilled the EO within time and now they have already submitted the required documents to RA, Kolkata.



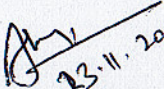
11. I therefore, in exercise of powers vested in me under Section 16 of the Act pass the following order:-

ORDER

F.No. 18/23/2022-23/ECA.I/210

Dated : 23.11.2023

The Review Petition dated 12.07.2022 filed by the petitioner is admitted. Order-in-Appeal No. 18/278/15-16/ECA/KOL/Appeal-96 dated 11.01.2019 passed by Addl. DGFT, Kolkata and Order-in-Original No. ALS-E1/02/21/040/00395/AM11 dated 01.04.2015 are set aside. The case is remanded back to RA, Kolkata for de-novo consideration.

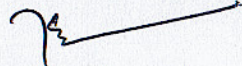

23.11.2023

(Santosh Kumar Sarangi)

Director General of Foreign Trade

Copy to:-

1. M/s Ruia Chemicals Pvt. Ltd., 105/2B, Ultadanga Main Road, Kolkata – 700067.
2. The Addl. Director General of Foreign Trade, Kolkata.
3. Central Economic Intelligence Bureau, 1st, 6th& 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi – 110001.
4. ✓ DGFT Website.



(Jaykeshaw Kumar)

Foreign Trade Development Officer

