

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

F.No. 18/19/2012-13/ECA.I

Date of Order: 24.11.2021

Date of Dispatch: 25.11.2021

Name of the Applicant:

Sunbright Fashions (India) Pvt. Ltd.,
Module No.7, Garment Complex Ind.
Estate, Guindy, Chennai - 6000-032

IEC No. :

0499016475

Order reviewed against:

Order-in-Original No. 04/84/040/10/
AM05 dated 13.06.2011 passed by Joint
DGFT, Chennai.

Order-in-Review passed by:

Shri Amit Yadav, DGFT

Order-in-Review

Sunbright Fashions (India) Pvt. Ltd., Chennai (here-in-after referred to as the 'Petitioner') filed a Review Petition dated 17.09.2012 under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992 as amended (here-in-after referred to as 'the Act') against Order-in-Original (OIO) No. 04/84/040/10/AM05 dated 13.06.2011 passed by Joint DGFT, Chennai imposing a penalty of Rs.12,91,000/- in addition of payment of Customs duty and applicable interest on the Petitioner and its Proprietor/Proprietrix/Partners/Directors for non-fulfilment of export obligation vide Order-in-Original dated 13.06.2011. It was also ordered not to issue further license to the Petitioner or any other firm/company in which the Petitioner's Proprietor/Partners/Directors are directly or indirectly involved.

Brief Facts of the Case

2.1 The Petitioner obtained an Advance Authorization No.0410056359 dated 26.04.2004 for a CIF value of Rs. 26,97,141/- with an obligation to export for an FOB value of US\$ 85,344/- to be completed within a period of 18 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 EO Period expired on 25.10.2005. The Petitioner did not submit any prescribed documents towards fulfilment of export obligation. A Show Cause Notice dated 30.11.2009 under Sections 13 & 14 for action under Sections 8, 9 & 11 of the Act and Rule 7 of Foreign Trade (Regulation) Rules, 1993, as amended was issued. It was also granted an opportunity of personal hearing. The Petitioner neither submitted documents nor appeared for personal



hearing. As the Petitioner failed to submit complete requisite documents, an OIO dated 13.06.2011 was passed by Joint DGFT, Chennai imposing a penalty of Rs. 12,91,000/- in addition to payment of Customs duty and applicable interest on the Petitioner and its Proprietor/Proprietrix/Partners/Directors for non-fulfilment of export obligation.

3 The Petitioner did not file an appeal against the OIO No. 04/84/040/10/AM05 dated 13.06.2011. The Petitioner submitted a Review petition dated 17.09.2012 to the undersigned. The Petitioner has submitted that:

- (i) it fulfilled export obligation and submitted all documents on 26.08.2008,
- (ii) the Adjudicating Authority passed OIO dated 13.06.2011 on an erroneous finding that no import/export documents were submitted by it,
- (iii) there was severe labour trouble on account of retrenchment and the Petitioner was continuously incurring loss which caused great agony and therefore could not file an appeal against the OIO,
- (iv) it was under impression that on the basis of the documents furnished, the matter will be regularized by the JDGFT even after passing the OIO.

3. The Petitioner was granted personal hearing on 12.11.2021 which was attended by Shri Gokulraj, counsel of the Petitioner. He informed that the Petitioner fulfilled the export obligation and submitted all documents in 2008 and did not make any excess import. Shri N. Vaidyanathan, Dy. DGFT, the representative from RA, Chennai present in the personal hearing confirmed that the Petitioner has submitted complete original export documents which are in order.

4. I have gone through the facts and records carefully and the confirmation of RA, Chennai office that no excess import was done and export obligation was fulfilled and complete export documents have been submitted.

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


ORDER

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Dated: 24 .11.2021

Review petition dated 17.09.2012 is upheld and Order-in-Original No. 04/84/040/10/AM05 dated 13.06.2011 is dismissed. The case is remanded to RA, Chennai for de novo consideration with directions to decide the matter within 8 weeks from the date of issue of this Order.




(Amit Yadav)
Director General of Foreign Trade

Copy to:

- (1) Sunbright Fashions (India) Pvt. Ltd., Module No.7, Garment Complex Ind. Estate, Guindy, Chennai - 6000-032
- (2) The Addl. Director General of Foreign Trade, 26, Haddows Road, 4th Floor, Shashtri Bhavan Annexe, Chennai-600 006.
- (3) CEIB, 8th Floor, 'B'-Wing, Janpath Bhawan, Janpath, New Delhi - 110001.
- ✓(4) DGFT website



Dilip Kumar

(Dilip Kumar)

Dy. Director General of Foreign Trade