

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

F.No. 18/25/2012-13/ECA.1/176

Date of Order: 17.08.2021
Date of Dispatch: 18.08.2021

Name of the Applicant:

Sunbright Fashions (India) Pvt. Ltd.,
Module No.7, Garment Complex Ind.
Estate, Guindy, Chennai – 600032

IEC No. :

0499016475

Order reviewed against:

Order-in-Original No. 04/84/40/49/
AM05 dated 28.12.2010 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. 04/84/40/49/AM05 dated 28.12.2010 passed by Adjudicating authority imposing a penalty of Rs. 27,45,000/- in addition to Customs duty and applicable interest on the Petitioner and its Proprietor/Partners/Directors for non fulfilment of export obligation and also ordered that no further license shall be issued to the Petitioner or to any other firm/company in which the Proprietor/Partners/Directors are directly or indirectly involved.

Brief Facts of the Case

2.1 The Petitioner obtained an Advance Authorization No.0410059415 dt. 07.07.2004 for a CIF value of Rs. 19,85,677.30/- (US \$ 43308.12) with an obligation to export for an FOB value of US\$ 64404.24 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 06.01.2007. The Petitioner did not submit prescribed documents despite request. A Show Cause Notice dated 23.11.2010 under Sections 13 & 14 for action under Sections 8, 9 & 11 of the Act and Rule 7 of Foreign Trade (Regulation) Rules, 1993 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 28.12.2010 was passed by Adjudicating authority imposing a penalty of Rs. 27,45,000/- with interest in addition of Customs duty and applicable interest on the Petitioner and its Proprietor/Partners/Directors for non fulfilment of export obligation.

2.3 The Petitioner did not file an appeal against OIO No. 04/84/40/49/AM05 dated 28.12.2010. The Petitioner submitted a review petition dated 17.09.2012 to the undersigned. The Petitioner has submitted that:

(i) it had already submitted all documents on 21.02.2008 towards discharge of export obligations and admitted that excess import of 52.00 sq.m. of fabrics was made which however was 0.144% of the entitled import,

(ii) the penalty amount of Rs. 27,45,000/- was not justifiable in view of the meagre quantity of excess import and therefore, the fiscal penalty in the adjudication order be set aside,

(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 07.06.2021 which was attended by Shri Hari Radhakrishnan, Advocate for the Petitioner. He informed that he would submit written submissions. The Petitioner vide email 08.06.2021 submitted that it had fulfilled substantial part of export obligation and made excess import of 52.00 sq.m. of fabric only. It submitted all documents towards fulfilment of export obligation on 04.05.2009 and 17.12.2009 well before passing the Order-in-Original dated 15.06.2011. The Adjudicating Authority considered none of the submissions made by it. RA, Chennai vide email dated 09.06.2021 has informed that the Petitioner has paid custom duty plus interest of Rs. 19,372/- for excess import of 52.00 sq.m. of fabric.

4. I have gone through the facts and records carefully and observed that the Petitioner had submitted complete export documents and paid customs duty and interest on excess import of 52.00 sq.m. of fabric.



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

Order

F.No.18/25/2012-13/ECA.I

Dated: 17.08.2021

The Review Petition is upheld and the Order in Original No. 4/84/40/49/AM05 dated 28.12.2010 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.



(Signature)
17/08/2021
(Amit Yadav)
Director General of Foreign Trade

Copy To:

- ✓ (1) Sunbright Fashions (India) Pvt. Ltd., Module No.7, Garment Complex Ind. Estate, Guindy, Chennai – 600032
- (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

(Signature)
(Dilip Kumar)
Dy. Director General of Foreign Trade