

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

F.No. 18/21/2023-24/ECA.I/P-38771/258

Date of Order : 07 .03.2024

Date of Dispatch: 08 .03.2024

Name of the Petitioner:

M/s VSM Venture Control Systems Pvt.
Ltd., Office No. 104, Building No. A-
84, Street No. 15, Madhu Vihar
Patparganj, New Delhi-110092.

IEC No.

0508028833

Order Reviewed against:

Order-in-Appeal No. DLIECAPPEAL
00000082/AM24/Appeal/CLA dated
05.09.2023 passed by Addl. DGFT,
CLA, New Delhi

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

Order-in-Review

M/s VSM Venture Control Systems Pvt Ltd, New Delhi (here-in-after referred to as 'the petitioner') having IEC No. 0508028833 filed Review Petition dated 25.10.2023 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. DLIECAPPEAL00000082/AM24/Appeal/CLA dated 05.09.2023 passed by Addl. DGFT, New Delhi.



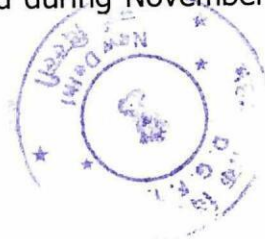
Brief of the Case

M/s VSM Venture Control Systems Pvt Ltd, New Delhi (the petitioner) obtained an Advance Authorization No. 0510403066 dated 07.06.2017 for a CIF value of Rs.99,56,100.05 (US\$152467.02) with condition to fulfill the export obligation in free foreign exchange within a period of 18 months from the date of issue of Authorization. The license expired on 06.12.2018 and firm did not submit documents showing fulfillment of EO and RA, CLA New Delhi issued Demand cum show cause notices dated 09.09.2021 under section 14 read with section 11(2) & 7 of the Foreign Trade (Development & Regulation) Act, 1992 as amended and Rule 7.1(k) of the Foreign Trade (Regulation) Rules 1993 as amended to the petitioner with an opportunity of personal hearing on 24.09.2021. The petitioner has neither submitted the original documentary towards evidence of fulfillment of E.O. nor availed the opportunity of personal hearing, adjudication order No. DLIECAAPPLY00079855AM22 dated 14.06.2022 was passed by FTDO, O/o Addl. DGFT, CLA, New Delhi imposing a fiscal penalty of Rs.99,56,100.05 in addition to the customs duties and interest to be recovered by Customs authorities to the petitioner and its proprietor.

2. Aggrieved by the Order-in-Original, the Petitioner filed an appeal on 13.07.2023 (i.e after 13 months). Since, adjudication orders in the case was served upon to the appellant on 14.06.2022, whereas the firm filed appeal on 13.07.2023 i.e. in 13 months instead of stipulated period of 45 days under the provision to Section 15(1)(b) of the FTDR Act 1992, the subject appeal is not tenable. The appeal was rejected being time-barred.

3. Now, the petitioner has filed review petition dated 25.10.2023 and stated that:

- (i) export obligation has been fulfilled within Export Obligation Period and export proceeds have also been realized during November 2017 and January 2018 for



Advance Authorization No. 0510403066 dated 07.06.2017. The requisite documents for redemption under computerized online file No.05AE04006353AM24 dated 28.08.2023 has been submitted.

- (ii) The delay in submission of documents was because the authorized person to submit the application met with an accident on 23.10.2020 and then expired on 11.02.2021. The Covid pandemic was also restricted movement in Delhi.
- (iii) The firm has stated that they were unaware of any adjudication proceedings against them since they have shifted their office. And communications/ correspondence/ notice/letter sent to them has not been received. The firm has only received the recovery notice dated 17.06.2023 on 21.06.2023 from Govt. of NCT of Delhi, Office of Sub Divisional Magistrate (Preet Vihar), Shastri Nagar, Delhi and came to know about the past proceedings taken place.

4. The Petitioner has prayed as under:

- (a) the Order in Appeal dated 05.09.2023 passed by the Addl. Director General of Foreign Trade, CLA, New Delhi may kindly be set aside and the delay in making appeal against the Order in Original may be condoned.
- (b) the pre-deposit of fiscal penalty as imposed in Order in Original dated 14.06.2022 issued by FTDO, Office of Addl. DGFT, CLA, New Delhi may please be waived.
- (c) the directions may please be given to the Addl./FTDO DGFT, CLA, Delhi for acceptance and consideration of all export documents submitted and the case may please be considered for issue of EODC/Redemption and requested to the Competent Authority for Personal Hearing.

5. The Reviewing Authority had granted personal hearing to the petitioner on 06.02.2024. Shri Munish Sharma, Director and Shri M Anissudhin, Advisor and Mr. Bipin



Singh, Manager Accounts attended the personal hearing on behalf of M/s VSM Venture Control Systems Pvt Ltd. They stated that they have taken Advance Authorization but unfortunately could not reply before the order was passed though they have fulfilled the export obligation. They have submitted the documents to DGFT. They accepted that there is mistake from their side as one of their staff passed away and due to restricted movement during the Covid period they could not submit the document on time though they have fulfilled the export obligation.

6. Shri Saurabh Goyal, Deputy DGFT, Addl. DGFT office, CLA, New Delhi attended the meeting.

7. I have gone through the facts and records of the case carefully. The appellant obtained an Advance Authorization No. 0510403066 dated 07.06.2017 for a CIF value of Rs.99,56,100.05 (US\$152467.02) with condition to fulfill the export obligation in free foreign exchange within a period of 18 months from the date of issue of Authorization. Office of Addl. DGFT, RA, CLA New Delhi issued Demand cum show cause notices dated 09.09.2021 to the petitioner under section 14 read with section 11(2) & 7 of the Foreign Trade (Development & Regulation) Act, 1992 as amended and Rule 7.1(k) of the Foreign Trade (Regulation) Rules 1993 as amended with an opportunity of personal hearing on 24.09.2021. As the firm neither submitted export documents evidencing fulfillment of export obligation nor availed the opportunity of personal hearing, adjudication order No. DLIECAAPPLY00079855AM22 dated 14.06.2022 was passed by FTDO, O/o Addl. DGFT, CLA, New Delhi imposing a penalty of Rs.99,56,100.05 in addition to the customs duties and interest to be recovered by Customs authorities to the petitioner and its proprietor. However, as claimed, the petitioner has submitted all requisite documents to Office of Addl. DGFT, RA, CLA, New Delhi for fulfillment of the export obligation and for issuance of discharge certificate (EODC).



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


ORDER

F.No. 18/21/2023-24/ECA.I/P-38771/258

Dated : 07 .03.2024

The Review Petition dated 25.10.2023 filed by the petitioner is admitted. Order-in-Original No. DLIECAAPPLY00079855AM22 dated 14.06.2022 was passed by FTDO, O/o Addl. DGFT, CLA, New Delhi and Order-in-Appeal No. DLIECAPPEAL00000082/AM24/Appeal/CLA dated 05.09.2023 passed by Addl. DGFT, CLA, New Delhi are set aside. The case is remanded back to RA, CLA, New Delhi for de-novo consideration.




(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy to:-

1. M/s VSM Venture Control Systems Pvt Ltd, Office No. 104, Building No. A-84, Street No. 15, Madhu Vihar, Patparganj, New Delhi-110092.
2. The Addl. Director General of Foreign Trade, CLA, New Delhi.
3. Central Economic Intelligence Bureau, 1st, 6th& 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi – 110001.
4. DGFT Website.


(Manoj Kumar Meena) 07/03/24

Dy. Director General of Foreign Trade