

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

F. No. 18/30/2022-23/ECA.I/214

Date of Order : 4.12.2023  
Date of Despatch: 4.12.2023

Name of the Appellant:

M/s Shriram Food Industries Pvt. Ltd.  
S.No. 181/2, 182/1A, 182/2, Marodi,  
Tah. Mauda,  
Nagpur - 441104.

IEC No.

5013004284

Order Appealed against:

Order-in-Original No.  
50/21/021/00084/AM15 dated 30.06.2022  
passed by Addl. DGFT, Nagpur.

Order-in-Appeal passed by:

Santosh Kumar Sarangi, DGFT

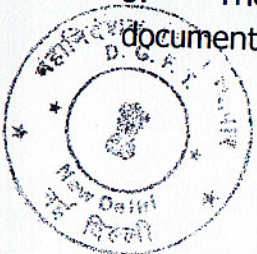
**Order-in-Appeal**

Shriram Foods Industry Pvt. Ltd. (here-in-after referred to as 'the Appellant') having IEC No. 5013004284 filed an Appeal dated 30.08.2022 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against Order-in-Original No. 50/21/021/00084/AM15 dated 30.06.2022 passed by Addl. DGFT, Nagpur imposing a penalty of Rs. 1,51,62,080/- in addition to payment of customs duty plus interest thereon, on the Appellant and its Proprietor/Partners/Directors.

**Brief of the Case**

2. The Appellant obtained an EPCG Authorization No. 5030000559 dated 17.03.2015 for duty saved amount of Rs.75,81,040/- under Zero Duty EPCG Scheme for import of capital goods with an export obligation for FOB value of US\$ 730116.21 (6 times of duty saved value) within a period of 6 years from the date of issue of authorization. The average Export Obligation (EO) is Nil.

3. The EOP expired on 16.03.2021. The Appellant failed to submit EO documents showing EO fulfillment against the subject EPCG authorization. A





Demand cum Show Cause Notice dt. 05.04.2022 was issued for action under Section 11(2) of FTDR Act, 1992.

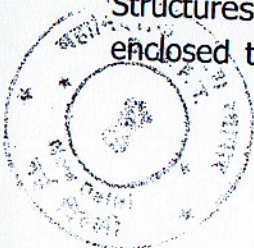
4. The Adjudicating Authority (Additional DGFT, Nagpur) observed that the Appellant and its Proprietor/Partners/Directors, as the case may be, are guilty of violating of conditions of the license thereby liable to a penalty u/s 11(2) of FTDR Act, 1992. The Adjudicating Authority passed an Order-in-Original dated 30.06.2022 imposing a penalty of Rs. 1,51,62,080/- in addition to payment of customs duty plus interest thereon, on the Appellant and its Proprietor/Partners/Directors as there was no reply to the SCN nor did they appear for PH granted to them. The Adjudicating Authority also ordered that no further licence shall be issued to the Appellant or to any other firm in which the Appellant's Proprietor/Partners/Directors is/are directly involved in the day to day activities of the firm.

5.1 Now, the Appellant has filed an appeal dated 30.08.2022 against the OIO dated 30.06.2022 on the following grounds:

- (i) It obtained EPCG Authorisation No. 5030000559 and invalidation letter No. 5059000470 both dated 17.03.2015 in order to get refund of Terminal Excise Duty (TED).
- (ii) It surrendered the original EPCG Authorisation and Invalidation Letter vide its application dated 16.02.2017 as it came to know that EPCG Licence and Invalidation Letter cannot be obtained for procurement of pre-engineering steel building alongwith accessories. The Application was rejected by RA, Nagpur for reason of Non-submission of original Invalidation Letter received by Supplier.
- (iii) It made all efforts to trace the original Invalidation Letter issued to the Supplier but to no avail.
- (iv) It did not avail the EPCG Licence and therefore demand of duty saved amount alongwith interest and penalty has no legal standing and is liable to be set aside.

5.2 The Appellant has prayed to set aside the OIO dated 30.06.2022.

6. The Appellate Authority granted the personal hearing to the Appellant on 10.04.2023. The appellant attended the personal hearing and stated that EPCG Authorization No. 5030000559 and Invalidation Letter No. 5059000470 both dated 17.03.2015, were obtained in order to get refund of Terminal Excise Duty (TED). The Appellant surrendered the Original EPCG Authorization and Invalidation Letter issued to them. The Appellant has further stated that with regard to original Invalidation Letter issued to the Domestic Supplier i.e. Kirby Building Systems and Structures, the same has been misplaced by the Supplier. The appellant has enclosed the affidavit dated 09.06.2022 furnished by the Domestic Supplier stating





that the original Invalidation Letter is not traceable and he (Supplier) had not claimed any trade refund. He has further stated that he will not claim any such trade refund in future.

7. I have gone through the facts and records of the case carefully. The Appellant had obtained an EPCG Authorization No. 5030000559 dt. 17.03.2015 for duty saved amount of Rs.75,81,040/- under Zero Duty EPCG Scheme for import of capital goods with an export obligation for FOB value of US\$ 730116.21 (6 times of duty saved value) within a period of 6 years from the date of issue of authorization. The EOP expired on 16.03.2021. The Appellant had not submitted Export Obligation documents evidencing fulfillment of export obligation after the completion of the export obligation period. The adjudicating authority had passed an Order-in-Original No. 50/21/021/00084/AM15 dated 30.06.2022 imposing a penalty of Rs. 1,51,62,080/- in addition to payment of customs duty plus interest on the Appellant and its Proprietor/Partners/Directors. However, the Appellant surrendered the Original EPCG Authorization and Invalidation Letter issued by RA, Nagpur. I have observed that the Original Invalidation Letter issued to the Domestic Supplier i.e. Kirby Building Systems and Structures has been misplaced by the supplier. The Appellant enclosed an affidavit dated 09.06.2022 furnished by the Domestic Supplier stating that the original Invalidation Letter is not traceable and he (Supplier) had not claimed any trade refund. He has further stated that he will not claim any such trade refund in future.

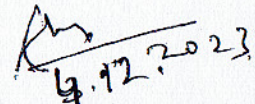
8. I therefore, in exercise of powers vested in me under Section 15 of the Act pass the following order:-

**ORDER**

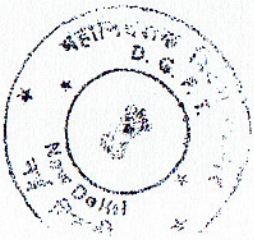
F.No. 18/30/2022-23/ECA.I/214

Dated : 4 .11.2023

The Appeal dated 30.08.2022 filed by the Appellant is admitted. The Order-in-Original No. 50/21/021/00084/AM15 dated 30.06.2022 passed by Addl. DGFT, Nagpur is set aside. The case is remanded back to RA, Nagpur for de-novo consideration.

  
4.11.2023

(Santosh Kumar Sarangi)  
Director General of Foreign Trade





Copy to:-

1. M/s Shriram Food Industries Pvt. Ltd., S.No. 181/2, 182/1A, 182/2, Marodi, Tah. Mauda, Nagpur – 441104.
2. The Addl. Director General of Foreign Trade, Nagpur.
3. Central Economic Intelligence Bureau, 1<sup>st</sup>, 6<sup>th</sup> & 8<sup>th</sup> Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi – 110001.
4. ✓ DGFT Website.



Anita  
4/12/2023  
(Anita Thakur)

Dy. Director General of Foreign Trade