

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

F.No. 18/95/2018-19/ECA.I(E) / 144 Date of Order: 18.09.2020
Date of Dispatch: 18.09.2020

Name of the Applicant: Sri Balaji Valves Private Limited, 17, First Cross Street,
Fourth Avenue, Besant Nagar, Chennai - 600 090

IEC No. 0495030449

Order reviewed against: Orders-in-Original No. 04/81/040/00019/AM02 dated
04.08.2011 and No. 04/21/040/00180/AM01 dated
01.10.2012

Order-in-Review passed by: Amit Yadav, DGFT

Order-in-Review

Sri Balaji Valves Private Limited, Chennai (here-in-after referred to as 'the Petitioner') filed on 23rd March 2019, copies of two Review Petitions both dated 23.09.2014, under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992 as amended (here-in-after referred to as 'the Act') against Orders-in-Original No. 04/81/040/00019/AM02 dated 03.08.2011 and No. 04/21/040/00180/AM01 dated 01.10.2012 passed by Joint DGFT, Chennai. The details of the two Orders-in-Original (OIO) are as follows:

Sl. No.	Order Number	Date	Penalty imposed
1.	04/81/040/00019/AM02	04.08.2011	Rs.4,86,000/-
2.	04/21/040/00180/AM01	01.10.2012	Rs.12,00,000/-

Facts of the case:

2.1 The Petitioner obtained two Advance Authorisations from the office of Addl. DGFT, Chennai, as per provisions of the Foreign Trade Policy (FTP) prevalent during that period. The details of both these Advance Authorizations are as follows:

Sl. No.	Advance Authorization No.	Date	FOB value (US\$) of export obligation	CIF Value (Rs.)
1.	0410022240	21.02.2002	14,674	3,88,700/-
2.	0410013162	12.03.2001	60,000	11,66,400/-



2.2 These two authorisations were carrying obligations to export specified products within a period of 18 months from the dates of issue of authorisations. As per conditions of the Authorisations, the Petitioner was required to submit the prescribed documentary evidence of having fulfilled its export obligation (EO) within two months from the expiry of EO period. However, the Petitioner did not submit the prescribed documents.

2.3 Demand-cum-Show Cause Notices were issued by RA, Chennai to the Petitioner under Section 13 & 14 of the Act for taking action under Section 8, 9 & 11 of the Act. The Petitioner was also granted personal hearings. The Petitioner did not respond to the Show Cause Notices and also did not appear for the personal hearings. The Adjudicating Authority passed two Orders-in-Original imposing penalty on the Petitioner and its partners as per details in para 1 supra. The Petitioner was also put in Denied Entity List.

3. The Petitioner filed W.P. No. 3324/2019 in the Hon'ble Madras High Court praying to direct DGFT to pass orders on merits with respect to two review applications both dated 23.09.2014 against two OIO as detailed in para 1 supra. The Hon'ble Court vide its order dated 06.02.2019 directed DGFT to pass orders on the review applications dated 23.09.2014 on merits and in accordance with law. Both these Review Petitions were not found to have been filed by the Petitioner. Therefore, the Petitioner was requested to file the same against which the Petitioner filed copies of the same vide its email dated 28th March, 2019.

4. Vide various letters and emails, the Petitioner was requested to submit the prescribed documentary evidence showing fulfilment of export obligation against both the Advance Authorisations as referred to in the said two OIO. Despite repeated requests, the Petitioner, up to 27th November, 2019, submitted copies of two Review Petitions dated 23.09.2014, two OIO and incomplete photocopies of three shipping bills/bill of export. The Petitioner neither produced original shipping bills showing export of prescribed quantity of the export product nor documents showing realisation of export proceeds.

5. The Petitioner was granted an opportunity of personal hearing before the undersigned on 10.01.2020 which was attended by its authorised representative Shri J. Ganesh Ram, Advocate. He did not submit any documents evidencing fulfilment of exports. In its submissions dated 24th January, 2020, the Petitioner stated that:

- i. It is admitting without conceding that the Petitioner could not fulfil the export obligation due to reasons beyond its control,
- ii. It could not submit the documents to evidence fulfilment of export obligation as its Managing Director passed away in 2010 and there was severe labour unrest in the unit of the Petitioner.
- iii. Mere non fulfilment of export obligation should not attract penalty under section 11(2) of the Act.



6 I have gone through the facts and records carefully. It is observed that the Petitioner did not submit prescribed documents towards fulfilment of export obligation. The Petitioner made duty free Imports under the said authorisations but did not fulfil various conditions attached to such imports. Therefore, such imports were made in contravention of the conditions attached to the authorisations and as mentioned in the FTP.

7. I, therefore, in exercise of powers vested in me under Section 16 of Foreign Trade (Development & Regulation) Act, 1992, as amended pass the following order:

ORDER

F.No. 18/33/2019-20/ECA-I(E) / 145, 146

Dated: 18.09.2020

Orders-in-Original No. 04/81/040/00019/AM02 dated 04.08.2011 and Order-in-Original No. 04/21/040/00180/AM01 dated 01.10.2012 are upheld. Both the Review Petitions, dated 23.09.2014, are dismissed.



(Amit Yadav)

Director General of Foreign Trade

Copy To:

1. Sri Balaji Valves Private Limited, 17, First Cross Street, Fourth Avenue, Besant Nagar, Chennai -600 090..
2. The office of Additional DGFT, 26 Haddows Road, Shastri Bhavan Annexe, Chennai-600006
3. DGFT Website.

4. Shri. Hari Pradha Krishnan, Advocate, No.17, Customs colony, 1st Cross Street, 4th Avenue, Besant Nagar, Chennai - 600090.

(Dilip Kumar)

Dy. Director General of Foreign Trade