

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

F.No. 18/01/2025-26/ECA-I/E-42418 | 781 Date of Order : 30 . 06 .2025

Date of Dispatch: 07 . 07 .2025

Name of the Petitioner: M/s. Vasu Knitting, 39, Ram Nagar 1st street, Tirupur, Tamil Nadu- 641602

IEC No. IEC- 3205016777

Order Reviewed against: Order-in-Appeal No.
CHNECAAPPEAL00002780AM25
dated 20.06.2024 passed by Zonal Addl.
DGFT, RA Chennai.

Order-in-Review passed by: Ajay Bhadoo, DGFT

Order-in-Review

M/s. Vasu Knitting (here-in-after referred to as 'the petitioner') filed a Review Petition 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 (OIA) No. CHNECAAPPEAL00002780AM25 dated 20.06.2024, passed by Zonal Addl. DGFT, RA Chennai. The appeal was dismissed as being time-barred.

Brief of the Case

M/s. Vasu Knitting, Tirupur had been granted an EPCG Authorization No. 3230014047 dated 25.11.2009 under the 3% Concessional EPCG Scheme for duty saved value of Rs.17,73,887.50/- with an obligation to export "Knitted fabric" to the tune of total FOB value of US\$ 300,023.25/- i.e. 8 times of the duty saved value equivalent to free foreign currency over and above the annual average of the past export performance fixed as NIL within a period of 8 years from the date of its issue. Vide the License Amendment Sheet dated 30.08.2010, the export product was amended to "Knitted Readymade Garment" and the average export to be maintained is Rs. 2,16,19,364/-.



2. For the purpose of discharge of said export obligation (EO), the petitioner was required to submit the export documents under ANF-5B, as per Para 5.13 of Handbook of Procedures (HBP), 2009-14 as amended. The petitioner was required to submit a report on fulfillment of export obligation by 30th April of every year to the Licensing Authority/Regional Authority concerned as per Para 5.9 of HBP 2009-14 and the Installation Certificate issued by the Central Excise Authority or Chartered Engineer as the case may be, within a period of six months from the date of import to the Regional Authority/Licensing Authority concerned, as per Para 5.3.1 of HBP, 2009-14 as amended.

3. Whereas, as per the facts/record of the case, due diligence was not shown by the petitioner failing to comply with the above-mentioned provisions and did not submit complete EO fulfillment documents under ANF-5B or year-wise progressive reports and Installation Certificate as required. In view of the above, a Demand Cum Show Cause Notice dated 24.04.2019 was issued under Section 14 for action under Section 11(2) of the Act. However, the petitioner did not submit the documents called for. They also failed to regularize the case by paying the entire duty saved value utilized along with interest thereon and did not produce documentary evidence towards such payment for the non-fulfillment of the above export obligation as per para 5.14 of HBP 2009-14.

4. In view of the foregoing facts, absence of export documents and carefully deciding the case, Joint DGFT, RA Coimbatore vide Order-in-Original (OIO) dated 22.08.2019 imposed a fiscal penalty of Rs.1,00,000/- (Rupees One Lakh Only) in addition to the customs duty (duty saved value utilized) and interest thereon under Section 11(2) of the Act and directed that no further Authorizations shall be issued to the petitioner.

5. Aggrieved by the OIO dated 22.08.2019, the petitioner filed an appeal dated 13.06.2024 under section 15 of the Act. In the appeal, the petitioner stated that they had fulfilled 97% of the export obligation imposed but failed to submit the documents on time. They are willing to compensate for the shortfall in the export obligation under the Amnesty Scheme.

5.1. Addl. DGFT, RA Chennai in the exercise of powers vested under Section 15 of the Act issued an OIA dated 20.06.2024 dismissing the appeal being time barred since the appeal was filed with a delay of more than 3 years which is well beyond the permissible time for filing the appeal in terms of section 15(1)(b) of the Act.



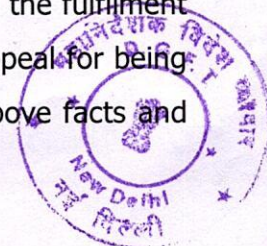
6. Aggrieved by the OIA passed by the Addl. DGFT, RA Chennai, the petitioner, has filed this Review Petition under Section 16 of the Act. In the Review Petition, the petitioner has stated that they had applied for the extension of EOP to 2 years but the same was neither allowed nor rejected by RA. They could not submit the documents on time even though they have fulfilled 97.60% of EO and the shortfall of 2.40% may be condoned in terms of para 5.12 of Handbook of Procedures 2009-14. The petitioner prays as under:

- i. To set aside the OIO and OIA.
- ii. The shortfall of 2.40% may be condoned since they have fulfilled 97.60% EO.
- iii. To remand the case back to the Adjudicating Authority for redemption.

7. As per section 16 of the Act, the Reviewing Authority granted an opportunity of PH to the petitioner on 10.06.2025. The Reviewing Authority had to address certain issues such as the EOP had expired in 2017. The petitioner did not apply for the extension of EOP before its expiry as per the HBP 2009-14. Mr. Sudhakaran Nair, appeared for the PH on behalf of the petitioner. Submissions made by the petitioner were based on the fact that they had applied for 2 years extension of EOP and paid the composition fee. However, the OIO and OIA had already been issued.

8. Anand Mohan Mishra, Joint DGFT, RA Coimbatore attended the PH. In response to the contention made by the petitioner, RA Coimbatore submitted that the petitioner submitted the documents after the case was adjudicated. As per the documents submitted later, it is observed that if the EOP is extended by 2 years, 97.60% of the EO appears to have been fulfilled.

9. I have gone through the facts and records of the case carefully. The petitioner appears to have fulfilled 97.60% of the EO as per the documents on record and the confirmation submitted by RA Coimbatore but the export obligation has been fulfilled beyond the allowed original export obligation period. It is also to be noted that the Authorization holder has never bothered to comply with the conditions of the Authorization as well as the applicable provisions of HBP. Further, the Authorization holder has sought relief under para 5.12 of HBP 2009-14 seeking condonation of shortfall upto 5% of export obligation. This condonation is not a right and the powers given to the RAs can be exercised only in exceptional cases where genuine hardship has prevented the fulfilment of 100% export obligation. Since the Appellate Authority dismissed the appeal for being time-barred, the case could not be decided on merits. Considering the above facts and



circumstances and considering principles of natural justice, I am of the view that the petitioner should be given one last chance to present their case before RA Coimbatore.

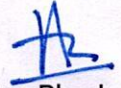
10. I, therefore, in the exercise of powers vested in me under Section 16 of the Act, pass the following order:

ORDER

F. No. 18/01/2025-26/ECA-I/E-42418 (781)

Dated: 30.06.2025

The Review Petition filed by the petitioner is admitted. Order-in-Original F.No. 32/21/021/00830/AM110 dated 22.08.2019, passed by Joint DGFT, RA Coimbatore and Order-in-Appeal No. CHNECAAPPEAL00002780AM25 dated 20.06.2024, passed by Addl. DGFT, RA, Chennai are set aside. The case is remanded back to RA, Coimbatore for extending the EOP and thereafter processing the Authorization for EODC/Redemption as per the applicable provisions of HBP, FTP and the FT9D&R) Act, 1992, as amended without giving the benefit under para 5.12 of HBP 2009-14.

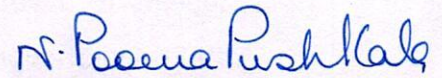


(Ajay Bhadoo)

Director General of Foreign Trade

Copy to:

1. M/s. Vasu Knitting, 39, Ram Nagar 1st street, Tirupur, Tamil Nadu- 641602
2. Addl. Director General of Foreign Trade, Chennai
3. Joint Director General of Foreign Trade, Coimbatore
4. Central Economic Intelligence Bureau, 1st, 6th & 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi – 110001.
5. DGFT Website

(N. Poorna Pushkala)

Dy. Director General of Foreign Trade