

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

F.No. 01/92/171/25/AM-19/PC-VI/52

Date of Order: 03.10.2022

Date of Dispatch: 03.10.2022

Name of the Appellant: **AMW Commercial Vehicle Application Ltd.,
Survey No. 159/1, 34 KM Milestone Bhuj-Bhachu
Road, Kanaiyabe, Bhuj-Kutch, Gujarat**

IEC Number: **0311058876**

Order appealed against: **Order-in-Original dated 19.11.2018 passed by the Joint
Development Commissioner, KASEZ**

Order-in-Appeal passed by: **Santosh Kumar Sarangi, DGFT**

Order-in-Appeal

AMW Commercial Vehicle Application Ltd., Gujarat (hereinafter referred to as 'the Appellant') has filed an appeal dated 04.03.2019 under Section 15 of the FT (D&R) Act, 1992 against Order-in-Original dated 19.11.2018 (issued from F.No. No. 37/21/21/27/AM12/9147) passed by the Joint Development Commissioner (hereinafter referred to as 'JDC'), Kandla Special Economic Zone (KASEZ).

2.1 Vide Notification No. 101 (RE-2013)/2009-2014 dated the 5th December 2014, the Central Government has authorized the Director General of Foreign Trade aided by one Addl. DGFT in the Directorate General of Foreign Trade to function as Appellate Authority against the orders passed by the Development Commissioner, Special Economic Zones as Adjudicating Authorities.

2.2 Any person/party deeming himself/itself aggrieved by this order, may file a review petition under the provisions of Section 16 of the FT(D&R) Act, 1992 before the Appellate Committee, Department of Commerce, New Delhi.

3.0 Brief facts of the case:

3.1 AMW Commercial Vehicle Application Ltd obtained Zero duty EPCG authorisation No. 3730000178 dated 27.03.2012 from Development Commissioner (hereinafter referred to as 'DC'), KASEZ for duty saved amount of Rs. 1,32,32,369/-. Export obligation (EO) period of the EPCG Authorization expired on 27.03.2018 but the Appellant did not submit any documents as proof of EO fulfillment to the DC.

3.2 DC issued a show cause notice dated 26.07.2018 under the FT(D&R) Act, 1992 asking the Appellant to furnish the required export documents within 15 days from the date of its receipt but there was no response. Appellant did not appear in the personal hearing (PH) on 08.08.2018. In the

next PH granted on 29.08.2018, the representative of the Appellant sought an adjournment. On the next date of PH fixed for 26.09.2018, nobody appeared.

4. JDC, KASEZ vide Order-in-Original dated 19.11.2018 imposed a penalty of Rs. 15,00,000 (Fifteen Lakhs) under Section 11 of the FT(D&R) Act, 1992 on the Appellant along with directions for payment of Customs Duty with interest.

5. Aggrieved by the order dated 19.11.2018 of the JDC, KASEZ, the Appellant has filed the present appeal. Appellant in its written submissions has stated that it has not willfully defaulted in fulfillment of EO and it was only because of the unavoidable circumstances that they could not complete the EO.

6. Comments on the Appeal were obtained from the office of DC, KASEZ. The DC vide letter dated 28.01.2020 stated that Appellant was liable to fulfill its EO against the EPCG Authorization. Hence, the Adjudicating Authority had rightly imposed a reasonable penalty for non-compliance of the requirements enjoined upon the Authorization. Appellant has also not filed any application for an extension in the EO period.

7. I have considered the Order-in-Original dated 19.11.2018 passed by JDC, KASEZ, Appeal, comments of DC, KASEZ and all other aspects relevant to the case. It is noted that several opportunities of personal hearings were granted to the Appellant but nobody appeared. It has been decided to proceed ex-parte in the matter. However, before going into the merits of the case, it is observed that Appeal against the order passed by Joint DC, KASEZ does not lie before this Authority. The Appeal will lie before the Appellate Authority i.e. DC, KASEZ.

8. In view of the above, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992 (as amended in 2010) read with Notification No. 101 (RE-2013)/2009-2014, dated the 5th December 2014, I pass the following order:

Order

F.No. 01/92/171/25/AM-19/PC-VI

Dated: 03.10.2022

Appeal is transferred to the appropriate authority i.e. DC, KASEZ for necessary action.

(Santosh Kumar Sarangi)
Director-General of Foreign Trade

Copy to:

1. AMW Commercial Vehicle Application Ltd., Survey No. 159/1, 34 KM Milestone Bhuj-Bhachu Road, Kanaiyabe, Bhuj-Kutch, Gujarat.
2. Development Commissioner, Kandla SEZ for information and compliance.
3. Additional Secretary (SEZ Division), DoC, New Delhi for information.
4. DGFT's website.

(Randheep Thakur)
Joint Director General of Foreign Trade