

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

\*\*\*

F.No. 18/12/2020-21/ECA.I/

Date of Order: 21 .01.2022

Date of Despatch: 24 .01.2022

Name of the Applicant:

Ramy Infotech Pvt. Ltd., 29/2, Vijay  
Enclave, Above OBC Bank, Main Palam  
Dabri Road, Dwarka, New Delhi-110  
045.

IEC No.

0510042163

Order reviewed against:

Order-in-Appeal No. 05/16/140/055/  
AM20/Appeal/CLA dated 14.02.2020  
passed by Addl. DGFT, CLA, New  
Delhi

Order-in-Review passed by

Amit Yadav, DGFT

**Order-in-Review**

M/s Ramy Infotech Pvt. Ltd., New Delhi (here-in-after referred to as the 'Petitioner') filed a Review Petition dated 24.07.2020 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. 05/16/140/055/AM20/Appeal/CLA dated 14.02.2020 passed by the Appellate Authority dismissing the appeal against the Order-in-Originals (OIO)s No. 05/21/094/50242/AM19, 05/21/094/50243/AM19 & 05/21/098/80377/AM19 dated 24.10.2019. The Adjudicating Authority imposed a penalty of Rs. 60,000/- in addition to payment of interest on the value of SEIS scrips.

**Brief of the case**

2.1 The Petitioner availed SEIS benefit for service categories "other business services (Placement of Supply and personnel) CPC-872" as per following details:

S.No.	Authorisation No. & Date	Port of Registration	Duty Credit (in Rs.)	Financial Year
1	0519149155 dated 18.12.2018	INDELA4- Delhi Air Cargo	25,13,104.61	2015-16
2	0519149153 dated 18.12.2018	-do-	37,53,548.41	2016-17
3	0519156091 Dated 08.02.2019	-do-	53,78,256.45	2017-18



2.2 DRI, Ahmedabad vide its letter dated 10.07.2019 informed CLA, New Delhi that on inquiry it was found that the Petitioner had mis-classified/mis-stated its export services in its application filed before CLA, New Delhi and fraudulently obtained SEIS scrips as indicated in para 2.1.

2.3 The Petitioner had been providing/exporting Recruitment Process outsourcing of IT professionals, software development & maintenance services to overseas clients through commercial presence in U.S.A via its subsidiary M/s Ramy Infotech Inc; 5201 Great American Parkway, Suite # 320, Santa Clara, CA 95054 U.S.A., Supply of services through commercial presence in another country is not eligible for SEIS Scrips in terms of para 3.08(a) of FTP read with para 9.51 of HBP of 2015-20. Thus, the Scrips were fraudulently obtained by mis-declaration and mis-classification. In view of evidence on record, the Adjudication Authority imposed a penalty of Rs. 60,000/- on the Petitioner in addition to payment of interest on SEIS scrips amount which the Petitioner has deposited. The Petitioner and its Directors were placed in DEL vide Order-in-Original No. 05/21/094/50242/AM19, 05/21/094/50243/AM19 & 05/21/098/80377/AM19 dated 24.10.2019.

3. The Petitioner filed an appeal on 06.12.2019 before the Appellate Authority. The Appellate Authority observed that (i) the Petitioner paid the penalty amount and has not challenged the finding of DRI to any judicial forum and admitted during the DRI proceedings that it had mis-declared the services and taken undue benefits, and (ii) the Petitioner voluntarily deposited back the benefits it had obtained. Therefore, appeal against Adjudication order cannot be sustained. The Appellate Authority dismissed the appeal vide Order-in-Appeal No. 05/16/140/00055/AM20/Appeal/CLA dated 14.02.2020 and but removed the IEC from DEL as Petitioner had paid the penalty amount.

4.1 The Petitioner has filed the present review petition dated 24.07.2020 to the undersigned in which it has stated that:

- a) the Adjudicating Authority and the Appellate Authority ignored the policy of SEIS,
- b) service can be termed as Mode-3 service only when the services have been provided by the Petitioner from India to foreign companies or individuals through a physical presence, which is not the fact in the present case. M/s Ramy Infotech Inc. USA is a separate entity and cannot be considered as subsidiary company of the Petitioner,
- c) the Adjudication order has been passed on the basis of investigation of DRI but there is no further inquiry by DRI and till date DRI has not even issued a Show Cause Notice, hence, the present proceedings are pre-mature and required to be dropped,
- d) the Adjudicating Authority merely on information of DRI without any concrete findings has cancelled the scrips ab-initio leading to an act of unlawful nature,
- e) the application has been properly scrutinized and examined by CLA, New Delhi as well as Customs Authority and the Scrips were registered and the Petitioner made complete disclosure before RA and nothing was hidden,



*[Handwritten signature]*

- f) it is incorrect that the Petitioner supplied software and IT services etc, rather it supplied man power related services relating to requirement of manpower relating to Power service for Software and IT Services.  
g) it paid the penalty amount under pressure of DRI.

4.2 The Petitioner has prayed that :

- (i) the Order-in-Original and Order-in-Appeal be set aside,  
(ii) any other relief as reviewing authority may deem fit may be granted.

5. The Reviewing Authority granted personal hearing to the Petitioner on 29.12.2021 which was attended by Shri Shivam Mishra, Consultant on behalf of the Petitioner. Shri Ramesh Verma, Dy.DGFT from CLA, New Delhi also attended. The Consultant informed that Chartered Accountant Certificate mentions that the service supplied was under Mode 1 and there are no software services involved and the services have been supplied as per the contract. There are two different companies and a subsidiary company overseas is not a branch company of the Petitioner. The representative of CLA, New Delhi informed that services supplied are under Mode-3 and FIRC documents mention software development. CLA, New Delhi have also furnished para-wise comments on the Review petition.

6 I have gone through the facts and records carefully and it is observed that the Petitioner had been exporting Recruitment Process outsourcing of IT professionals, software development & maintenance services to overseas clients through commercial presence in U.S.A i.e. M/s Ramy Infotech Inc. Supply of services through commercial presence in another country is not eligible for issuance of SEIS Scrips in terms of para 3.08(a) of FTP read with para 9.51 of HBP of 2015-20. Thus, the Scrips are ineligible under the SEIS scheme.

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

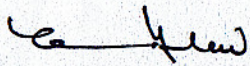
**ORDER**

F.No. 18/12/2020-21/ECA.I/439

Dated: 24.01.2022

The Review Petition dated 24.08.2020 is rejected and Order-in-Appeal No. 05 /16 /140 /055 /AM20 Appeal/ CLA dated 14.02.2020 and Order-in-Originals 05 /21 /094 /50242 /AM19, 05/21/094/50243/AM19 & 05/21/ 098 /80377/AM19 dated 24.10.2019 are upheld.



  
(Amit Yadav)  
Director General of Foreign Trade

Copy to:

- (1) Ramy Infotech Pvt. Ltd., Vijay Enclave, Above OBC Bank, Main Palam Dabri Road, Dwarka, New Delhi-110 045.
- (2) Addl. Director General of Foreign Trade, CLA, A-Wing, I.P. Bhawan, Y Shape Building, I.P. Estate, New Delhi-110 002. It is requested to recover the interest on SEIS scrips amount.
- (3) Central Economic Intelligence Bureau, 1<sup>st</sup>, 6<sup>th</sup>& 8 Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi - 110001.
- ✓ (4) DGFT Website.

*Dilip Kumar*

(Dilip Kumar)

Dy. Director General of Foreign Trade