

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

F. No. 18/19/2022-23/ECA.I/

Date of Order : 18 .07.2023

Date of Despatch: 19 .07.2023

Name of the Petitioner:

M/s Nagar Haveli Perfumes & Aromatics,  
Scent House, Station Road, Goregaon  
(West), Mumbai – 400062

IEC No.

0399010823

Order Reviewed against:

Order-in-Appeal No. 03/16/144/00017/AM19  
dated 28.05.2022 passed by Addl. DGFT,  
Mumbai

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

**Order-in-Review**

M/s Nagar Haveli Perfumes & Aromatics (here-in-after referred to as 'the Petitioner') having IEC No. 0399010823 filed Review Petition dated 01.07.2022 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. 03/16/144/00017/AM19 dated 28.05.2022 passed by Addl. DGFT, Mumbai upholding the Order-in-Original No. 03/02/002/00093/AM12 dated 30.01.2018 imposing a penalty of Rs.1,65,000/- on the Petitioner and its Directors for non-submission of export documents towards fulfillment of export obligation. The Petitioner and individual Directors jointly shall be liable to pay penalty along with applicable Customs duty plus interest thereon.

**Brief of the Case**

2. M/s Nagar Haveli Perfumes & Aromatics, Mumbai obtained an Advance Licence No. 0310401932 dated 29.09.2006 for a CIF value of Rs.82,558/- (US\$ 1756.56) with an export obligation for a FOB value of Rs.7,81,375.00 (US\$16625.00) to be completed within 24 months from the date of issue of advance authorization.

3.1 The export obligation period (EOP) expired on 28.09.2008. The Petitioner did not submit the documents evidencing fulfillment of export obligation. Therefore, RA, Mumbai (the Adjudicating Authority) issued a Demand Notice dated



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12.07.2011 directing the Petitioner to submit the documents towards fulfillment of export obligation within 15 days of receipt of the notice with an opportunity of personal hearing. The Petitioner was also informed that failure to submit the requisite documents was tantamount to violation of conditions of authorization and LUT/BG executed by the Petitioner and contravention the provision of Export Import Policy and makes them liable for action under FTDR Act, 1992 and Foreign Trade and Rules, 1993.

3.2 The Petitioner did not respond to the Demand Notice dated 12.07.2011. Therefore, the Petitioner was placed under DEL on 12.07.2011. As no response received from the Petitioner, a SCN dated 14.09.2011 u/s 14 for action u/s 11(2) of FTDR Act, 1992 was issued by the adjudicating authority with opportunity of personal hearing on 29.09.2011. The petitioner neither appeared for personal hearing on the given date nor submitted any reply/documents. Thereafter, two more opportunities were given to the Petitioner on 28.02.2014 and 24.01.2018. However, the Petitioner did not respond. Therefore, on the basis of available records, the adjudicating authority passed Order-in-Original (OIO) No.03/02/002/00093/AM12 dated 30.01.2018 imposing a penalty of Rs.1,65,000/- on the Petitioner and its Directors for non-submission of export documents towards fulfillment of export obligation. The Petitioner and individual Directors jointly shall be liable to pay penalty along with applicable Customs duty plus interest thereon.

4. The Petitioner vide its letter dated 08.05.2019 submitted its advance authorization for cancellation as they had not utilized the authorization for imports. Since the case was adjudicated, the petitioner was informed to file an appeal before the Appellate Authority and the original Authorization was returned back to them.

5. The Petitioner submitted Non-Utilization Certificate dated 18.03.2021 from the Office of the Commissioner of Customs, Nhava Sheva confirming that the subject Authorization has not been registered in that Custom House. As per the Authorization, the port of Registration is Nhava Sheva.

6. The Petitioner filed an appeal dated 05.05.2020 against the OIO dated 30.01.2018. The appeal was filed beyond prescribed time. Therefore, the appeal was dismissed vide Order-in-Appeal No. 03/16/144/00017/AM19 dated 28.05.2022 (OIA).

7. Now, the Petitioner has filed the present review petition dated 01.07.2022 on the following grounds:

a) The Adjudicating authority has not considered the fact that Order-in-Original dated 30.01.2018 was handed over to the petitioner only on 25.02.2020.

b) The reply was given vide email dated 05.05.2020 even though full lockdown was in effect, hence petitioner filed the reply within 70 days as the Mumbai city and even Silvassa where the company exists was under complete lock down.



c) As asked in personal hearing on 18.03.2021, Non-utilization certificate was submitted personally on 18.03.2021 confirming that no import/export were made under the subject authorization but heavy penalty for Non timely submission of required documents was imposed.

8. The Petitioner has prayed :-

- a) OIO and OIA be set aside.
- b) Grant of personal hearing.
- c) Penalty may be waived of.

9. The Reviewing Authority granted the personal hearing to the Petitioner on 06.07.2023. Shri Yatesh Jain, Partner of the firm attended the personal hearing. The firm stated that the subject license was never utilized. No export or import was done. They had applied for the closure surrendering the license on 08.05.2019. Thereafter when they visited the RA Mumbai office, they were told that there is a adjudication order issued, so they requested for the copy of order on 17.12.2019. Thereafter on 21.09.2020, they received a letter from RA, Mumbai asking them to remove the deficiency and initiation of de-novo proceeding in 30 days. But since they never had the copy of the order, on 04.12.2020 they requested for a copy of adjudicating order and on 25.02.2020 just before the Corona they were handed over the copy of the order (OIO dated 30.01.2018). On 18.03.2021 they got the non-utilization certificate from Customs and submitted to RA.

9.1 Shri Satya Raj Shekhar Dy. DGFT, RA, Mumbai was also present in the meeting. It stated that the original adjudication order was issued in 2018 before the non-utilization certificate was obtained. However, he confirmed that firm had submitted the copy of non-utilization certificate.

10. I have gone through the facts and records of the case carefully. The Petitioner had obtained the Advance Licence No.0310401932 dated 29.09.2006 for which export obligation has to be completed within 24 months from the date of issue of advance authorization. The Petitioner did not submit the documents evidencing fulfillment of export obligation after the export obligation period (EOP) expired on 28.09.2008. Therefore, the adjudicating authority passed Order-in-Original dated 30.01.2018 imposing a penalty of Rs.1,65,000/- on the Petitioner and its Directors for non-submission of export documents towards fulfillment of export obligation.



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

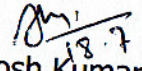
**ORDER**

F.No. 18/19/2022-23/ECA.I/Dated :  
1127

18.07.2023

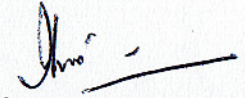
The Review Petition dated 01.07.2022 filed by the Petitioner against Order-in-Appeal No.03/16/144/00017/AM19 dated 28.05.2022 passed by Addl. DGFT, Mumbai is admitted. Penalty imposed vide OIO dated 30.01.2018 is waived off. The case is remanded back to RA, Mumbai to examine the case on the basis of documents submitted by the firm for de-novo consideration and disposal off the case.



  
(Santosh Kumar Sarangi)  
Director General of Foreign Trade

Copy to:-

1. M/s Nagar Haveli Perfumes & Aromatics, Scent House, Station Road, Goregaon (West), Mumbai – 400062.
2. The Addl. Director General of Foreign Trade, Mumbai.
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.

  
(A.S. Lungreishang)  
Dy. Director General of Foreign Trade