

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

F. No. 18/45/2024-25/ECA-I/E- 42066 | 786 Date of Order : 30 . 06 .2025

Date of Dispatch: 01 . 07 .2025

Name of the Petitioner: M/s. L.M. Van Moppes Diamond Tools India
Pvt. Ltd., Post Box No. 853, Huzur Gardens,
Sembiam, Chennai - 600011

IEC No. 0488017939

Order Reviewed against: Order-in-Appeal No.
CHNECAAPPEAL00002926AM25
dated 06.09.2024 passed by Zonal Addl.
DGFT, RA Chennai.

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

Order-in-Review

M/s. L.M. Van Moppes Diamond Tools India Pvt. Ltd. (here-in-after referred to as 'the petitioner'), having IEC- 0488017939, 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. CHNECAAPPEAL00002926AM25, dated 06.09.2024, passed by Zonal Addl. DGFT, RA Chennai. The appeal was dismissed on the grounds that the petitioner neither completed the export obligation (EO) nor regularised the case.

Brief of the Case

M/s. L.M. Van Moppes Diamond Tools India Pvt. Ltd. had obtained an EPCG Authorization No. 0430012116 dated 30.01.2013 for a total Duty Saved Value of Rs.20,82,050/- under 0% concessional duty EPCG Scheme for import of capital goods listed with the said Authorization, with an obligation to export "Industrial Diamond Tools"

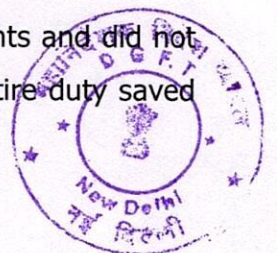


to the tune of total FOB value of US\$ 2,25,900.54 i.e. 6 times of the Duty Saved Value equivalent to free foreign currency over and above the annual average of the past export performance fixed as Rs. 12,03,54,377/- within a period of 6 years from the date of its issue, subject to the condition that 50% export obligation should be met in the first block within four years from the date of issue of Authorization and balance 50% export obligation in the next two years.

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, the petitioner vide letters dated 25.05.2018, 12.11.2018 & 31.01.2019 requested that the first block period be extended to the second block period. In 2019, the EPCG Authorisation was amended with the following terms. The total export obligation period (EOP) was extended from 6 years to 8 years, the EOP of the 1st Block extended up to the 2nd Block in terms of para 5.8.3 of HBP 2009-14 and up to 50% of exports may be completed by the group company M/s Addison & Co. Ltd. However, due diligence was not shown by the petitioner, failing to submit the revised EO fulfilment documents as called for vide letter dated 23.02.2023. Hence, a Cautionary Letter dated 23.02.2023 was issued. Since no reply was received, RA Chennai issued a Show Cause Notice (SCN) dated 27.06.2024 with an opportunity of Personal Hearings (PH) on any working day during the 2nd week of July, 2024 to explain the reasons and facts within a period of 15 days, as to why action should not be taken for placing the petitioner under Denied Entity List (DEL), refusing issuance of further Authorizations/renewal of old Authorizations and other export benefits etc. in terms of Section 9(2) of the Act read with Rule 7(1)(k) of Foreign Trade (Regulation) Rules, 1993 and as to why penalty should not be imposed under Section 11(2) the Act.

4. However, they failed to reply to the SCN, submit the EO documents and did not appear for PH. 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 even after a period of more than one year from the date of expiry of the total export obligation period (EOP).

5. In view of the foregoing facts, absence of export documents and carefully deciding the case on merits, Joint DGFT, RA Chennai vide Order-in-Original (OIO) dated 15.07.2024 imposed a fiscal penalty of Rs.50,000/- (Rupees Fifty Thousand 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 licenses/Authorizations shall be granted to the petitioner or any of its directors.

6. Aggrieved by the OIO dated 15.07.2024, the petitioner filed an appeal under section 15 of the Act. In the appeal, the petitioner stated that they had fulfilled the EO but could not respond to the SCN due to the unavailability of staff. Addl. DGFT, RA Chennai, in the exercise of powers vested under Section 15 of the Act, issued an OIA dated 06.09.2024 dismissing the appeal on the ground that the petitioner has not completed the EO and failed to regularise the same.

7. 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 have completed the EO in full, submitted all the EO documents and realised the export proceeds. The petitioner has prayed to set aside the OIO and OIA and grant them EODC/Redemption.

8. As per section 16 of the Act, the Reviewing Authority granted an opportunity of PH to the petitioner on 12.03.2025. V. Pushpalatha, Senior Officer, Finance & Admin, appeared for the PH on behalf of the petitioner. Submissions made by the petitioner were based on the fact that earlier, during the period between 2013 and 2019, they were unable to fulfil the Specific Export obligation (SEO) and therefore they applied for the amendment of EOP. Thereafter, they had completed the EO, both Average Export Obligation (AEO) and Specific Export Obligation (SEO), within the extended EOP with the help of the group company. The Installation Certificate was submitted in the year 2021.

8.1 Shri. K. H Reddy, Joint DGFT, RA Chennai, attended the PH. In response to the contention made by the petitioner, RA Chennai submitted that the petitioner, vide the



amendment sheet, was required to fulfill the EO to the extent of 50% via the group company exports. After examining the EO documents, it is observed that they have a shortfall in the AEO and have failed to submit the Shipping Bills for Specific Export Obligation (SEO).

8.2 Another opportunity for personal hearing (PH) was granted to the petitioner on 22.05.2025, during which the Reviewing Authority raised concerns regarding the non-submission of Export Obligation (EO) documents at the time of filing the appeal, and sought clarification on the criteria adopted by the petitioner for fulfillment of the EO through a group company, in accordance with the Foreign Trade Policy (FTP) and Handbook of Procedures (HBP). The Regional Authority (RA), Chennai, submitted that the appeal had initially been dismissed on the grounds that the Specific Export Obligation (SEO) had only been fulfilled up to 58%. However, based on the revised documents subsequently submitted, it was confirmed that the SEO now stands fully fulfilled. 48% EO fulfilment has been completed through the group company exports, while the remaining obligation has been completed directly by the petitioner.

9. A report was called in from RA Chennai wherein the RA submitted that the petitioner had taken prior permission from the RA to fulfill upto 50% export obligation through their group company, M/s Addison & Co. Ltd., as per Para 5.5(c) of Foreign Trade Policy (FTP) 2009-14 and the group company was endorsed on license in the year FY 2018-19. The AEO was also re-fixed, including the group company exports with effect from AM19 onwards as per the policy provisions. The petitioner had also furnished the necessary certificate by the Chartered Accountant that the group company criteria have been met as per the requirements of Para 9.28 of FTP. As per the documents submitted by the petitioner later on, it is verified that the petitioner and its group companies have fulfilled the EO, including AEO and SEO.

10. I have gone through the facts and records of the case carefully. The petitioner appears to have fulfilled the EO as per the documents on record and complied with the provisions of FTP as per the confirmation submitted by RA Chennai. 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 Chennai for the grant of EODC/Redemption.



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

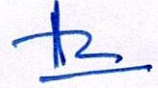
ORDER

F. No. 18/45/2024-25/ECA-I/E- 42066

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Dated: 30 . 06 .2025

The Review Petition filed by the petitioner is admitted. Order-in-Original No. CHNECAAPPLY00002810AM25, dated 15.07.2024, passed by the Joint DGFT, RA Chennai and Order-in-Appeal No.CHNECAAPPEAL00002926AM25, dated 06.09.2024, passed by Addl. DGFT, RA, Chennai are set aside. The case is remanded back to RA, Chennai, for processing the Authorisation for EODC/redemption as per the applicable provisions of FTP, HBP and FT (D&R) Act, 1992.



(Ajay Bhadoo)

Director General of Foreign Trade

Copy to:

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2. Addl. Director General of Foreign Trade, Chennai
3. Central Economic Intelligence Bureau, 1st, 6th& 8th Floor, 'B' Wing, Janpath Bhawan, Janpath, New Delhi – 110001.
4. DGFT Website



(N. Poorna Push Kala)

Dy. Director General of Foreign Trade