

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

F. No. 18/11/2022-23/ECA.I/

Date of Order : 04.10.2023

Date of Despatch: 05.10.2023

Name of the Petitioner:

M/s SNY Autotech Pvt. Ltd.
Sugamtharumpedu Village Road,
Irungattukottai, Sriperumbadurm,
Taluk, Kancheepuram,
Tamilnadu – 602 105.

IEC No.

0403009031

Order Reviewed against:

Order-in-Appeal No. 11/363/2012-13/ECA.I
dated 25.06.2015 passed by Addl. DGFT,
Hqrs, New Delhi.

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

Order-in-Review

M/s. SNY Autotech P. Ltd., Kancheepuram (here-in-after referred to as 'the petitioner') having IEC No. 0403009031 filed Review Petition dated 23.05.2022 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 (OIA) No. 11/363/2012-13/ECA.I dated 25.06.2015 passed by Addl. DGFT, Hqrs, New Delhi dismissing the appeal against the Order-in-Original No. 04/36/21/202/AM 04 dated 17.12.2012 imposing a penalty of Rs. 55,41,000/-on the Petitioner and its Directors.

Brief of the Case

2. The Petitioner obtained an EPCG Authorization No. 0430001335 dated 17.10.2003 for a duty saved value of Rs. 19,78,917.24 for the import of CNC Lathe Model HIT 160, with an obligation to export Automotive Components: Body Machining, Primary/Secondary Piston within a period of 8 years, for a FOB value equivalent to US \$ 3,41,560.68.

3. The Petitioner had failed to produce documents evidencing fulfillment of the export obligation within the stipulated period. Hence, a Show Cause Notice dated 04.04.2012 was issued to the firm, which was returned undelivered with the postal remarks "Left". The second Show Cause Notice dated 01.05.2012 was also returned



undelivered with the same postal remarks. The Show Cause Notice for adjudication dated 21.05.2012 sent to the Registered Office Address and to the Directors of the firm was also returned undelivered, with the postal remarks "Left" and "No such person".

4. Under the circumstances, the adjudicating authority was fully convinced that the Petitioner and its Directors were guilty of violating the conditions of the Authorization in question, and thereby liable for penalty under Section 11(2) of Chapter IV of FT (DR) Act, 1992 Accordingly, as per the powers granted under Notification dated 17.04.2009 issued by DGFT New Delhi in F.No. 18/27/HQ/06-07/ECA-II, the case was adjudicated vide Order No. 04/36/21/202/AM04 dated 17.12.2012 by RA, Chennai and imposing a penalty of Rs. 55,41,000/- on the petitioner and its Directors.

5. Aggrieved by the Order-in-Original, the petitioner had preferred an appeal before the Appellate Authority viz Addl. DGFT, DGFT (Hqrs.) on 22.01.2013. The petitioner had preferred a request on 19.01.2012 before the DGFT (HQ) for grant of extension in EOP for two years, and condonation of block-wise EO against the EPCG Authorization before EPCG Committee. The EPCG Committee in its meeting dated 10.04.2013 had granted extension of the E.O. period on payment of 2% of composite fee by the firm. Accordingly, RA, Chennai vide Amendment Sheet No. 1 dated 27.05.2013 had extended the export obligation period by 2 years up to 17.10.2013.

6. The appeal filed by the firm before the Appellate Authority, viz Addl. DGFT, DGFT (Hqrs.), was dismissed vide Order No. 11/363/2012-13/ECA-1/1159 dated 24/25.06.2015. Consequent upon the dismissal of the firm's appeal, RA, Chennai vide letter dated 20.01.2016, had requested the firm to pay the fiscal penalty of Rs. 55,41,000/- failing which recovery action would be initiated. The petitioner had partly regularized the penalty amount by remitting a sum of Rs.19,78,917/- on 18.05.2016 and submitted copy of TR6 challan as proof for the same. The petitioner was given 3 months time to remit the balance penalty amount of Rs 35,62,083/-on 04.04.2016, and again vide letter dated 09.01.2020.

7. Consequent upon the firm not paying the balance penalty amount, firm's IEC was suspended by the competent authority on 18.09.2020 in terms of Section 11(7) of the FT (DR Act), 1992 (as amended).

8.1 Now, the petitioner has filed the present review petition dated 23.05.2022 on the following grounds :-



(i) The Adjudicating Authority has imposed huge penalty of Rs. 55,41,000/- whereas duty save amount is Rs. 19,78,917.24/- in addition of denial of further benefit of FTP.

(ii) The letter dated 27.03.2015 communicating the decision of EPCG Committee extending the EOP up to 17.10.2013 received after a lapse of two years that too after the period is over. Therefore, the petitioner could not avail the extension as the period was over by the time.

(iii) The petitioner has paid duty amount of Rs.28,47,000 and interest of Rs.19,78,917/- to the Customs authorities at different dates.

(iv) The export obligation had been regularized by payment of customs duty with interest to the customs authorities. The procedural lapse should not be misconstrued as violation of conditions of license.

8.2 The Petitioner has prayed for :-

(i) Set aside the OIA dated 25.06.2015 and OIO dated 17.12.2012.

(ii) Direct RA, Chennai to set aside the order of DEL.

(iii) Direct the adjudicating authority to suspend all action initiated to recover the penalty imposed.

(iv) Grant personal hearing.

9. The Reviewing Authority granted the personal hearing to the Petitioner on 19.09.2023. Shri P. Jitendra Kumar, Authorised Representative attended the PH on behalf of the firm. The Petitioner submitted that they have availed the amnesty scheme and got EODC. As they have received a letter dated 08.06.2023 instructing them to go for the Amnesty Scheme and based on that letter they had applied for amnesty scheme and the final letter of closure is also issued. Now, only issue pending is waiver of penalty and removal of IEC suspension.

9.1 Shri Kaladi Hrushikesh Reddy, DDG RA, Chennai attended the meeting. It is intimated that the firm had already paid the duty with interest in 2017 itself and they have issued the duty paid regularization letter to them. Though they have opted for amnesty scheme based on the evidence of duty payment with interest which was paid in 2017, they have been issued the regularization letter. As per the records they have partly regularized the penalty amount by remitting a sum of Rs.19,78,917/- out of Rs.55,41,000/- of the penalty imposed vide TR6 Challan dated 18.05.2016.



10. I have gone through the facts and records of the case carefully. The Petitioner had obtained an EPCG Authorization No. 0430001335 dated 17.10.2003 for a duty saved value of Rs. 19,78,917.24 for the import of CNC Lathe Model HIT 160, with an obligation to export Automotive Components: Body Machining, Primary/Secondary Piston within a period of 8 years, for a FOB value equivalent to US \$ 3,41,560.68. The Petitioner had failed to produce documents evidencing fulfillment of the export obligation within the stipulated period. The adjudicating Authority had imposed a penalty of Rs. 55,41,000/- on the petitioner and its Directors. The Petitioner have partly paid a sum of Rs.19,78,917/- out of Rs.55,41,000/- of the penalty imposed. The Petitioner have availed the amnesty scheme and got EODC. Now, the only issue pending is waiver of penalty and removal of IEC suspension.

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

ORDER

F.No. 18/11/2022-23/ECA.I/164

Dated : 04.10.2023

The Review Petition dated 23.05.2022 is admitted. The Order-in-Original No. 04/36/21/202/AM 04 dated 17.12.2012 and Order-in-Appeal No. 11/363/2012-13/ECA.I dated 25.06.2015 are set aside. The case is remanded back to RA, Chennai for de-novo consideration.



[Handwritten signature]
4.10.2023

(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy to:-

1. M/s SNY Autotech Pvt. Ltd., Sugamtharumpedu Village Road, Irungattukottai, Sriperumbadurm, Taluk, Kancheepuram, Tamilnadu – 602 105.
2. The 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.

[Handwritten signature]

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