

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

F.No. 18/15/2025-26/ECA-I/E- Date of Order: 19.05.2026
43669 / 1000 .2026
Date of Dispatch: 19.05.2026
.2026

Name of the Petitioner: M/s. Brakes India Pvt. Ltd., 21, Pattullos Road,
Chennai-600002
IEC No. 0488001382
Order Order-in-Original No. CHNECAAPPLY00000887AM23
Reviewed against: dated 02.11.2023 passed by Deputy DGFT, RA
Chennai.

Order-in-Review passed by: Lav Agarwal, DGFT
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Order-in-Review

M/s. Brakes India Pvt. Ltd., (here-in-after referred to as 'the petitioner') 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 an Order-in-Original (OIO) No. CHNECAAPPLY00000887AM23 dated 02.11.2023 passed by Deputy DGFT, RA Chennai.

Brief of the Case

M/s. Brakes India Pvt. Ltd., had obtained an Advance Authorization No. 0410130813 dated 24.11.2011 for CIF Value Rs. 5,12,13,453.60 (US\$1,023,245.82) for export of "Spheroidal Graphite/ Ductile iron casting (rough), turbine housing for FOB value of Rs. 6,00,00,000.00 (US\$1,218,274.10) subject to the conditions expressly informed in the Condition Sheet attached to the said



Authorization.

2. Whereas, as per the facts/record of the case, due diligence was not shown by the petitioner, failing to comply with the Condition sheet and did not submit complete EO fulfilment documents as required. In view of the above, RA Chennai issued a Show Cause Notice (SCN) dated 25.09.2023 with an opportunity of Personal Hearing (PH) on 27.09.2023 or to submit their reply explaining the reasons and facts within 30 days as to why action should not be taken against the petitioner and as to why penalty should not be imposed under Section 11(2) the Act.

3. However, the petitioner failed to furnish the EO documents and did not appear for the PH. In view of the foregoing facts, absence of export documents and carefully going through the file on record, Deputy DGFT, RA Chennai vide Order-in-Original (OIO) dated 02.11.2023 imposed a fiscal penalty of Rs. 10,000/- (Rupees Ten 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 Authorization shall be granted to the petitioner.

4. Aggrieved by the OIO dated 02.11.2023, the petitioner has filed this Review Petition under Section 16 of the Act. In the Review Petition, the petitioner stated that since the prescribed time limit of 45 days for filing the appeal had exceeded, they have filed this Review Petition. It is further submitted that they have fulfilled the export obligation through deemed exports within the prescribed period, but could not submit documents on time due to the non-availability of staff and the delay caused by COVID-19. The petitioner further submitted that the imposition of the penalty for a procedural lapse of non-submission of documents is not justifiable. Further, they have submitted the documents evidencing fulfilment of EO. The petitioner has prayed to waive the penalty and issue the Export Obligation Discharge Certificate (EODC).

5. As per Section 16 of the Act, the Reviewing Authority granted the petitioner opportunities for PH on 23.09.2025 and 17.04.2026. During the PH held on 23.09.2025, the Reviewing Authority directed the petitioner to submit the remaining documents, following which



RA Chennai was directed to examine the same and furnish a report. Pursuant thereto, RA Chennai submitted its latest report stating that the ARE-3 copies furnished by the petitioner were not certified by the Central Excise Authority. Accordingly, RA Chennai was advised to inform the petitioner to submit duly certified copies. However, vide email dated 26.03.2026, RA Chennai informed that the petitioner had still not submitted the certified copies as required under the relevant Foreign Trade Policy (FTP) and Handbook of Procedures (HBP).

5.1. During the PH held on 17.04.2026, the Reviewing Authority raised concerns regarding the excisability of the product, the delay in the initial submission of export obligation documents, and the continued non-submission of certified ARE-3 copies as required under the FTP and HBP. Such deficiencies constitute non-compliance with the prescribed legal and procedural framework.

5.2. Mr. Balachandar, Mr. Chidambaram, and Mr. Asokan appeared on behalf of the petitioner. The petitioner submitted that all documents had been furnished to RA Chennai; however, it was admitted that certified copies of ARE-3 had not been submitted in full, and only a few such documents were available with them. The petitioner further submitted that they became aware of the certification requirement only in 2023, and the relevant files had been misplaced around the same time. They could not retrieve the documents from the entity to whom the exports were made, as they are no longer in operation.

5.3. Dr. B. Punnam Kumar, Joint DGFT, RA Chennai, attended the personal hearing. In response to the petitioner's submissions, RA Chennai stated that, upon verification of the EO documents furnished, the product in question is excisable and the petitioner has not complied with the submission of certified copies of ARE-3.

6. I have carefully examined the facts and records of the case. The report furnished by RA Chennai confirms that, although the export obligation stands fulfilled, there is procedural non-compliance under the FTP and HBP on account of non-submission of duly certified EO documents, particularly the ARE-3 forms in the instant case of deemed exports.



6.1. The submission of certified ARE-3 forms is a mandatory procedural condition under the FTP and HBP framework, intended to ensure proper verification and authenticity of transactions, especially in cases involving excisable goods. The petitioner has been afforded multiple opportunities to cure the deficiency but has failed to do so within a reasonable time.

6.2. The petitioner has contended that the penalty imposed is solely on account of a procedural lapse. As per Para 4.24.1 of the HBP, in cases where the Authorisation holder fails to complete the export obligation or fails to submit the requisite information or documents, the Regional Authority is empowered to take action, including enforcement of the conditions of the Authorization and initiation of penal action in accordance with law. Thus, the petitioner's contention that the penalty is imposed merely for a procedural lapse is untenable. Non-submission of duly certified ARE-3 documents constitutes substantive non-compliance, as such documents are essential to establish the authenticity and legality of exports under the FTP and HBP. Accordingly, the penalty is a consequence of failure to comply with mandatory requirements and not a mere technical or procedural lapse.

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

ORDER

F. No. 18/15/2025-26/ECA-I/E- 43669 /1000
.2026

Dated: 19.05.2026

In view of the above, and in the absence of any error apparent on record or new evidence warranting interference, the Review Petition is devoid of merit and is accordingly dismissed.

(Lav Agarwal)
Director General of Foreign Trade

Copy to:



1. M/s. Brakes India Pvt. Ltd., 21, Pattulos Road, Chennai - 600002
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 Pushkala

(N. Poorna Pushkala)

Dy. Director General of Foreign Trade

न. पूर्या पुरा कला (N. POORNA PUSHKALA)
उप महादिदेशक विदेश व्यापार
Deputy Director General of Foreign Trade
उप महादिदेशक विदेश व्यापार
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वाणिज्य भवन, नई दिल्ली
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Digitally signed by
Lav Agarwal
Date: 19-05-2026
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