

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

F.No.18/35/2022-23/ECA.I/

Date of Order : 04.02.2023

Date of Dispatch: 06.02.2023

Name of the Applicant:

M/s Veepee Cotex Corporation,  
Shivaji Nagar, Banosa, Taluka-  
Daryapur, Dist. Amravati,  
Maharashtra-444803

IEC No.

5014000665

Order appealed against:

Order-in-Original No. 50/21/021/00011  
/AM15 dated 10.06.2022 passed by Addl.  
DGFT, Nagpur

Order-in-Review passed by:

Santosh Kumar Sarangi, DGFT

**Order-in-Review**

M/s Veepee Cotex Corporation, Amravati (here-in-after referred to as the 'Petitioner') filed an appeal dated 08.11.2022 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended (here-in-after referred to as 'the Act') against the Order-in-Original No. 50/21/021/00011/AM15 dated 10.06.2022 (OIO) passed by Adjudicating Authority (Addl. DGFT, Nagpur) imposing a penalty of Rs.64,22,422/- in addition to payment of customs duty plus interest on the Petitioner and its Proprietor/Partners/Directors and also ordered that no further licence shall be issued to the Petitioner or any firm in which the Proprietor/Partners/ Directors of the Petitioner is /are directly involved in the day to day activities of the firm in terms of Section 7(1) of the Act.

**Brief Facts of the Case**

2.1 The Petitioner obtained an EPCG Authorization No.5030000489 dated 21.08.2014 from the office of Additional DGFT, Nagpur as per the provisions of



*(Handwritten signature)*

Foreign Trade Policy (FTP), for import of capital goods for a duty saved value of Rs.32,11,211/- under 0% duty EPCG Scheme with an export obligation (EO) for FOB value of US\$ 3,20,586.78 to be completed within a period of 6 years from the date of issue of authorization. The Petitioner got the authorization invalidated vide invalidation order dated 21.08.2014. As per conditions of the Authorization, the Petitioner was required to submit the prescribed documents showing fulfilment of export obligation.

2.2. Export obligation period expired 20.08.2020. The Petitioner did not submit the prescribed documents evidencing fulfillment of EO. RA, Nagpur issued Show Cause Notice dated 07.04.2022 under Section 14 for action under Sections 9, 11 and 13 of the Act. The Petitioner was also granted an opportunity of personal hearing (PH) which was not availed by it.

2.3 The Adjudicating Authority (Additional DGFT, Nagpur) observed that the Petitioner and its Proprietor/Partners/Directors, as the case may be, are guilty of violating of conditions authorization thereby liable to a penalty u/s 11(2) of the Act. The Adjudicating Authority passed an OIO dated 10.06.2022 imposing a penalty of Rs.64,22,422/- in addition to payment of customs duty plus interest thereon, on the Petitioner and its Proprietor/Partners/Directors as there was no reply to the SCN nor did they appear for PH granted. The Adjudicating Authority also ordered that no further licence shall be issued to the Petitioner and or any firm in which the Proprietor/Partners/ Directors of the Petitioner is/are directly involved in the day to day activities of the firm in terms of Section 7(1) of the Act. RA, Nagpur vide their letter dated 21.09.2022 to District Collector, Amravati requested for recovery of penalty amount imposed by OIO dated 10.06.2022.

3. The Petitioner has filed an Appeal dated 08.11.2022 to the undersigned stating that :-

- (i) it did not make any import under the authorization and thus no actual duty saved availed by it,
- (ii) it could not fulfill the export obligation due to non-availability of export orders and non-feasibility of rates comparison with domestic market,
- (iii) on account of covid-19 pandemic, there were severe trade restraints enforced by the Government by India all the countries thereby making it impossible for the Appellant to fulfill its export obligation,
- (iv) as per DGFT's notifications dated 23.09.2021, the export obligation period which expired between 01.08.2020 to 31.07.2021 was automatically extended till 31.12.2021,



*(Handwritten signature)*

- (v) it could not attend personal hearing on medical condition of mother and the Adjudicating Authority passed OIO dated 10.06.2022 ex-parte.
- (vi) it applied for EO extension on 18.08.2022 which was rejected by RA, Nagpur vide their order dated 26.07.2022.
- (vii) it also applied on 18.08.2022 before PRC for EO extension which is pending.

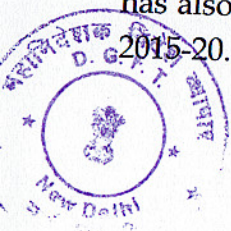
3.2 The Petitioner has prayed:

- (i) to set aside the OIO dated 10.06.2022 passed by ADG, Nagpur,
- (ii) quash the letter dated 21.09.2022 issued by ADG, Nagpur, for recovery of penalty,
- (iii) grant ex-party ad-interim stay of the operations of OIO dated 10.06.2022 and letter dated 21.09.2022,
- (iv) condone the delay in filing appeal on the ground of medical conditions.

4. The Petitioner submitted the appeal on 08.11.2022, which is beyond the statutory period of 75 days allowed under Section 15 of the Act. Thus, the appeal is not admissible and the OIO dated 10.06.2022 has been considered under the powers of Review conferred in Section 16 of the Act.

5. The Petitioner was granted personal hearing on 27.12.2022 which was attended by Shri Vijay Prakash Bharsakale, Partner of the Petitioner. He informed that EO expired on 21.08.2020 but due to Covid, 18 months extension is allowed and thus EO expired in February 2022. Further, it is entitled to two years extension of EO period and thus EO period will get extended upto February 2024 and by this time it will complete export obligation. Shri V. Sraman, ADG, Nagpur was also present during PH. He informed that the Petitioner did not make any exports and the Petitioner accepted that it did not make any export. He passed OIO dated 10.06.2022 due to non-fulfillment of export obligation and non-submission of prescribed export documents. The Petitioner made request for extension of EO on 18.08.2022 after passing of OIO dated 10.06.2022.

6. I have gone through the facts and records carefully. EO period of the Authorization No.5030000489 dated 21.08.2014 expired on 20.08.2020. DGFT's notification No. 28/2015-20 dated 23.09.2021 added a clause 5.17(f) which allowed EO extension upto 31.12.2021 in respect of EPCG authorizations where EO period expired during the period 01.08.2020 and 31.07.2021, subject to 5% additional export obligation in value terms (in free Foreign Exchange) on the balance EO on the date of expiry of EO period. Thus, EO period got extended upto 31.12.2021. The Petitioner has also sought an extension of another two years in terms of clause 5.17(b) of HBP 2015-20. However, since the Petitioner had filed application for block wise EO



extension on 18.08.2022 after the adjudication order passed on 10.06.2022 it was rejected. The Petitioner has claimed that, if granted additional time , it will be able to fulfill its export obligation..

F.No.18/35/2022-23/ECA.I/441

Date: 04.12.2023

**ORDER**

6. I therefore, in exercise of powers vested in me under Section 16 of the Act set aside the Order-in-Original No. 50/21/021/00011/AM15 dated 10.06.2022. The firm is granted two years extension w.e.f. 01.01.2022 for fulfillment of Export obligation upto 31.12.2023 subject to payment of composition fee or enhancement in export obligation in terms of clause 5.17(b) of HBP 2015-2020.



*[Handwritten signature]*  
4.1.2023

(Santosh Kumar Sarangi)  
Director General of Foreign Trade

Copy to:-

1. M/s Veepee Cotex Corporation, Shivaji Nagar, Banosa, Taluka Daryapur, Dist. Amravati, Maharashtra-444803.
2. The Addl. Director General of Foreign Trade, Nagpur.
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.
- ✓ 4. DGFT Website.

*[Handwritten signature]*

(Dilip Kumar)  
Dy. Director General of Foreign Trade