

Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi -110011

F.No. 18/90/2019-20/ECA.1/492

Date of Order: 21.02.2022

Date of Dispatch: 23.02.2022

Name of the Petitioner:

Hides International Ltd., 87-88, Shahpur,
Kalpi Road, Panki, Kanpur-208020

IEC No. :

0688002056

Order reviewed against:

Order-in-Appeal No. 05/16/140/ 00056-
67/AM14/Appeal/CLA dated 31.05.2017
passed by Addl. DGFT, CLA, New Delhi

Order-in-Review passed by:

Shri Santosh Kumar Sarangi, DGFT

Order-in-Review

Hides International Ltd., Kanpur (here-in-after referred to as 'the Petitioner') filed a Review Petition dated 12.02.2019 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. 05/16/140/00056-67/AM14/Appeal/CLA dated 31.05.2017 passed by Addl. DGFT, CLA, New Delhi dismissing the appeal against twelve Orders-in-Original (OIO). The Adjudicating Authority imposed penalty on the Petitioner for non-fulfilment of export obligation against duty free imports of items under Duty Free Import Authorization (DFIA) scheme. The details (here-in-after referred to as 'the Table') of all 12 OIOs are as follows:

SL. No.	Order-in-Original No. & Date	DFIA No. & Date	FOB & CIF values(Rs.)	Penalty (Rs.)
1	06/21/76/127/AM.08/163907 19.08.2013	0610012333 27.09.2007	36000000 30000000	45000000
2	06/21/76/132/AM.09/163901 19.08.2013	0610014799 15.12.2008	18000000 15000000	22500000
3	06/21/76/291/AM.07/163925 19.08.2013	0610011624 05.01.2007	30000000 25000000	37500000
4	06/21/76/128/AM.08/163904 19.08.2013	0610012334 27.09.2007	36000000 30000000	45000000
5	06/21/76/170/AM.08/163919 19.08.2013	0610012622 06.12.2007	36000000 30000000	45000000
6	06/21/76/140/AM.08/163913 19.08.2013	0610013559 29.10.2008	36000000 30000000	45000000



SL. No.	Order-in-Original No. & Date	DFIA No. & Date	FOB & CIF values(Rs.)	Penalty (Rs.)
7	06/21/76/118/AM.08/163895 19.08.2013	0610012288 11.09.2007	36000000 30000000	45000000
8	06/21/76/169/AM.08/163892 19.08.2013	0610012619 06.12.2007	36000000 30000000	45000000
9	06/21/76/284/AM.07/163922 19.08.2013	0610011619 05.01.2007	30240000 25200000	37800000
10	06/21/76/19/AM.08/163910 19.08.2013	0610013325 01.05.2008	36000000 30000000	45000000
11	06/21/76/141/AM.08/163898 19.08.2013	0610012450 29.10.2007	36000000 30000000	45000000
12	06/21/76/130/AM.08/163916 19.08.2013	0610012373 10.10.2007	36000000 30000000	45000000

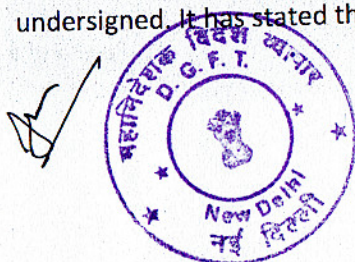
Brief facts of the Case

2.1 The Petitioner obtained 12 DFIA's (as indicated in the Table) from the office of the Joint DGFT, Kanpur, as per provisions of the Foreign Trade Policy (FTP) prevalent during that period, for import of duty free items as indicated against each DFIA in the Table to be completed within 24 months. The Petitioner was required to submit export documents within two months of expiry of export obligation period. The export obligation of the 12 DFIA's expired in 2009/2010 but the Petitioner did not submit any documents evidencing fulfilment of export obligations.

2.2 Twelve Show Cause Notices dated 16.04.2012 under Section 14 for action under Section 11(2) of the Act were issued with the advice to submit export documents evidencing fulfilment of export obligation but the Petitioner did not submit any prescribed export documents. The Adjudicating Authority passed 12 Orders-in-Original dated 19.08.2013 imposing penalties as indicated in the Table in addition to payment of Customs duty and applicable interest on the Petitioner.

2.3 The Petitioner filed Appeal on 06.03.2014 before the Appellate Authority. The Appellate Authority granted Personal Hearings (PH) and the authorized representative who attended the PH was requested to pay Customs duty plus interest which was however not complied. The Appellate Authority observed that the Petitioner admitted that it did not fulfil export obligation and it was obliged to pay Customs duty and interest. However, the Petitioner failed to do so despite repeated opportunities even during the Appellate proceedings and therefore the levy of penalty is held justified. The Appellate Authority dismissed the appeals vide Order-in-Appeal dated 31.05.2017.

3.1 The Petitioner has now submitted a Review petition dated 12.02.2019 to the undersigned. It has stated that:



- (i) it imported raw material for duty saved amount of Rs. 1,05,35,713/- against 12 DFIA's. However, it has claimed that it refunded customs duty of Rs. 1,09,17,707/- out of which payment was made against one DFIA in 2014 and against 10 DFIA's in 2018.
- (ii) it had sufficient export orders for supply of finished leather and therefore obtained DFIA's but due to sudden slow down of demand of finished leather in world market it had to wait for manufacturing the finished leather.
- (iii) due to restriction of Pollution Control Authorities, it was compelled to shut down its tannery and hence not able to fulfil the export obligation.
- (iv) due to shut down of tannery, it was in great financial crises and consequently workers and office staffs left. Therefore, it could not trace out the relevant documents and refund customs duty and submit documents to RA, Kanpur for regularizing the cases in time. However, it traced out the documents and submitted to RA, Kanpur for regularizing the 12 cases.

3.2 The Petitioner has prayed that:

- (i) the penalty imposed may be waived off due to hardship being faced by the firm,
- (ii) it be allowed to deposit interest amount of Rs. 1,55,93,324/- in instalment within one year from the date of Review order.

4.1 The Petitioner was granted personal hearing on 09.02.2022 which was attended by Sree Kumar, Consultant. He informed that the Petitioner obtained 12 DFIA's and imported raw material under these DFIA's but due to sudden slowdown in demand of finished leather in the world market coupled with the restrictions of Pollution Control authorities, the Petitioner was compelled to shut down its tannery and hence was not able to fulfil the export obligation. He claimed that the Petitioner has already deposited Customs duty and requested for one year time to deposit interest. He also requested to waive off the penalty amount. Shri Amit Kumar, JDG, Kanpur attended the hearing. He informed that the Petitioner obtained authorizations in 2007-2008 and fully utilized the duty free entitlement of imported items but did not export at all. RA, Kanpur issued SCNs in 2012 and adjudication orders were passed directing the Petitioner to deposit Customs duty and applicable interest in addition to payment of penalty. The Petitioner appealed before Addl. DGFT, CLA, New Delhi. The Appellate Authority rejected the Appeals. The Petitioner has not fully deposited Customs duty alongwith interest. It has deposited a partial penalty amount of 25 lakh rupees in one case and has requested it to adjust against Customs duty.

4.2 As per the report of RA, Kanpur vide emails dated 24.06.2021 and 29.12.2021 the Petitioner has actually deposited Customs duty of Rs. 80,35,981.00 in respect of 11 DFIA's but has not deposited the interest amount and has deposited penalty in only one DFIA of Rs. 25.00 lakh. It did not get the challans endorsed by the Customs authority. In the twelfth



DFIA no. 0610014799, the Petitioner did not make any import but the Adjudicating Authority had imposed a penalty.

5. I have gone through the facts and records carefully. The Adjudicating Authority imposed a penalty Rs.2.25 crore in respect of DFIA No. 0610014799 dated 15.12.2008 whereas, the Petitioner did not make any import against this Authorization but has paid a penalty of Rs. 25.00 lakh. In the remaining 11 DFIA's, the Petitioner has paid Customs duty of Rs. 80,35,981/- against the Customs duty due of Rs.1,05,35,710/- and also has not paid the interest amount. The Petitioner has requested to allow one year for deposit of interest and waive penalty amount and adjustment of penalty paid against the balance Customs duty.

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

Order

F.No. 18/90/2019-20/ECA.1 /495

Dated: 21.02.2022

The Review Petition dated 12.02.2019 is admitted with the directions to the Petitioner to pay the Customs duty and interest within 3 months of passing of the order and submit the proof of deposit to RA, Kanpur. The penalty imposed by the Adjudicating authority would be waived off subject to payment of above. Failure to pay the Customs duty plus interest within the stipulated period of 03 (three) months shall lead to the reimposition of the penalty.



(Signature)
21.2.

(Santosh Kumar Sarangi)
Director General of Foreign Trade

Copy To:

- (i) Hides International Ltd., 87-88, Shahpur, Kalpi Road, Panki, Kanpur-208020
- (ii) Jt. Director General of Foreign Trade, 4/286, Parwati Bagla Road, Opp: Raina Market, Nawabganj, Kanpur-208 002.
- ✓ (iii) DGFT website
- (iv) CEIB, New Delhi

(Signature)
(Dilip Kumar)

Dy. Director General of Foreign Trade