

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
Office of the Joint Director General of Foreign Trade
" KENDRIYA SADAN ", 6th Floor, C & E Wing, 17th Main Road,
Koramangala, 2nd Block, Bangalore 560 034.

File No. 07/21/040/00459/AM06 / 834

Date: 30.12.2013

Passed by: Shri J.V. Patil, Joint Director General of Foreign Trade, Bangalore 1/1/14

ORDER-IN-ORIGINAL

1.1 Any person aggrieved by this order may, under Section 11(2) read with Section 15(1) of the Foreign Trade (Development & Regulation) Act, 1992 file an appeal against the same to the appropriate appellate authority i.e. to the Additional Director General of Foreign Trade, 4th floor, Shastri Bhawan, Haddows Road, Nungambakkam, Chennai PIN 600 006, within 45 days from the date of serving of this Adjudication Order.

1.2 Any person desirous of filing an appeal against this order shall deposit the penalty amount and produce proof of payment along with appeal to the Appellate authority failing which the appeal is liable to be rejected for non-compliance of the provision of Section 15(1) of the Foreign Trade (Development & Regulation) Act, 1992.

1.3 The penalty amount is to be deposited under the Head of Account "1453 Foreign Trade & Export Promotion Minor Head 102-Other receipts, fines and penalties etc., Director General of Foreign Trade or by way of a DD payable at Bangalore drawn in favour of Jt. Director General of Foreign Trade, Bangalore within 45 days thereof.

2 Whereas **M/s. Kalki International No. 30/1, 2nd Main Brindavan Nagar Thavarkere Main Road Bangalore 560081** (holding Import-Export Code No. 0700006885) a proprietorship concern (proprietorex Shikha Gupta) obtained **Advance Licence No. 0710038878 dated 29.06.2005** for a value of Rs. 11,060,010 (US\$ 240435) from this office for duty free import of Raw Silk with a condition to fulfill export obligation and to earn free foreign exchange Rs 14709834 (USD 319779) by export of Silk fabrics/madeups/sarees as specified within the stipulated export obligation period.

3. The export obligation period expired on **29.06.2007**. The firm has neither showed any evidence of fulfillment of export obligation nor has regularized the case by payment of duty and interest on the imports made under the authorization. It is understood that duty free material is not used for the purpose for which it was allowed. The duty free import was allowed with actual user condition to be used for the purpose for which it was to be used. The Customs authorities have confirmed the fact of import under the authorization.

4. The firm were issued show cause notice under the provisions of Section 13 & 14 of Foreign Trade (Development and Regulation) Act, 1992 to show cause as to

- a. Why the Licence should not be deemed to have been fully utilized in the absence of any document produced
- b. Why the entire Export obligation should not be deemed to be unfulfilled in the absence of any document produced by the firm.

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- c. Why the said advance licence **should** not be deemed to be cancelled ab-initio in terms of rule 10(b) of Foreign Trade (Regulation) Rules 1993, in view of non-fulfillment of the conditions of the licence/authorization.
- d. Why on such cancellation, the imports effected against the licence in question should not be deemed to have been effected in contravention of the Foreign Trade (Development & Regulation) Act, 1992 and a penalty equal upto 5 times the value of the licence should not be imposed jointly/severally on the firm, proprietor under Section 11(2) of the Foreign Trade (Development and Regulation) Act 1992. Impose penalty is in addition to demand for duty along with interest.
- e. Why the firm should not be continued to be placed under denied entity list denying further issue of any benefits as per Rule 7 of Foreign Trade (Regulation) Rules, 1993.

5. In the show cause notice an opportunity of personal hearing was also given. The show cause notices sent to the firms address as well as to the residential address of the proprietorex were returned undelivered by the postal authorities. No any submission has been received from the firm in this regard. No one appeared for the personal hearing.

6 In view of the above facts, the undersigned has come to the conclusion that the firm which will include the propretorix are guilty of committing breach law and procedure relating to the licence, Foreign Trade Policy and Foreign Trade (D & R) Act, 1992 by importing under Duty Concession but not complying with the obligation to Export. The goods are not used for the purpose for which it was allowed.

7. Therefore, in exercise of powers vested in undersigned under Section 11(2) read with Section 13 of Foreign Trade (Development & Regulation) Act 1992 hereby impose a **penalty of Rs.33,00,000/- (Rupees thirty three lakhs only)** upon the firm. This is in addition to the duties to be paid by the firm on the imports made along with interest.

8. The firm is placed under Denied Entity list denying further issue of any benefits as per Rule 7(1) and (n) of Foreign Trade (Regulation) Rules 1993.

9. This order is without prejudice to any other action that may be taken against the firm under any other law as applicable.


(J.V.PATIL)
JOINT DIRECTOR GENERAL OF FOREIGN TRADE
jvpatil@nic.in

To,

1. Ms. Shikha Gupta,
Proprietorix, Kalki International, No 899, 4th Cross 16th Main, BTM 2nd stage, Bangalore-76.
2. M/s. Kalki International, No.30/1, 2nd Main, Brindavan Nagar, Thavarekere Main Rd. Bangalore-81.
3. M/s Kalki International, No. 44, 1st Floor, 4th Cross, Hosapalya, Bangalore- 560 068.
4. M/s Kalki International, Kote Street, Kasaba Nelamangala Town-562 123, Bangalore Rural district.

Copy to:

1. The Addl. DGFT 4th floor, Shastri Bhawan, Haddows Road, Nungambakkam, Chennai PIN 600 006
2. The Commissioner of Customs, Chennai Sea Port, Customs House,