

132/Am'09 1



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# GOVERNMENT OF INDIA MINISTRY OF COMMERCE

Office of the Joint Director General of Foreign Trade  
" KENDRIYA SADAN ", 6<sup>th</sup> Floor, C & E Wing, 17<sup>th</sup> Main Road,  
Koramangala 2<sup>nd</sup> Block, Bangalore 560 034.

F.No.07/21/76/132/AM09

Date 20.11.2013

Passed by : Sri J.V.Patil,  
Jt. Director General of Foreign Trade, Bangalore

## 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, Shastry Bhawan, 26, Haddows Road, Nungambakkam, Chennai, 600 006 within 45 days from the date of serving of this Adjudication Order. A copy of this order and a complete set of evidence relied upon in support of such appeal in the form of an Annexure should be enclosed therewith. A copy of Appeal filed, if any, may be simultaneously forwarded to the undersigned to enable supply of records to Appellate Authority.

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.

2.1 Whereas **M/s.Akil Exports & Import** (Import-Export Code No. **0791002829**) a proprietary concern (herein after referred to as the 'licensee firm') had obtained the **DFIA Licence No.07100590022 dated 11.8.2008** for a value of Rs.74,60,000/- (US\$ 175530) from this office for import of 6268Kgs of Mulberry raw silk (Gummed) of any grade (Other than Dupion yarn) with exemption from Customs Duty subject to the condition that the licensee would export 4510Kgs 100% Natural silk (Chiffon /Chinnon /Crepe/Georgette/Taffeta) Fabrics/madeups/sarees and earn free foreign exchange equivalent to Rs.89,74,400/- (US\$.2,11,163) within a period of 24 months from the date of issue of the licence and imported 6268.500 KGs of Mulberry silk for US\$1,62,973.

2.2 The Commissioner of Customs, Bangalore issued a Show Cause Notice No.VIII/10/106/2010 Cus.Adjn. dated 24.12.2010 to the licensee firm regarding misuse of above DFIA license by export 29,600pcs of the Silk Madeups weighing 2190.190Kgs for Rs.7697187.51, misdeclaring shipments covered by Shipping Bill No.2262853 and 2262854 both dated 24.12.2009 under DFIA No.0710059022 dated 11.8.2008 and attempted to export in violation of provisions of DFIA Scheme under Foreign Trade Policy, Customs Act, 1962 and Foreign Trade (Development & Regulation) Act, 1992. It was found by the Customs authority that the goods were cut pieces of various sizes made out of old silk sarees by cutting the sarees into particular size with edges hemmed. Thus they attempted to misuse the DFIA Authorisation/Scheme by exporting old cut pieces of silk with intention to claim undue benefits of duty exemption.

Subsequently, Commissioner of Customs, Bangalore passed an Order in Original No.VIII/10/106/2010/ cus.Adjn. dated 15.12.2011 denied the benefit of export for the goods covered under the above mentioned shipping bills and confiscated the goods and an option was given to redeem the same on payment of Redemption fine of Rs.5,00,000/-(Rupees Five Lakhs only), in the same order a penalty of Rs.2,50,000/-(Two Lakh fifty thousand only) was imposed on the firm.

The licensee firm was placed under denied entity list.

2.3 The licensee firm was issued Show Cause Notice No. 07/21/76/132/AM09/ Dtd.18.6.2013 with personal hearing on 7.7.2013 as to:

- a) Why a penalty should not be imposed on you under Section 11(2) of Foreign Trade (Development and Regulation) Act, 1992,
- b) Why you should not be placed under denied entity list denying further issue of any benefits as per Rule 7 of Foreign Trade (Regulation) Rules, 1993.

3. During personal hearing on 7.7.2013, Shri Prakash Jain, Propriior Textiles stated that the export covered Shipping billno.2262853 and 2262854 both dated 24.12.2009 and furnished copy of Letter no. C.VIII/10/106/2010.Cus.Adjn/5691/2013 dated 12.6.2013, issued by Commissioner of Customs, Bangalore showing payment of penalty and not willing to redeem goods by the firm.

4. The licensee firm employed fraudulent practice exporting goods which were not in accordance with that mentioned in the said DFIA and contravened DFIA Scheme, Foreign Trade policy, relevant provision of Foreign Trade (Development and Regulation) Act and the law relating to the Customs. In view of the facts, the licensee firm and its partners are guilty of breach of law and imported duty free goods in violation of the Foreign Trade Policy and provisions of Foreign Trade (Development & Regulation) Act and Rules.

5. a) The DFIA Licence no.0710059022 dated 11.8.2008 herewith ab-initio stands cancelled in terms of Rule 10(b),(c),&(d) of Foreign Trade (Regulation) Rules, 1993.

5. (b) In exercise of powers vested in me under Section 13 of Foreign Trade (Development & Regulation) Act, 1992 read with Notification dated 11.4.2009 from file No. 18/27/HQ/06-07/ECA-II, I hereby impose under Section 11(2) of Foreign Trade (Development and

Regulation) Act, 1992 a penalty of Rs.2,50,000/- Rupees Two Lakhs and fiftythousand only) upon M/s.Akil Exports and Import, Bangalore and upon proprietor, under reference of the firm. This is in addition to payment of duty with interest on the entire imports since this DFIA stands ab-initio cancelled as per this order in view of the attempt to misuse the Scheme. This is essential as this should be deterrent to some one who attempts to misuse scheme.

5. (c) The firm is continued to be placed under denied entity list denying further issue of any benefits as per Rule 7 (1) (a) and (n) of the Foreign Trade (Regulation) Rules, 1993 for contravention of law relating to Customs. This order is without prejudice to any other action that may be taken against the licensee firm under the Customs Act, by the Customs department to recover the duties/dues.

6. This action is without prejudice to any other actions that may be taken against the firm under the Foreign Trade (Development & Regulation) Act, 1992 and the rules and orders made there under or any other act or law in force.

  
(J.V. PATIL)

JOINT DIRECTOR GENERAL OF FOREIGN TRADE

To  
M/s.Akil Exports and Import,  
No.4/1, 3<sup>rd</sup> Cross, 5<sup>th</sup> Main,  
Shanti Sadan, Srirampuram,  
Bangalore 560 021.

Copy to:

1. The Additional Director General of Foreign Trade, Shastry Bhawan,26, Haddows Road,Nungambakkam,Chennai, 600 006 for information.
2. The Commissioner of Customs, P.B.No.5400, Central Revenue Building, Bangalore.560001, with reference to their letter no.C.No.VIII/10/106/2010-Cus.Adjn./5690/2013 dated 12.6.2013 for information.
3. The Commissioner of Customs, Chennai Sea Port, Customs House, 60 Rajaji Salai, Chennai – 600001 for information.

SL no

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