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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.

F.No.07/21/76/295/AM¹⁰

Date 27.9.2013

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, 4th floor, Shastry Bhawan, Haddows Road, Nungambakkam, Chennai PIN 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 Whereas **Shree Sai Enterprises** (Import-Export Code No. **0709013451**) a proprietorship concern (herein after referred to as the 'licensee firm') had applied for issue of **DFIA** for import of duty free import item viz. 4500Kgs of Mulberry Raw silk for a CIF value Rs.73,44,000/- (US\$153,000) and proposed to export 3237KGs of 100% Natural Silk

(Chinnon/Crepe/Georgette/ Taffeta/ Satin) Fabrics/Madeups/Sarees having net content of MRS 3237KGs for FOB value Rs.88,12,800/-(US\$1,83,600) under file no.07/21/76/00295/AM10 dated 02.12.2009.

3. A show cause notice was issued to the licensee firm by the Commissioner of Customs, Cochin regarding misdeclaration of consignment covered by invoice no.SSE/002/10 dated 07.01.2010, attached to shipping bill no.1643969 dated 11.01.2010 filed under the Duty Free Import Authorisation (DFIA) file no. 07/21/076/00295/AM10 dated 02.12.2009 in respect of description, quantity, quality, value etc. and are being attempted to export in violation of Customs Act, 1962 Foreign Trade (Development and Regulation) Act 1992 and Foreign Trade (Regulation) Rules 1993.

The firm had tried to export cut-pieces made out of used sarees of different designs/patterns and a portion of them were torn in the guise of 100%Natural Silk Chiffon /Chinnon /Crepe/georgette/ Taffeta/Satin Fabrics/Madeups sarees totally valued US\$1,02,280/- having net weight of 1698.900KGs vide Invoice no.SE/EXP/02/10 dated 07.01.2010 thereby eligible for import of duty free import of Mulberry raw silk and attempted to evade Customs duty to the tune of Rs.12,04,266/-.

4. The Commissioner of Customs, Cochin imposed on the licensee firm as penalty of Rs.15,00,000/-(Rs. Fifteen lakhs only) and Redemption fine Rs.1,00,000/-(Rupees one lakh) vide Order No.18/2010 dated 09.11.2010 for attempting to export 1258.4Kgs of old and soiled fabric valued at Rs.31,460/- in the guise of 100% Natural Silk Scarves/Curtains/Blankets(Silk Madeups) at a declared value of Rs.47,35,101/- attempted to be exported vide Shipping Billno.1643969 dated 11.01.2010.

5. As per letter dated 2.3.2010 issued by Directorate General of Foreign Trade, New Delhi, and based on the Report of Special Intelligence & Investigation Branch, Office of the Commissioner of Customs, Cochin vide letter no. SIIB/MISC/5/2010-Cus dated 21.01.2010, the firm was kept under Denied Entity List.

6. Under the provisions of Section 13 & 14 of Foreign Trade (Development and Regulation) Act, 1992 licence firm was issued a show cause notice 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 continued to be placed under denied entity list denying further issue of any benefits as per Rule 7 of Foreign Trade (Regulation) Rules, 1993.

7. No one from the licensee firm has appeared for a personal hearing on 3.9.2013. The Show Cause Notice addressed to the firm Shree Sai Enterprises was returned undelivered by Postal authorities with remarks "Refused". It is not known whether the firm had deposited a sum of Rs.15,00,000/-(Rupees fifteen lakhs) towards the penalty and Redemption fine of Rs.1,00,000/-(Rupees one lakh) imposed by Commissioner of Customs, Cochin vide their order no Order No.18/2010 dated 09.11.2010.

8. In view of the above facts, the undersigned has come to the conclusion that the firm has tried to cheat the Government of India and employed fraudulent practice for the purpose of exporting goods. The firm and its proprietor are guilty of committing breach law and procedure relating to Foreign Trade (D & R) Act, 1992 by importing under Duty Concession but not complying with the obligation of Export.

9. 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.10,00,000/- (Rupees Ten Lakhs only) upon the firm Shree Sai Enterprises, (Prop. Govind Prasad Churiwala), No. 11, 1st floor, Satvika Dreams, 2nd Main Road, Amarajyothi Layout, Sanjay Nagar, Bangalore.

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

11. 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
(J.V. PATIL)

JOINT DIRECTOR GENERAL OF FOREIGN TRADE

To
Shree Sai Enterprises
(Prop. Shri Govind Prasad Churiwala)
11, 1st floor, Satvika Dreams,
2nd Main Road, Amarajyothi Layout,
Sanjay Nagar
Bangalore.

Copy to:

1. Addl. JDGFT., Chennai.
2. The Commissioner of Customs, P.B.No.5400, Central Revenue Building, Bangalore.560001.
3. The Commissioner of Customs, Chennai Sea Port, Customs House, 60 Rajaji Salai, Chennai - 600001.
4. The Commissioner of Customs, Customs House, Cochin-682009 with reference to their letter no.SIIB/05/2010 Cus. Dated 22.11.2010 and Order no.18/2010 dated 9.11.2010.

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