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GOVERNMENT OF INDIA  
**MINISTRY OF COMMERCE & INDUSTRY**  
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/CUS/SIIB/Cochin/175AM.14

dated 25.9.2013

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

**ORDER-IN-ORIGINAL**

1.1 Any person/party aggrieved by this order may, under Section 11(2) read with Section 15(1) of the Foreign Trade (Development & Regulation) Act, 1992 may file an appeal against the same to the appropriate appellate authority i.e. to the Additional Director General of Foreign Trade, 4<sup>th</sup> 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/party 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. Subham Enterprises, No.31, Sanjeevappa Lane, Bangalore 560 002. applied for issue of DFIA for import of 6255Kgs of Mulberry Raw silk (Gummed) of any grade (other than Dupion Yarn) with export obligation to export 4500Kgs of 100% Natural Silk (Chiffon/Chinnon/ Crepe/ Georgette/Taffeta/ Satin) Fabrics/Madeups/Sarees for FOB value Rs.1,10,38,200/- (US\$2,25,270) vide file no.07/21/76/175/AM.10.

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3. Whereas, firm obtained a DFIA No.0710067425 dated 7.10.2009 for a CIF value Rs.91,94,850/-(US\$1,87,650) for import of 6255Kgs of Mulberry Raw silk (Gummed) of any grade (other than Dupion Yarn) with export obligation to export 4500Kgs of 100% Natural Silk (Chiffon/Chinnon/ Crepe/ Georgette/Taffeta/ Satin) Fabrics/Madeups/Sarees for FOB value Rs.1,10,38,200/-. (US\$2,25,270).
4. Whereas a show cause notice was issued to the firm by the Commissioner of Customs, Cochin vide letter no. SIIB/15/2010 Cus. dated 9.7.2010 under the above file number, as the firm had tried to export soiled old 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\$180950/- declaring net weight of 1384.9KGs vide Invoice no.SE/EXP/060/09-10 and Invoice no.SE/EXP/061 09-10 both dated 09.01.2010 thereby the firm would have been eligible for illegal duty free import of 1925Kgs of Mulberry raw silk. This would have lead to loss of Customs duty of Rs.981461/- as stated in the show cause notice of Customs authority.
5. The Commissioner of Customs had rejected the Invoices value of US\$1,80,950(Rs.31,76,250/-) for the 100% Natural Silk Scarves and re-determined the value at Rs.40,086/- and imposed on the firm a penalty of Rs.6,00,000/-(Rupees Six lakhs only) vide Order no.15/2010 dated 04.11.2010 for attempting to export old and soild fabric valued at Rs.40,086/- in the guise of 100% Natural Silk Sarees at a declared invoice value of Rs.31,76,250/-.
6. 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.
7. Whereas the firm had requested this office for issue of Export obligation Discharge certificate for the exports made under the DFIA issued to you. After processing ~~your~~ *the* request, covering different shipments, Export Discharge Certificate was issued on 24.8.2011. DFIA <sup>was</sup> made transferable as per para 4.36A of Hand Book of Procedures 2009-14. Authorisation revalidated under para 4.23 of Hand Book of Procedures 2009-14.
8. In view of complaint received from the Commissioner of Customs, Cochin, against the firm, a Show Cause Notice was issued under Section 13 & 14 of Foreign Trade (Development and Regulation) Act, 1992 the firm was called upon to show cause to the 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.

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9. Shri Rakesh Mishra, Proprietor of the firm had appeared for the personal hearing on 2.8.2013 and informed that the penalty imposed by the Customs authority had been deposited for regularization of the case. He has submitted a copy of Release order dated 22.11.2010 issued by Custom House, Cochin and also furnished copies of TR challans Rs.1,00,000/- and Rs.6,00,000/- paid to the Customs authority towards penalty imposed to substantiate the claim. In the hearing though he claimed it was a bonafide mistake, it is clear from the Customs order, it was an attempt for fradulant gain and he could not substantiate his claim as a bonafide.

10. 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 of attempting to export soiled old merchandise grossly overvalued and not in accordance with the item allowed under DFIA with the intention to claim undue benefits of duty free imports under the DFIA Scheme. The firm and its proprietor are guilty of committing breach law and procedure relating to Foreign Trade (D & R) Act, 1992 and Foreign Trade Policy, Procedure made there under.

11. Therefore in exercise of powers vested in undersigned under Section 11(2) read with Section 13 of Foreign Trade ( Development & Regulation) Act 1992 a penalty of Rs.5,00,000/- (Rupees Five Lakhs) upon M/S. Subham Enterprises, No.31, Sanjeevappa Lane, Bangalore 560 002.

12. I also order that the firm be 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.

13. 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

To  
M/S. Subham Enterprises, No.31, Sanjeevappa Lane, Bangalore 560 002.

Copy to

1. Addl. Director General of Foreign Trade, Chennai for information.
2. The Commissioner of Customs, PB No.5400, Central Revenue Building, Bangalore
3. The Commissioner of Customs, Chennai Sea port, Customs House, 60, Rajaji Salai, Chennai 600 001.
4. The Commissioner of Customs, Customs House, Cochin.

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