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GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE

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.07/36/021/00016/AM96 / 2783

Date 13.01.2015

Passed by: Shri V.Sraman,
Joint Director General of Foreign Trade,

28

ORDER-IN-ORIGINAL

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., the Additional Director General of Foreign Trade, 4th Floor, Shastri Bhavan Annexe, 26, Haddows Road, Nungambakkam, Chennai-600006, Phone: (044)28283404/08; Fax:(044)28283403; E-mail: chennai-dgft[at]nic[dot]in; within 45 days from the date of serving of this Adjudication Order.

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.

3. The penalty amount is to be deposited under 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 Joint Director General of Foreign Trade, Bangalore within 45 days thereof.

4. Whereas, M/s Esskay Apparels., a proprietorship firm (herein after referred to as the 'licensee') had obtained EPCG License No. 02296160 dated 04.05.1995 with Duty Saved value of Rs.3,15,555/-, from this office, for import of Capital Goods with concessional Custom Duty at the rate of 5% subject to the condition that the licensee would export items manufactured by use of imported capital goods and earn free foreign exchange equivalent to US\$ 39,760 within a period of five years from the date of issue of the license.

5. Whereas the firm had submitted an Undertaking that they shall be liable to Penal Action in accordance with the Policy/Procedure/Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders framed thereunder and the Customs Act 1962 in addition to forfeiture of Bank Guarantee or any other Bond/Guarantee given to the Custom in the event of failure to fulfill the export obligation as stipulated, within the export obligation period prescribed or subsequently extended by the competent authority.

6. Whereas the period of fulfilling the export obligation expired on 14.12.2008. As per Para 6.13 of Hand Book of Procedures, 1997-2002, the firm was required to furnish

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a consolidated statement of export made in the Proforma as given in Appendix-10C, duly certified by a Chartered Accountant and a Certificate from the Bank evidencing exports and realisation in freely convertible currency.

7. Whereas the firm failed to produce any document evidencing fulfillment of export obligation or payment of duty with interest, in case of no exports done. Hence a Show Cause Notice dated 03.07.2008 and 06.03.2013 was issued asking the firm to advise to show cause as to why:-

- (i) The firm should not be placed under denied entity list thereby denying issue of any further license;
- (ii) Why the penalty should not be imposed under Section 11(2) of FTDR Act, 1992, in addition to demand for recovery of duty foregone with interest.

In the said Show Cause Notice an opportunity for personal hearing was granted. However the Show Cause Notices issued to the firm's address at Seshadripuram, S.C.Road, Bangalore-50020 and to the Proprietor Shri K.Unnikrishnan at Seshadripuram, S.C.Road, Bangalore-50020 was returned undelivered by the postal authority with postal remark 'Left'.

8. In view of the above facts, the undersigned concluded that the Licensee firm M/s Esskay Apparels., No.209/4, Raja Show Building, S.C.Road, Seshadripuram,, Bangalore-560020., Karnataka, and its Proprietor, obtained EPCG License No. 02296160 dated 04.05.1995 from this office have neither complied with the condition of EPCG License nor regularised the matter by payment of duty with interest. There is the violation of the conditions of the EPCG Scheme, the EPCG license both covered under the Foreign Trade Policy. I have a reason to believe that the capital goods was not used for the purpose for which the exemption was allowed. Hence committed a breach of Law and Procedure relating to Foreign Trade (Development & Regulation) Act, 1992.

9. Therefore in exercise of powers vested in undersigned under Section 11(2) of Foreign Trade (D&R) Act 1992, I, hereby, impose a penalty of Rs.232992/- (Rupees Two lakh, thirty two thousand, nine hundred and ninety two only) upon M/s. Esskay Apparels., No.209/4, Raja Show Building, S.C.Road, Seshadripuram,, Bangalore-560020., Karnataka. This is in addition to recovery of duty with interest in the imports made.



(V.SRAMAN)

JOINT DIRECTOR GENERAL OF FOREIGN TRADE

To

1. M/s ESSKAY APPARELS, 209/4, RAJA SNOW BUILDING, S.C.ROAD, SESHADRIPURAM, BANGALORE-560020.
2. K.UNNIKRISHNAN, S/O K.A.K.PODUVAL, 209/4, RAJA SNOW BUILDING, S.C.ROAD, SESHADRIPURAM, BANGALORE-560020.
3. Additional Director General of Foreign Trade, 4th Floor, Shastri Bhavan Annexe, 26, Haddows Road, Nungambakkam, Chennai - 600006, Phone:(044)28283404/08; Fax:(044)28283403; E-mail: chennai-dgft[at]nic[dot]in;
4. Commissioner of customs, ICD, Bangalore