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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.07/36/021/00272/AM02

Date 13.01.2015

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

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 Avestha Gengraine Technologies Pvt. Ltd, Discover, 9th Floor, Unit-3, ITPL Whitefield Road, Bangalore 560066 (herein after referred to as the 'licensee') had obtained EPCG License No. 0730000554 dated 28.3.2002 with Duty Saved Value of Rs. 562507.75, from this office, for import of Capital Goods 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\$ 57575.00 within a period of eight 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 27.3.2010. As per Para 5.8 of Hand Book of Procedures,2002-2007, the firm was required to furnish a

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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 14.10.2013 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. The Show Cause Notices were issued to the firm's address and to the residential addresses of Directors. However there has been no response from the firm.

8. In view of the above facts, the undersigned concluded that the Licensee firm M/s Avestha Gengraine Technologies Pvt. Ltd, Discover, 9th Floor, Unit-3, ITPL Whitefield Road, Bangalore 560066 and its Directors, obtained EPCG License No. . 0730000554 dated 28.3.2002 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.643536 (Rupees Six lakhs forty three thousand five hundred and thirty six only) upon M/s Avestha Gengraine Technologies Pvt. Ltd, Discover, 9th Floor, Unit-3, ITPL Whitefield Road, Bangalore 560066 Karnataka. This is in addition to recovery of duty with interest for the imports made.


(V.SRAMAN)

JOINT DIRECTOR GENERAL OF FOREIGN TRADE

M/s Avestha Gengraine Technologies Pvt. Ltd, Discover, 9th Floor, Unit-3, ITPL Whitefield Road, Bangalore 560066 Karnataka

Copy to:

Avestha Gengraine Technologies P.ltd. Unit 1, CASA Lavelle 4, B1, Lavelle Road, Bangalore 560001

Dr. Viloo Morawala Patel Sunbeam, 106, Prenderghast Road, Secunderabad 50003

Shri Daulat Dara Morawala Apartments No. 302, Prednderghast Road, Opp Sindhi Colony Park, Secunderabad 500003.

Additional Director General of Foreign Trade, 4th Floor, Shastri Bhavan Annexe, 26, Haddows Road, Nungambakkam, Chennai - 600 006, Phone:(044)28283404/08; Fax:(044)28283403; E-mail: chennai-dgft[at]nic[dot]in;

Commissioner of customs, Bangalore.