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EK-486082875
11/5/15



e-mail : Bangalore-dgft@nic.in

Telephone : 2553 7215.
: 2553 7213.
Fax : 2553 7214.

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.07/21/021/00056/AM 07

Date 6.5.2015

Passed by: P.R.Madhusudan
Asst. 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 Pitamber Creation (India) Pvt. Ltd. 2nd Floor, N.K.S. Plaza, A.S.Char Street, Opp.Old Chickpet Post Office, Chickpet, Bangalore 560053 (herein after referred to as the 'licensee') had obtained EPCG License No. 0730004088 with Duty Saved Value of Rs.1836198.01 from this office, for import of Capital Goods with concessional Custom Duty 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\$ 327526.95 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.

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6. Whereas the period of fulfilling the export obligation expired on 11.2.2010. As per Hand Book of Procedures, , the firm was required to furnish a consolidated statement of export made in the Proforma as given in ANF-5B,duly certified by a Chartered Accountant and a Certificate from the Bank evidencing exports and realisation in freely convertible currency.

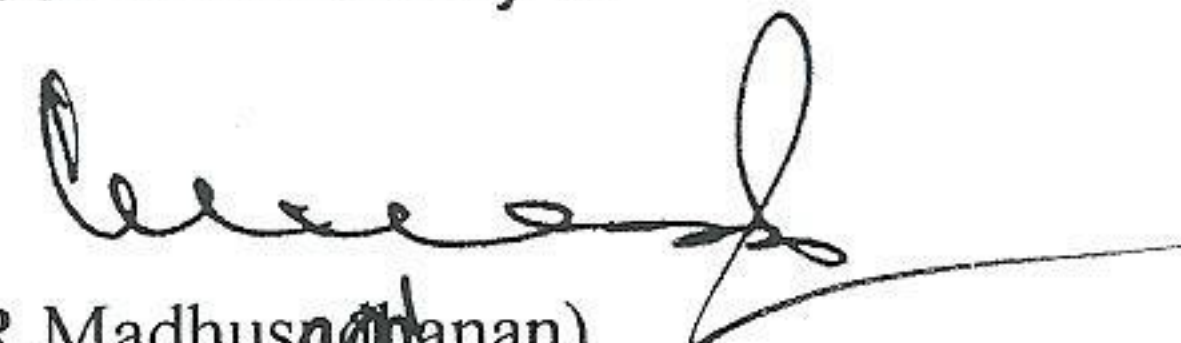
7. Whereas the firm failed to produce any document evidencing fulfillment of export obligation or payment of duty with interest, in case of no exports done. Hence a Show Cause Notice dated 4.2.2015 was issued asking the firm to advise to show cause as to why:-

- (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 was issued to the firm's address at, **M/s Pitamber Creation (India) Pvt. Ltd. 2nd Floor, N.K.S. Plaza, A.S.Char Street, Opp.Old Chickpet Post Office, Chickpet, Bangalore 560053** . However the same has been returned undelivered.

8. In view of the above facts, the undersigned concluded that the Licensee, **M/s Pitamber Creation (India) Pvt. Ltd. 2nd Floor, N.K.S. Plaza, A.S.Char Street, Opp.Old Chickpet Post Office, Chickpet, Bangalore 560053** and its Directors, obtained EPCG License No. 0730004088 dated 2.5.2006 from this office have neither complied with the condition of EPCG License nor regularised the matter by payment of duty with interest. There is 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. 1838896(Rupees Eighteen lakhs thirty eight thousand eight hundred and ninety six only) upon **M/s Pitamber Creation (India) Pvt. Ltd. 2nd Floor, N.K.S. Plaza, A.S.Char Street, Opp.Old Chickpet Post Office, Chickpet, Bangalore 560053** . This is in addition to recovery of duty with interest for the imports made.



(P.R.Madhusudan)

ASST. DIRECTOR GENERAL OF FOREIGN TRADE

To
**M/s Pitamber Creation (India) Pvt. Ltd. 2nd Floor, N.K.S. Plaza, A.S.Char Street,
Opp.Old Chickpet Post Office, Chickpet, Bangalore 560053**

Directors:

1. SRI RAJENDRA GOENKA DEENDAYAL AGARWAL NO.19,SYNDICATE BANK COLONY NEAR OLD CHECK POST KAMAKSHIPALYA BANGALORE PIN-560079
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2. ASHOK AGARWAL
DEEN DAYAL AGARWAL
NO.19,SYNDICATE BANK COLONY,
MAGADI ROAD,
NEAR OLD CHEK.POST BANGALORE
PIN-560079

3. BIMAL AGARWAL
DEEN DAYAL AGARWAL
NO.19,SYNDICATE BANK COLONY
MAGADI ROAD,NEAR OLD CHEK POST
BANGALORE
PIN-560079

4. SUSHIL AGARWAL
DEEN DAYAL AGARWAL
NO.19,SYNDICATE BANK COLONY
NEAR OLD CHEK POST,
BANGALORE
PIN-560079

5. MURUKESH AGARWAL
DEEN DAYAL AGARWAL
NO.19,SYNDICATE BANK COLONY
MAGADI ROAD,NEAR OLD CHEK POST
BANGALORE
PIN-560079

Branches:

1. Branch Code:1
30B,2ND PHASE,
PEENYA INDL.AREA,PEENYA
BANGALORE
PIN-560058

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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.