



EK 34679281N

30-6-17

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GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
OFFICE OF THE ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE  
Kendriya Sadan, 6<sup>th</sup> Floor, C & E Wing, 17<sup>th</sup> Main Road, 2<sup>nd</sup> Block  
Koramangala, Bengaluru-560034

F.NO. 07/21/21/00418/AM05

Date: 21.06.2017

ORDER IN ORIGINAL

PASSED BY ; Shri Ramesh Holeyachi.  
Deputy Director General OF Foreign Trade

**Subject: Adjudication under section 13 of the Foreign Trade (Development and Regulation) Act, 1992, due to non-compliance with the Show Cause Notice Issued under Section 14 of the said Act, dated 24.04.2017, vide File No. 07/21/21/00418/AM05, for non-fulfillment of Export Obligation w.r.t. EPCG license number 0730002094 dated 10.09.2004**

**General Instructions:**

1. Any person/party aggrieved by this Order may, under Section 15(b) of the Foreign Trade Development & Regulation Act, 1992, file an appeal against the same to the appropriate Appellate Authority, i.e. Additional Director General of Foreign Trade, Bengaluru within 45 days from the date of serving this Adjudication Order, with a copy of this order and a complete set of evidence in the form of annexure to the appeal relied upon in support of the appeal.
2. Any person/party desirous of filing an **appeal against this Order shall deposit the penalty amount along with appeal to the Appellate Authority** failing which the appeal is liable to be rejected for non-compliance of the provisions of Section 15(b) of the Foreign Trade (Development & Regulation) Act, 1992.
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, Imports and Exports Control Organization, within a period of 30 days from the date of this Order failing which their Importer Exporter Code Number may be suspended without any further intimation, till the payment of full penalty amount. The proof of such payment must be intimated in writing to the adjudicating authority in order to avoid suspension of IEC.

**BRIEF FACTS OF THE CASE:**

4. Whereas, you have been issued an Export Promotion Capital Goods Authorization no. **0730002094 dated 10.09.2004** for Duty Saved value of Rs. 583,531.00/- (Rupees five lakh eighty three thousand five hundred thirty one only) from this office for duty free imports of capital goods with a condition to fulfill export obligation and to earn free foreign exchange of FOB value Rs.29,17,655 (USD 100,392.43) within the stipulated period of time as per the conditions mentioned in the license.

Handwritten signature and date: 30-6-17



5. The export obligation period expired on 09.09.2012

(Please refer to the relevant paragraphs of the FTP & HBP as per the authorization issue date)

6. Accordingly, for the purpose of discharge of said obligation you are required to submit documents, in terms of Para 5.4 of the Foreign Trade Policy, as prescribed under the Paragraphs 5.7 and 5.8 of the Handbook of procedures, within three months from the date of expiry of the said obligation period as above, towards discharge of said obligation. But, you have failed to submit EO documents. You have not submitted any details regarding maintenance of average export obligation for the specified blocks of years, nor have your submitted documents towards fulfillment of specific export obligations till date.
7. And, Whereas, in case of failure to fulfillment of stipulated export obligation or submission of documents within the specified period, licence/ Authorization holder shall pay customs duty with 15%/18% interest as applicable on imported capital goods brought in duty free/reduced duty, to the customs Authority concerned and submit proof of the duty paid to the licensing Authority concerned. But, you did not avail the opportunity of this option to.
8. And whereas, in terms of Para 2.10 of EXIM/ Foreign Trade Policy, if a licensee/ certificate/ permission/Authorization holder violates any condition of the licence/certificate/permission or fails to fulfill the export obligation, he shall be liable for action in accordance with the Act, the rules and orders made there under, the policy and any other law for the time being in force.
9. Therefore, you were issued a Show Cause Notice dated 24.04.2017 from this office. In response to the SCN you were given an opportunity to avail a personal hearing on or before 10.05.2017..
10. No reply has been received this office till date. This office, upon careful considerations, found that your laxity and non-compliance is unacceptable. As duty is foregone under EPCG scheme, you are enjoying the benefit of the export promotion scheme and therefore you cannot disown the liability of fulfillment of export obligations under para 5.4 of Foreign Trade Policy.
11. Neither you, nor any of your representatives, have appeared in response after the initial request for extension in June, 2016. We have also not received any written communication through post in the matter.

#### **CONSIDERATIONS:**

12. In the interest of natural justice, this office has given you multiple opportunities, as outlined above, to comply with the procedures. This office issued a Show Cause notice for non-compliance on 24.04.2017 you had sufficient time to follow up and ensure that you comply with the directions from this office or regularize the matter by way of payment of customs duties with interest.
13. You have failed to establish fulfillment of your export obligation till the date.
14. After careful examination of the documents in hand, and any earlier submission, it is seen that you are well aware that there is an export obligation that you need to fulfill in lieu of the EPCG license. Despite repeated reminders from this office, non-regularization of the case on your part and lack of interest to close the matter in the interim is viewed seriously by the undersigned.



15. As there is huge Govt. revenue involved, I see no reason in prolonging the matter any further.

**ORDER**

I, hold the firm guilty of contravening the provisions of Section 11 of FTD&R Act by contravening the provisions of Foreign Trade Policy. I also hold the firm guilty of willfully ignoring the demand raised by this office to submit EO documents and hence under Section 9(4), I **order the license is to considered cancelled ab-initio, and full duty plus interest as applicable to be paid by the firm.**

In addition, under Section 13 and 14 of FTD&R Act read together, I impose a **penalty of Rs. 586,531.00 (Rupees five lakh eighty three thousand five hundred thirty one only)** which is equal to the duty saved value of the license. The maximum penalty allowed under FTD&R Act is five time the CIF value which works out to Rs. 1,57,36,317.50 /- However, the quantum of penalty is fixed lower than maximum, but high enough to maintain deterrence, keeping in mind the fact that the firm has been given sufficient time and opportunities to comply with the license conditions, and the fact that the firm has willfully chosen to ignore the matter. The penalty may be imposed on the owners/directors based on percentage of shares held when the firm was in existence.

I further order that no further license shall be issued to the firm/company or to any other firm/company in which the Directors of this firm/company are directly or indirectly involved in the day-to-day activities of that firm as per Provisions of Handbook read with Rule 7(1) of the Foreign Trade Regulation Rules, 1993.

This is issued without any prejudice to any other action that may be initiated against them under any other applicable law in force.

  
RAMESH HOLEYACHI, ITS

DEPUTY DIRECTOR GENERAL OF FOREIGN TRADE

To:

1. DEEPAKAPPARELSPVTLTD  
NO.62,6THCROSS,N.S.PALYA  
BANNERGHATTAROAD  
BANGALORE  
PIN-560076
2. K.KOTRABASAPPA  
G.KOTRAPPA  
NO.526,6TH BLOCK,III MAIN  
II PHASE BSK III STAGE  
BANGALORE  
PIN-560085
3. G.S.KUMARI  
SHANKARAPPA GOWDA  
NO.526 6TH BLOCK,III MAIN  
II PHASE BSK III STAGE  
BANGALORE  
PIN-560085



Copy To:

1. Additional Director General of Foreign Trade,  
No.26, Shastri Bhavan, Haddows Road,  
4<sup>th</sup>&5<sup>th</sup> Floor, Chennai -600006  
--With a request to NIC to upload the order on website

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2. Office of the Additional Director,  
Office of the Directorate of Revenue Intelligence,  
#503,3<sup>rd</sup> A Main, OMBR Layout, Banaswadi, Bangalore  
- for further action in the matter if necessary
3. Office of the Additional Commissioner of Customs,  
Inland Container Depot, Whitefield, Bangalore - 560 066  
- For revenue recovery directed under Para 11(5) (b) & 11(5) (c) of the FTDR Act and as if the  
said amount is payable under the Customs Act, 1962

Parthasarathy

PI upload

on Chennai  
website.  
Mam  
15/7/17.