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GOVERNMENT OF INDIA

MINISTRY OF COMMERCE & INDUSTRY

DEPARTMENT OF COMMERCE

OFFICE OF THE JOINT DIRECTOR GENERAL OF FOREIGN TRADE

KENDRIYA BHAWAN, A BLOCK, 5th FLOOR,

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File. No.10/87/073/00674/00334/00641/00335/AM 10

By Regd. Post A/D.

Dated, 12.03.2014

ORDER-IN-ORIGINAL

To

M/s. Zeus Exports Pvt.Ltd.,

IEC No. 1094007226

39/3136, Thadathil Bldg.,

Valanjambalam,

Cochin 682 016.

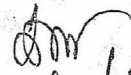
(IEC No. 1094007226)

Any person/party aggrieved by this order may, under Section 15 of the Foreign Trade (Development and Regulation) Act 1992, as amended in 2010, file an appeal against the same to the Appellate Authority, viz., Additional Director General of Foreign Trade, Udyog Bhawan, New Delhi within 45 days from the date of serving of this Adjudication Order together with a copy of this order and a complete set of evidence relied upon in support of the appeal in the form of annexure to the appeal.

Any person/party desirous of filing an appeal against the order shall deposit the penalty amount and produce proof of payment of penalty amount along with appeal to the Appellate Authority, failing which the appeal will be liable to be rejected for non-compliance of the provisions of Section 15 (1) of the Foreign Trade (Development & Regulation) Act 1992, as amended in 2010.

The penalty amount to be deposited under the Head of Account "1453-Foreign Trade and Export Promotion-Minor Head 102-other receipts, fines and penalties etc".

Evidence of payment of penalty is required to be furnished to the Adjudicating Authority within 45 days from the date of service of this Adjudication Order, failing which the Importer Exporter Code Number of the exporter is liable to be suspended under the provisions of Section 11 (7) of the Foreign Trade (Development and Regulation) Act 1992, as amended in 2010.


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Facts of the case

M/s. Zeus Exports Pvt.Ltd., 39/3136, Thadathil Bldg., Valanjambalam, Cochin 682 016 had applied for benefits under Vishesh Krishi and Gram Udyog Yojana(VKGUY) Scheme for export of items covered under Indian Tariff Classification (Harmonized System) Classification for Export and Import items ITC(HS) Code 0407,0408 and 0409 under Para 3.13 3 of Chapter 3 of Foreign Trade Policy (FTP) read with paragraph 2.20A of Hand Book of Procedures(HBP) related to "Execution of Bank Guarantee/Legal Undertaking for DEPB/Freely transferable Incentive Schemes under Chapter 3". The VKGUY Scrips were issued on the strength of LUT executed on dated 12th August of 2009 in prescribed Appendix 25D by Sri Anil Kumar K and Sri Salil Gupta Directors of the Scrip holder Company without submission of the Bank Realization Certificates along with photocopies of S/Bills, the original of which were submitted in Duty Entitlement Pass Book Scheme(DEPB) file Nos 537/AM10, 538/AM10, 910/AM10, and 943/AM10 as per Para 2.23 of Hand Book of Procedures (HBP). The details of the VKGUY Authorizations issued are as follows:-

Sl.No.	F.No.	Licence No. & Date	Amount
01.	10/87/073/00674/AM 10	1010035380/24.9.2009	Rs. 230,874/-
02.	10/87/073/00334/AM-10	1010034837/10.8.2009	Rs.802901/-
03.	10/87/073/00641/AM-10	1010035143/31.8.2009	Rs.1153741/-
04.	10/85/073/00335/AM-10	1010034482/14.7.2009	Rs.494716/-

According to the conditions laid down in the authorizations as per Para 4.45 of Hand Book of Procedures(HBP), the Licensee Scrip Holder was required to furnish Shipping Bill wise statement of export proceeds realization within 12 months from the date of exports but the Licensee has not furnished the Bank Realization Certificates till date. The details of non realization and short realisation of export proceeds are as follows.

Sl.No.	File No.	No. of S/Bills	Non/Short Realized amount
01.	10/87/073/00674/AM 10	6	Rs. 230,874/-
02.	10/87/073/00334/AM-10	13	Rs. 655,709/-
03.	10/87/073/00641/AM-10	17	Rs. 966,228/-
04.	10/85/073/00335/AM-10	4	Rs. 167,625/-

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Total : Rs.2,020,436/-
(Rupees Twenty lakh twenty thousand four hundred and thirty six only)

Thereafter a demand notice as per Enforcement cum Adjudication(ECA) guidelines dated 06.01.2012 was issued asking the Licensee scrip holder to furnish Bank Realization certificates evidencing realization of export proceeds in free foreign exchange in prescribed format of Appendix 22 A or to remit the full amount of Rs 2,020,436/- allowed under above mentioned Scrips along with 15 % interest immediately.

As there was no reply from the Licensee/Scrip holder therefore the company's name of the scrip holder was put under Denied Entities List(DEL) by order dated 09.07.2012 and a Show Cause Notice under section 14 for taking action under section 11(2), 11(3), 11(4), 11(5) of Foreign Trade(Development & Regulation) Act, 1992 and amended in 2010 dated 12.11.2013 was issued for non realization and short realisation of export proceeds as per Para 2.20A, violation of Para 4.45 of Hand Book of Procedures and clause (f) of the Legal Undertaking executed in Appendix 25D.

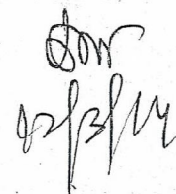
The Show Cause Notice issued to the company as well as to the directors mentioned above was not received by them, then again Show Cause Notice was sent for delivery to the Company as well as its directors. Thereafter on 28.1.2013 a person Mr. Vinod Kumar, 47/1267, Ganesh Kala Mandir Road, Vaduthala, Cochin 682 023 came with a letter who was authorized to collect the letters in connection with DGFT on behalf of the company. As requested by him 15 days time was given for submission of Bank Realisation Certificates or to remit the full amount of Rs 2,020,436/- allowed under above mentioned Scrips along with 15 % interest immediately. Till date there has been no response from the company and its directors.

Findings

From the factual position as explained above, it is clear that the Noticee-company M/s. Zeus Exports Pvt. Ltd. and its directors have failed to realize the full amount of export proceeds and thereafter also the company and its directors have not remitted the value of the unrealised VKGUY scrips/License equivalent to Rs 2,020,436/- along with applicable interest as per the conditions of the LUT executed by the directors of the company. By not remitting the value of the VKGUY scrip, the scrip holder has violated the provisions of Para 2.20A and Para 4.45 of HBP. Hence the above stated violation attracts the penal provisions of the section 11(2), 11(3), 11(4), 11(5) and 11(6) of the Foreign Trade (Development and Regulation) Act 1992 and amended in 2010.

ORDER

In exercise of powers vested in me under Section 13 of the Foreign Trade (Development and Regulation) Act 1992, as amended in 2010, I hereby impose fiscal penalty equivalent to Rs. 2,020,436/- plus applicable interest of 15% to be calculated from the date of issuance of


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VKGUY scrips till the payment of full amount (Rupees Twenty Lakh twenty thousand four hundred thirty six plus interest amount @ 15% rate) under Section 11 (2) read with Section 11 (5) of the said Act and as amended in 2010, on M/s. Zeus Exports Pvt. Ltd., 39/3136, Thadathil Building, Vallanjabalam, Cochin 682 016 and its Directors for obtaining VKGUY scrip under Para 2.20A without realization of export proceeds and for violation of Para 4.45 of Hand Book of Procedures(HBP).

This order is issued without prejudice to any other action that may be taken against the claimant under any other Law, Rules or Regulations in force.

AC

12/3/14
(RAKESH KUMAR)

DEPUTY DIRECTOR GENERAL OF FOREIGN TRADE.

Copy to:-

01.M/s. Zeus Exports Pvt.Ltd., 39/3136, Thadathil Building, Vallanjabalam, Cochin 682016 and its Directors.

02.Shri. Anil Kumar, A-5B, ChakolasHabitate, W/Island Enclave, Thevara, Cochin.

03. Sri Salil Gupta, 12A Chakolas Habitat , Thevara, Cochin, Kerala-682013

04. The Additional Director General of Foreign Trade, Chennai, ECA Division Chennai

04.The ECA Division, Directorate General of Foreign Trade, Udyog Bhawan, New Delhi.
