



**Government of India/Ministry of Commerce & Industry
Office of the Jt. Director General of Foreign Trade,
1st Floor, Kendriya Sadan, Sultan Bazar, Koti,
Hyderabad – 500 095.**

F.No.09/21/021/00069/AM'04

Dtd.15.10.2013

PASSED BY: Sri S.B.S. Reddy
Jt. Director General of Foreign Trade

ORDER-IN- ORIGINAL

1. This copy of the Order is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this Order lies with the Additional Director General of Foreign Trade, Directorate General of Foreign Trade, Udyog Bhawan, New Delhi 110 011 in terms of Section 15 of Foreign Trade (Development and Regulations) Act, 1992.

FACTS IN BRIEF

M/s.Lamco Lightning Arrester Mfg. Co. Pvt. Ltd., B-38 & 39, Industrial Estate, Sanath Nagar, Hyderabad – 500 018 have obtained an EPCG License bearing No.0930000850 dtd.27.01.2004 for import of machinery as per the list enclosed for a duty saved value of Rs.38,39,059/- with an export obligation to export the resultant product as mentioned in the condition sheet of the license worth USD 6,71,311 i.e. 8 times the duty saved value of Capital Goods on FOB Basis within a period of 8 years from the date of issue of License and the export obligation shall be fulfilled by the use of the Imported Capital Goods. It is also undertaken by the firm that the License Holder shall submit a six monthly progress report from time to time, duly certified by a Chartered Accountant to the Issuing Authority.

Whereas the above-mentioned license was obtained by you in your capacity as Manufacturer Exporter. As per the Conditions stipulated therein, and also as undertaken by you, you have not submitted any documents towards fulfillment of EO block-wise so far.

As per the Conditions stipulated therein, and also as undertaken by you, you have are supposed to fulfil the export obligation in IV Blocks and to submit the documents such as shipping bills, BRCs, installation certificate, etc. towards the fulfillment of EO Block-wise as mandated as follows:

Sl.No.	Block-wise details	% EO to be fulfilled
01.	I Block (27.01.2004 – 26.01.2006)	NIL
02.	II Block (27.01.2006 - 26.01.2008)	15%
03.	III Block (27.01.2008 – 26.01.2010)	35%
04.	IV Block (27.01.2010 – 26.01.2012)	50%

P.T.O.

The firm was put under obligation to fulfill export obligation with stipulated period and in the event of failure to do so to pay without demur or protest the sum demanded as penalty for non-fulfillment of the aforesaid export obligation.

The Noticee firm had not submitted the documents evidencing the fulfillment of EO. This office had issued a Show Cause Notice dated 02.01.2012 directing you to submit the requisite documents towards the fulfillment of EO or meet the undersigned within 15 days from the date of receipt of the show cause notice, for which you neither appeared in person nor submitted any documents towards the fulfillment of E.O.

The export obligation period in this case already expired on 26.01.2012 and you had failed to fulfill the Export Obligation within the prescribed period and as per the declaration submitted by you and since you failed to fulfill the EO and did not submit any documentary evidence for fulfilling the EO, you are liable to pay Duty foregone plus interest @15% per annum thereon till date.

FINDINGS

I have perused the licensing file leading to the issue of the subject license. Enough opportunities have been given to the NOTICEE FIRM to submit the documentary evidence towards the fulfillment EO but in vain. I have to rely on two factors: (a) whether the LICENSEE had caused any revenue loss to the Exchequer in the imports affected by them and (b) whether the LICENSEE had mis-utilised the Scheme for unjust enrichment at the cost of Government Revenue under the subject license.

In this case the export obligation period expired by 26.01.2012. As the NOTICEE FIRM had not submitted any documents, it is presumed that the NOTICEE FIRM had imported the raw materials and diverted the same for other purposes thereby violating the conditions of the license and this caused revenue loss to the Government Exchequer.

Since you had not submitted the Bill of Entries for the imports made so far, it is presumed that the duty foregone is of Rs.38,39,059/- as declared by you at the time of filing the application for grant of EPCG License, in question, was being availed by you and so as per Policy and Procedure, the NOTICEE FIRM is liable to pay duty of Rs.38,39,059/- plus interest to the tune of Rs.50,32,848/- amounting to a total of Rs.88,71,907/- to regularize the case.

ORDER

In this case, in the absence of any documents towards the fulfillment of Export obligation, I do presume that the firm had mis-utilized the license by misusing the Scheme and willfully defaulted in fulfilling the export obligation rendering themselves liable for penalty under the FT(D&R) Act, 1992 and the Rules made thereunder amended from time to time. Therefore, I, in terms of Powers vested in me under Section 11(2) read with 11(3) the FT(D&R) Act, 1992 impose a fiscal penalty of Rs.88,71,907/- to recover the duty plus interest on the firm. The evidence of payment should be produced by the NOTICEE FIRM within 30 days from the date of receipt of this Order by way of Demand Draft in favour of Jt.DGFT, Hyderabad payable at Hyderabad.

:: 3 ::

This Order is issued without prejudice to any other action that may be taken against the NOTICEE FIRM under any other Law, Rules (or) Regulations.

(S.B.S. REDDY)
Jt. Director General of Foreign Trade

TO,

01. M/s.Lamco Lightning Arrester Mfg. Co. Pvt. Ltd.,
B-38 & 39, Industrial Estate,
Sanath Nagar,
Hyderabad – 500 018
02. S.Kondala Rao, Director
19, Model Colony,
S.R. Nagar,
Hyderabad – 500 022.
03. S.Krishna Rao, Director
Flat No.25, Mayuri Apartments,
Begumpet,
Hyderabad – 500 033.