

RC 29/18  
12/6/18

GOVERNEMENT OF INDIA  
MINISTRY OF COMMERCE AND INDUSTRY  
OFFICE OF THE ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE  
No.26, IVth Floor, Shastri Bhawan (Annex), Haddows Road, Nungambakkam, Chennai-600 006.

F.No.04/21/021/00923/AM06

Dated: 4.06.2018

**ORDER-IN-GENERAL**

PASSED BY: J.MURALIDHARAN, DEPUTY.DIRECTOR GENERAL OF FOREIGN TRADE

1. Any person/party aggrieved by this order may, under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, file an appeal against the same to the appropriate authority viz. The Additional Director General of Foreign Trade, Chennai within 45 days from the date of issue of this Adjudication Order together with a copy of this order and 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 and produce proof of payment of penalty amount along with the appeal to the Appellate Authority failing which the appeal is liable to be rejected for non-compliance of the provisions of Section-15 of the Foreign Trade (Development and regulation) Act, 1992, as amended from time to time.
3. The penalty amount is to be deposited under the Head of Account "1453 – Foreign Trade and Export Promotion Minor Head 102 – Other receipts, fines and penalties etc. Imports and Exports Control Organization.
4. 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 persons/companies or other entities concerned is liable to be suspended under the provisions of Section-11(4) of the Foreign Trade (Development & Regulation) Act, 1992, as amended from time to time without making any further reference to them.

**FACTS OF THE CASE**

M/s. Elite Shoes & Leathers, 109, Poonamallee High road, Kumar Theatre Complex, Vanagaram, Chennai – 602102 had been granted an EPCG License/Authorisation No. 0430003436 dated 27.2.2006 for a total duty saved value of Rs.303393.91/-/- under 5% concessional duty EPCG Scheme to import of Capital Goods listed in the said license, with an obligation to export "leather shoe uppers & leather shoes-" manufactured out of the imported capital goods to the tune of total f.o.b.value of US\$ 54,604.07 in addition to maintaining the Annual Average export performance of NIL for each year from the period of issue of license till the period of completion of export obligation, within a period of 8 years from the date of issue of the License/Authorisation, as per conditions laid down therein.

RAL  
SNO 124  
12/6/18

M/s. Elite Shoes & Leathers, Chennai had not submitted the export documents evidencing the fulfillment of above export obligation even after expiry of the export obligation period of 8 years i.e. on 26.02.2014 and hence, a Show Cause Notice was issued on 22.11.2016 by this office with an opportunity of Personal Hearing on 20.12.2016, wherein M/s. Elite Shoes & Leathers, Chennai and its Directors were called upon to explain the reasons as to why action should not be taken for placing them under Denied entity List, refusing issuance of further licences and renewal of old licences in terms of Rule-7 of Foreign Trade (Regulation) Rules, 1993 read with Section 9 of Foreign Trade (Development and Regulation Act, 1992) for Non-fulfillment of EO against EPCG license No.0430003436 dated 27.2.2006. M/s Elite Shoes & Leathers Chennai, vide their letter dated 3.1.17 had informed that they had remitted an amount of Rs. 2,21,000/- to customs authority through City Union Bank Limited, Chennai. Hence they were advised vide this office letter of even No. Dated 27.1.17 to submit original license in duplicate, export documents if any or original customs letter, original TRC and duty working sheet evidencing payment of duty with interest to customs. The said letter had been returned undelivered by the postal authorities with the remarks "LEFT".

The undersigned had, therefore, issued a show cause notice afresh to M/s. Elite Shoes & Leathers and its directors on 24.11.2017 with an opportunity of personal hearing on 6.12.2017 to explain the reasons and facts as to why action should not be taken for placing them under DEL as well as adjudicating their case under Rule – 7 FT(Regulation) Rules 1193 and Section-11 of Foreign Trade (Development & Regulation) Act, 1992, in exercise of the powers vested with the undersigned under Section-13 of the Foreign Trade (Development & Regulation) Act, 1992. M/s Elite Shoes & Leathers Chennai, had neither replied the said Show Cause Notice nor attended the personal hearing granted to them.

#### FINDINGS

After going through all the facts carefully as explained above, it has been noted that M/s. Elite Shoes & Leathers, Chennai, had failed to submit the required export documents towards fulfillment of export obligation or to regularize the entire issue by paying the duty saved value utilized against the EPCG License/Authorization No.0430003436 dated 27.02.2006 along with interest thereon, as per Para-5.14 of Hand Book of Procedures, 2004-09. M/s. Elite Shoes & Leathers, Chennai had also violated the condition laid down under para-5.3.2 of Hand Book of Procedures, 2004-09, by not furnishing the installation certificate evidencing the installation of imported capital goods at their own manufacturing premises endorsed in the subject license/authorization.

#### ORDER

In the absence of any export documents towards fulfillment of export obligation and installation certificate, I have every reason to believe that M/s. M/s. Elite shoes & Leathers, Chennai had misutilised the EPCG Scheme and willfully defaulted in fulfilling the export obligation, rendering themselves for action/penalty under Foreign Trade (Development & Regulation) Act, 1992 and Foreign Trade (Regulation) Rules, 1993.

I, therefore, in exercise of the powers vested in me under Section-13 of Foreign Trade (Development & Regulation) Act, 1992, as amended from time to time, hereby impose a fiscal penalty of Rs. 50,000/- in addition to the customs duty (duty saved value utilized) and interest under Section-11(2) and 11(3) of Foreign Trade (Development & Regulation) Act, 1992 as amended from time to time.

I, further, order that no further licence/authorization/export incentives shall be granted to M/s. Elite Shoes & Leathers, Chennai and its Directors or to any other firms in which the Directors are directly involved in the capacity of Proprietor/Partner/Director under Rule-7 of Foreign Trade (Regulation) Rules, 1993 as amended from time to time.

This order is issued without prejudice to any other action that may be taken under any other Act, Rules or Regulations etc. in force.

  
(J.MURALIDHARAN)

DEPUTY. DIRECTOR GENERAL OF FOREIGN TRADE

To

M/s. Elite Shoes & Leathers,  
109 Poonamallee, High Road  
Kumar Theatre Complex, Vanagaram,  
Chennai/Tamil Nadu  
Pin - 602102

Copy to:

MR.N.RAJESH KRISHNAN  
NAVANEETHA KRISHNAN  
4/23,PACHIAPPER SALAI  
MOGAPPAIR EAST  
CHENNAI/TAMILNADU  
PIN-600050  
Phone/Email:26565270

MRS.CHANDRA KRISHNAN  
SHANTHNA KRISHNAN  
4/23,PACHIAPPER SALAI  
MOGAPPAIR EAST  
CHENNAI/TAMILNADU  
PIN-600050  
Phone/Email:26565270