

GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE AND INDUSTRY  
OFFICE OF THE ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE  
SHASTRI BHAWAN, HADDOWS ROAD, CHENNAI-600 006

F.No.04/21/021/00246/AM08

DATED: 20.06.2019.

**ORDER-IN-ORIGINAL**

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

- 1 Any person/party aggrieved by this Order may, under Section-14 of the Foreign Trade (Development & Regulation) Act, 1992 readwith Foreign Trade (Development & Regulation) Amendment Act, 2010 (Notification dated 20.8.2010) and as amended from time to time, 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 evidences in the form of annexure/attachment to the appeal relied upon in support of the appeal, alongwith the proof of penalty amount imposed under this Act.
- 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 alongwith 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 & Regulation) Act, 1992 readwith Foreign Trade (Development & Regulation) Amendment Act, 2010 and 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 Trade Control Organisation" or through "eMPS (Electronic Miscellaneous Payment System)" as the case may be.
- 4 If the penalty imposed under this Act is not paid, the same will be recovered as an arrear of land revenue and the Importer-Exporter Code Number of the person/firm/company or other entities concerned is liable to be suspended under the provisions of Section-11(4) of the Foreign Trade (Development & Regulation) Act, 1992, readwith Foreign Trade (Development & Regulation) Amendment Act,2010 and as amended from time to time.

**FACTS OF THE CASE**

M/s. Forward Shoes (India) Private Limited (IEC No.0494003669), No.37 (Old No.50), Raja Muthiah Road, Periamet, Chennai-600 003 had been granted an EPCG Licence/Authorisation No.0430005078 dated 19.06.2007 for a total duty saved value of Rs.74,903/- under 5% concessional duty EPCG Scheme for import of capital goods listed with the said licence/authorisation, with an obligation to export "Leather Footwear" manufactured out of the imported capital goods to the tune of total f.o.b. value of US \$ 14,650.95 i.e. 8 times of the Duty Saved Value equivalent to free foreign currency over and above the annual average of the past export performance fixed for Rs.508,855,000/- within a period of 8 years from the date of its issue, subject to the condition that 50% export obligation should be met in the first block within six years from the date of issue of

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licence/authorisation and balance 50% export obligation in the next two years For the purpose of discharge of said export obligation, M/s. Forward Shoes (India) Private Limited, Chennai-600 003 were required to submit the export documents under ANF-5B, as per Para-5.13 of Hand Book of Procedures, 2004-09 as amended, within a period of three months from the date of expiry of above block periods. Despite, M/s. Forward Shoes (India) Private Limited, Chennai were required to submit a report on fulfilment of export obligation by 30<sup>th</sup> April of every year to the Licensing Authority/Regional Authority concerned, as per Para-5.6 of Hand Book of Procedures, 2004-09 as amended. M/s. Forward Shoes (India) Private Limited, Chennai were also required to submit the Installation Certificate issued by the Central Excise Authority or Chartered Engineer as the case may be, within a period of six months from the date of import to the Regional Authority/Licensing Authority concerned, as per Para-5.3.1 of Hand Book of Procedures, 2004-09 as amended.

Accordingly M/s. Forward Shoes (India) Private Limited, Chennai had submitted the export documents under ANF 5B vide their letter No.FSIPL/EPCG-00246/AM08 dated 03.07.2012, on scrutiny of which it was observed by this office that though M/s. Forward Shoes (India) Private Limited, Chennai was registered with Central Excise Authority, Pallavaram II range, they had not submitted the installation Certificate issued by concerned Excise Authority as required under Para 5.3.1 of Hand Book of Procedures 2004-09 as amended and the same was communicated to M/s. Forward Shoes (India) Private Limited, Chennai vide this office letter No.04/21/21/246/AM09 dated 29.10.2012. Since there was no response from the firm, for more than 6 years from the date of issue of this office letter dated 29.10.2012 and since the total export obligation period had already expired on 18.06.2015, a Show Cause Notice No.042102100246AM08 dated 26.03.2019 (despatched on 09.05.2019) was issued by the undersigned with an opportunity of personal hearing on 04.06.2019 to explain the reasons and facts within a period of 15 days, as to why action should not be taken for placing M/s. Forward Shoes (India) Private Limited, Chennai under Denied Entity List, refusing issuance of further licences/authorisations/renewal of old licences/authorisations and other export benefits etc. in terms of Section-9(2) of Foreign Trade (Development) Act, 1992 readwith Rule-7(k) of Foreign Trade (Regulation) Rules, 1993 and as to why penalty should not be imposed adjudicating their case under Section-11(2) of Foreign Trade (Development & Regulation) Act, 1992, in exercise of the powers vested in undersigned under Section-13 of the Foreign Trade (Development & Regulation) Act, 1992. However, M/s. Forward Shoes (India) Private Limited, Chennai had not cared to either reply to the said Show Cause Notice or attended the personal hearing granted to them on 04.06.2019, which tantamounts to gross violation of EXIM/Foreign Trade Policy/Procedures, attracting action under the provisions of Section-9(2) & 11(2) of Foreign Trade (Development & Regulation) Act, 1992 readwith Rule-7(k) of Foreign Trade (Regulation) Rules, 1993.

#### FINDINGS

M/s. Forward Shoes (India) Private Limited, Chennai had failed to submit one of the specific export documents ,i.e. installation certificate duly certified by Central Excise authorities concerned, required under Para 5.3.1 of Hand Book of Procedures 2004-09, as amended to prove that imported capital goods had been installed in their own manufacturing unit which was registered under Central Excise Authority of Pallavaram II range and that no diversification of capital goods took place.

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**ORDER**

The undersigned has gone through the above facts of the case thoroughly and carefully. In the absence of the installation certificate issued by Central Excise Authority concerned, it has been presumed that the capital goods imported were not installed in their own factory address at No.7 (old No.2), MGR Nedunchalai, Nagalkeni, Chrompet, Chennai-600 044 and that the goods exported were not manufactured out of the capital goods imported under EPCG Scheme, defeating the very purpose for which the EPCG Licence No.0430005078 dated 19.06.2007 was issued to M/s. Forward Shoes (India) Private Limited, Chennai -600 003. The undersigned has every reason to believe that M/s. Forward Shoes (India) Private Limited, Chennai had misutilised the EPCG Scheme and wilfully defaulted in fulfilling the export obligation by export of goods manufactured out of imported capital goods deserving themselves for action/penalty under Foreign Trade (Development & Regulation) Act, 1992 read with Foreign Trade (Development & Regulation) Amendment Act, 2010 (Notification dated 20.8.2010) and Foreign Trade (Regulation) Rules, 1993, as amended from time to time.

The undersigned, in exercise of the powers vested in him under Section-13 of Foreign Trade (Development & Regulation) Act, 1992 read with Foreign Trade (Development & Regulation) Amendment Act, 2010 (Notification dated 20.8.2010) as amended from time to time, hereby impose a fiscal penalty of Rs.2,000/- (Rupees Two Thousand only), in addition to the customs duty (duty saved value utilised) and interest thereon under Section 11(2) of Foreign Trade (Development & Regulation) Act, 1992 read with Foreign Trade (Development & Regulation) Amendment Act, 2010 (Notification dated 20.8.2010) as amended from time to time.

The undersigned, further, orders that no further licence/authorisation/export incentives etc. shall be granted to M/s. Forward Shoes (India) Private Limited, Chennai and its Directors or to any other firms in which the Directors are directly involved in the capacity of Proprietor/Partners/Directors under Section-9(2) of Foreign Trade (Development & Regulation) Act, 1992 read with Foreign Trade (Development & Regulation) Amendment Act, 2010 (Notification dated 20.8.2010) and Rule-7(k) 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)

DY. DIRECTOR GENERAL OF FOREIGN TRADE

To  
M/s. Forward Shoes (India) Private Limited (IEC No.0494003669),  
No.37 (Old No.50), Raja Muthiah Road,  
Periamet, Chennai-600 003

Copy to :-

1. All the branches/factories, as per IEC Data-base.
2. All the Directors, as per IEC Data-base.
3. Customs Authority at Port of Registration.