

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.04/21/021/00526/AM10

DATED: 27.06.2019.

**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. Conceria Virginia Chennai Private Limited,(IEC No.0404002935) New No.37, Old No.50, Raja Muthiah Road, Periamet, Chennai, Tamilnadu, Pin-600003 had been granted an EPCG Licence/Authorisation No.0430007806 dated 03.11.2009 for a total duty saved value of Rs.30,478/- under 0% concessional duty EPCG Scheme for import of capital goods listed with the said licence/authorisation, with an obligation to export "Finished Leather" manufactured out of the imported capital goods to the tune of total f.o.b. value of US \$ 3,762.71 i.e. 6 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. 33,998,172.66/- within a period of 6 years from the date of its

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issue, subject to the condition that 50% export obligation should be met in the first block within four years from the date of issue of licence/authorisation and balance 50% export obligation in the next two years. For the purpose of discharge of said export obligation, M/s. Conceria Virginia Chennai 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, 2009-14 as amended, within a period of three months from the date of expiry of above block periods. Despite, M/s. Conceria Virginia Chennai Private Limited, Chennai-600 003 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, 2009-14 as amended. M/s. Conceria Virginia Chennai Private Limited, Chennai-600 003 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, 2009-14 as amended.

Since M/s. Conceria Virginia Chennai Private Limited, Chennai had not submitted the export documents under ANF5B and since total export obligation period was already over by 02.11.2015, a cautionary letter No. 04/21/021/00526/AM10 dated 05.03.2019 was issued by this office. There was no reply received from M/s. Conceria Virginia Chennai Private Limited, Chennai, even after a period of 3 months from the date of issue of cautionary letter. Hence a Show cause Notice No. 042102100526AM10 dated 10.06.19 was issued by this office with an opportunity of personal hearing on 25.06.2019 to explain the reasons and facts within a period of 15 days, as to why action should not be taken for placing M/s. Conceria Virginia Chennai 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. M/s. Conceria Virginia Chennai Private Limited, Chennai vide their letter dated 25.05.2019 had informed that due to various reasons, their company was declared as N.P.A. by their bankers during 2011-12 and all their manufacturing/export activities stopped immediately adding that all the staff who were handling the licence matter left their organisation without any proper handing over of documents and they were not able to trace the full records pertaining to above licence and requested for condonation of non-fulfilment of Export obligation. As there was no such relaxation in the policy/procedures to consider the request made by M/s. Conceria Virginia Chennai Private Limited, Chennai and the fact that even that request made after a period of more than 7 years from the date of declaring them as N.P.A. has no merit which appears to be wrong statement and 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. Conceria Virginia Chennai Private Limited, Chennai-600 003 had failed to submit the export documents under ANF-5B and installation certificate as required under Para-5.13 of hand Book of Procedures, 2009-14 or regularised the issue by paying the entire duty saved value utilised alongwith interest thereon to the Customs Authority at Port of Registration and produced documentary evidence towards such payments for the non-fulfilment of above export obligation, as per Para-5.14 of Hand Book of Procedures, 2009-14 even after a period of more than three years from the date of expiry of total export obligation period. M/s. Conceria Virginia Chennai Private Limited, Chennai-600 003 had also violated the condition laid down under Para-5.3.2 of Hand Book

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of Procedures, 2009-14, by not furnishing the Installation Certificate evidencing the installation of imported capital goods at their own manufacturing premises/supporting manufacturers' premises as the case may be, as endorsed in the subject licence/authorisation within the time limit prescribed therein.

**ORDER**

The undersigned has gone through the above facts of the case thoroughly and carefully. In the absence of any export documents towards fulfilment of export obligation and installation certificate as well as in the absence of documentary proof for having paid the duty saved value utilised and interest thereon in case of non-fulfilment of export obligation intended for the above authorisation/licence, the undersigned has every reason to believe that M/s. Conceria Virginia Chennai Private Limited, Chennai-600 003 had misutilised the EPCG Scheme and wilfully defaulted in fulfilling the export obligation, deserving themselves for action/penalty under Foreign Trade (Development & Regulation) Act, 1992 readwith 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 readwith 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.10,000/- (Rupees Ten 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 readwith 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. Conceria Virginia Chennai Private Limited, Chennai-600 003 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 readwith 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. Conceria Virginia Chennai Private Limited, (IEC No.0404002935),  
New No.37, Old No.50, Raja Muthiah Road,  
Periamet, Chennai,  
Tamilnadu, Pin-600003.

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.