



**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
OFFICE OF THE ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE
4th & 5th Floor, SHASTRI BHAWAN, ANNEXE BUILDING,
26, HADDOWS ROAD, CHENNAI 600 006**

File No.I(35)/ECA/Addl.DGFT/Che/AM 14 / 534 To 535 Dated: 08.01.2014

Name of the Appellant: M/s.Benzy Print Bureau,
29/124, Chandapady P.O.,
Ponnani, Malappuram – 679 577.

Order Appealed Against: Order-in-Original
No.10/36/021/00099/AM-10/228 dated 12.06.2013
Passed by Dy.DGFT., Cochin – 682 037.

ORDER IN APPEAL

Passed by: Shri A.K. Choudhary,
Addl.Director General of Foreign Trade, Chennai

Present on behalf of
the Appellant: Shri Nitesh H. Keniya, Manager

M/s.Benzy Print Bureau, Malappuram filed an appeal against the Adjudication Order No.10/36/021/00099/AM-10/228 dated 12.06.2013 passed by the Dy.DGFT., Cochin in terms of which a fiscal penalty was imposed on the firm for violation of undertaking executed by them at the time of filing application for EPCG Authorisation and condition number 13 of EPCG Authorisation No.1030001644 dated 03.12.2009 regarding submission of Installation Certificate as per Para 5.3.1 of HBP and also for violation of provisions of Para 5.9 of HBP for non-submission of any report regarding fulfillment of Export Obligation and non-submission of reply to any of the letters and Notices issued by that office.

2. The brief facts of the case are that M/s.Bensy Print Bureau, Malappuram, obtained an EPCG Authorisation No.1030001644 dated 03.12.2009 for a duty saved value of Rs.48,65,871/- for import of Capital Goods, subject to the condition that the firm shall export the resultant product as per conditions of authorisation in question. The appellant firm had not submitted the installation certificate as per Para 5.3.1 of HBP and also violated provisions of Para 5.9 of HBP for not submitting progress report on fulfillment of export obligation. Hence the firm's name was put under DEL (Denied Entities List). In view of that, the firm submitted the installation certificate without mentioning the description of the import item as per the authorisation and date of installation. The same was returned to the firm for indicating the description of items as per authorisation and date of installation of machinery imported. This was not re-submitted by the firm in spite of having been granted sufficient time. Hence the Regional Authority, Cochin issued a Show Cause Notice dated 28.03.2012 which was not responded properly and Personal Hearing granted was also not availed, which finally led to passing of the Adjudication Order presently appealed against by the appellant.

3. Aggrieved by the above mentioned Adjudication Order dated 12.06.2013, the appellant firm filed an appeal dated 15.07.2013. In the appeal, the firm had requested for admitting the appeal without payment of penalty amount since they had stated that they are facing financial crisis. They had requested the Appellate Authority to reverse the subject Adjudication Order and grant them time to resubmit the installation certificate and informed that in the absence of any particular format for installation certificate, the date of installation of the capital goods was omitted, but the description is the same as that in EPCG authorisation, but the same was not taken into account by Regional Authority, Cochin. They also informed that whenever they received any communication from Regional Authority, Cochin, they have responded, but the subject Show Cause Notice dated 28.3.2012 was not received by them and hence the same was not responded upon. They had sought for admitting the appeal on the above grounds and also requested for Personal Hearing. Accordingly, vide letter dated 17.12.2013, a Personal Hearing was granted to the firm on 8th Jan 2014 at 11.30 AM to appear either in person or through legally appointed Attorney/Representative and in case on non-availing of the said personal hearing, the Appellate Authority shall be at liberty to dispose of the appeal ex-parte by relying on the evidence/documents already on record.

4. On 08.01.2014, the firm represented by Shri Nitesh H. Keniya, Manager appeared before the Appellate Authority for Personal Hearing vide Interview Slip No.11. He admitted that the installation certificate was not submitted within six months. It was pointed out to him that the said certificate thereafter submitted by them was defective since it did not contain the date of installation. He pleaded for time to submit the rectified installation certificate duly indicating the correct date of installation. To the query of the firm's export progress so far, he informed that

they still have another 6 years to complete the export obligation and they will complete the same within the time period.

5. I have gone through the facts of the case available on record and the written submissions made by the firm in their letter received in this office on 19.07.2013. The firm has been directed to submit the Installation Certificate duly indicating the correct installation date and exact description of the Capital Goods.

6. I, therefore, in exercise of the powers vested in me under Section 15 read with Section 13 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following order:

ORDER

File No.I(35)/ECA/Addl.DGFT/Che/AM 14

Dated: 08.01.2014

1. The Adjudication Order No.10/36/021/00099/AM-10/228 dated 12.06.2013 passed by the Dy.DGFT., Cochin is set aside and the case is remanded back to the Regional Authority, Cochin for de-novo examination, subject to submission of the Installation Certificate duly indicating the correct date of installation and the exact description of the Capital Goods as mentioned in the subject EPCG Authorisation.


(A.K. CHOUDHARY)

ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE

To

✓ M/s.Benzy Print Bureau,
29/124, Chandapady P.O.,
Ponnani, Malappuram – 679 577.

✓ Copy to: Dy.DGFT., Cochin for information.

Order in Appeal No.35/AM14-Benzy Print Bureau

Despatch
By Speed post
LAD
16/1/13