



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(70)/ECA/Addl.DGFT/Che/AM 14 | 536

Dated: 10.01.2014

Name of the Appellant: M/s.Dynaspede Integrated Systems P.Ltd.,
136-A, Sipcot Industrial Complex,
Hosur – 635 126

Order Appealed Against: Order-in-Original
No.14/21/40/580/AM08 dated 07.08.2013
Passed by Jt.DGFT., Chennai-6.

ORDER IN APPEAL

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

Present on behalf of
the Appellant: Shri Kaushik.M, Chartered Accountant

M/s. Dynaspede Integrated Systems P.Ltd., Hosur, filed an appeal against the Adjudication Order No. 14/21/40/580/AM08 dated 07.08.2013 passed by the Jt.DGFT., Chennai in terms of which a fiscal penalty was imposed on the firm for non-submission of export documents towards fulfillment of export obligation.

2. The brief facts of the case are that M/s. Dynaspede Integrated Systems P.Ltd., Hosur obtained an Advance Authorisation No.0410093135 dated 10.01.2008 for a c.i.f. value of Rs.10,87,335.22/- for import of items duty free as specified in the licence, subject to the condition that the firm shall export the resultant product for a f.o.b. value of Rs.36,14,618/- as per conditions of authorisation in question. Since the appellant firm did not submit the export documents towards fulfillment of

export obligation, the appellant was issued with a letter dated 21.11.2012 to submit documents for redemption as the initial/extended export obligation period had expired on 9.1.2010. Since there was no reply, a Show Cause Notice dated 11.06.2013 was issued to the firm with opportunity of Personal Hearing on 17.06.2013. In reply, the firm vide their letter dated 17.06.2013 had sought time of 30 days to reply to the show cause notice since their Officer/Director were out of station. But thereafter, there has been no response from the firm. The case was finally adjudicated and led to passing of the Adjudication Order dated 07.08.2013 presently appealed against by the appellant.

3. Aggrieved by the above mentioned Adjudication Order dated 07.08.2013, the appellant firm filed an appeal dated 12.09.2013. In the appeal, the firm have stated that they had planned an expansion program and wanted to import goods to use it for manufacturing and export the same and with this background of expansion plans, they applied for the subject licence and obtained the same. They have also informed that due to sudden change in technological improvements the company could not compete and bag the export order and hence they did not use the licence. The firm to substantiate the same have informed that they applied for a Utilisation/Non-Utilisation certificate with the Dy.Commissioner, Customs, ACC, BIAC, Bangalore being the port of registration as per the Advance authorisation and enclosed a copy of the letter filed with the Customs department. The firm have further stated that upon receipt of the show cause notice they traced the original licence from their old records and when their Accounts Officer took the same for photocopy, lost his bag containing all the records including the original subject authorisation. They have informed that all their efforts to trace the records proved futile and a missing report with the Local Police Station was filed on 05.09.2013 and enclosed a copy of the same. They had requested the Appellate Authority to set aside the subject Adjudication Order and grant them time to resubmit the un-utilisation certificate and also waive the penalty imposed by the subject adjudication order. Accordingly, vide letter dated 17.12.2013, a Personal Hearing was granted to the firm on 10th 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 10.01.2014, the firm represented by Shri Kaushik.M, Chartered Accountant appeared before the Appellate Authority for Personal Hearing. The **original** endorsement letter No.VIII/16/2/2013-BACC-Bonds dated 28.09.2013 of Customs Bangalore, addressed to this office and endorsed to the firm was submitted by the representative during the course of Personal Hearing. It is seen in that letter that the Office of the Additional Commissioner of Customs, Bangalore-560300, have categorically informed that the Appellant had not registered the Avance Licence No.0410093135 dated 10.1.2008 at their Customs Port [INBLR4]. It

is also seen from the records of the licensing file that the said letter dated 28.09.2013 has been received in this office on 08.10.2013 and is available on record.

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 12.09.2013 and documents submitted during the course of Personal Hearing.

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.14/21/40/580/AM08 dated 07.08.2013 passed by Jt.DGFT., Chennai-6., is set aside and the case is remanded back to the Jt.DGFT., Chennai for closure of the case, since the Advance Authorisation No.0410093135 dated 10.01.2008 has not been registered/utilised.


(A.K. CHOUDHARY)
ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE

To

✓ M/s.Dynaspede Integrated Systems P.Ltd.,
136-A, Sipcot Industrial Complex,
Hosur - 635 126

Copy to: Jt.DGFT., Chennai for information.

*order and present through
Transit Register LD
17/1/14*

*Despatch
By Speed post*

Order in Appeal No.70/AM14-Dynaspede

*LD
16/1/14*