



भारत सरकार Govt. of India

वाणिज्य एवं उद्योग मंत्रालय M/o Commerce and Industry

ऑचलिक अपर महानिदेशक विदेश व्यापार का कार्यालय

Office of the Zonal Additional Director General of Foreign Trade

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F.No.A(02)/Addl.DGFT/ECA/Che/AM 18

Dated 5 /11/2018

Name of the Appellant

M/s Perfint Healthcare Pvt.Ltd.
3rd Floor, No. 16 South West Boag
Road, T.Nagar, Chennai 600 017

Order appealed against

Order-in-Original No.
04/21/040/461/AM 14 dated 17/07/17
issued by Office of Zonal Addl.DGFT
Chennai

Order-in-Appeal passed by

Shri D.K.Sekar, Appellate Authority and
Zonal Addl. Director General of
Foreign Trade, Chennai

Order-in-Appeal

M/s Perfint Healthcare Pvt. Ltd., T.Nagar, Chennai 600017 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original 04/21/040/461/AM 14 dated 17/07/17 passed by Office of Zonal Addl.DGFT, Chennai.

2.M/s Perfint Healthcare Pvt. Ltd., T.Nagar, Chennai 600017 had obtained an Advance Authorisation No.0410152568 dated 04.12.2013 for a cif value of Rs. 4,17,46,867 from the office of Zonal Addl.DGFT, Chennai with export obligation for export of the resultant product as specified in the licence for a total FOB value of US\$ 51,00,000/- within a period of 18 months from the date of issue the authorisation. The Firm had not submitted documents evidencing fulfillment of export obligation . Therefore, Order-in-Original dated 17.07.2018 imposing penalty of Rs. 25,00,000/- was passed and the firm was also placed in Denied Entity List by the Adjudicating authority.

3 .Aggrieved by the above said Order-in-Original, the firm has preferred the present appeal on 30.08.2017. The firm has sought waiver from pre-deposit of penalty as they were facing severe financial crisis and hence unable to deposit the amount. The request of the appellant is granted and the condition of pre-deposit of penalty is waived.

4.The firm in their appeal have said that they have only partly utilized the licence for which they have fulfilled the export obligation proportionately. But they admit that submission of the documents were delayed. It is stated that on receipt of SCN on 9.6.2017, wherein Personal Hearing was given on 23.6.2017, they had appeared for the personal hearing with Dy.DGFT on that date and had been granted time till 31st July 2017 for submission of documents. However, adjudication order dated 17.07.2017 was received by them stating that due to non-appearance for personal hearing, penalty was issued, overlooking the fact that they had attended the personal hearing and had sought time. It is also stated that the firm had submitted the export obligation fulfillment documents on 21.07.2017.

5. The appellant was granted personal hearing on 28.09.2018. Shri K.V. Srinivasamurthy, authorized by the firm, attended the hearing. He requested that the Order in Original be set aside as they had already fulfilled the export obligation and submitted documents. They also stated that the Order in Original was passed even before expiry of the time allowed by DDG for submission of documents.

6. I have gone through the submissions made by the appellant in the appeal and during the personal hearing. In the Order-in-Original, it is stated that the firm did not respond to the SCN nor had attended the personal hearing, whereas the firm had availed the opportunity of personal hearing and sought time for submission of documents upto 31.07.2017. But even before the time sought for was over the adjudication order had been passed imposing a penalty. The firm had subsequently submitted documents on 21.07.2017, evidencing fulfillment of export obligation.

I, therefore, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following Order:

ORDER

F.No.A(02)/Addl.DGFT/ECA/Che/AM 18

Dated 5/11/2018

1. The Order in Original is set aside
2. The case is remanded back to the adjudicating authority for de-novo examination and appropriate orders.

Sd/-

(D.K.SEKAR)

Zonal Additional Director General of Foreign Trade

M/s Perfint Healthcare Pvt.Ltd.
3rd Floor, No. 16 South West Boag Road,
T.Nagar, Chennai 600 017

✓ Copy to: **DDG-Appeals, Chennai, for necessary action.**


(D.K.SEKAR)