



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)/Zonal Addl.DGFT/ECA/Che/AM 19

Dated 18/ 6/2018

Name of the Appellant

M/s Dikstat Transworld Limited
No.3, Deenadayalu Street,
T.Nagar,
Chennai 600 017

Order appealed against

Order-in-Original No.
04/36/021/00429/AM 03
dated 16.01.2014, passed by
Asst.DGFT , Chennai

Order-in- Appeal
passed by

Shri D.K.Sekar
Appellate Authority & Zonal Additional
Director General of Foreign Trade, Chennai

Order-in-Appeal

M/s Dikstat Transworld Ltd. Chennai 17 has filed this appeal against Order-in-Original No. 04/36/021/00429/AM 03 dated 16.01.2014, passed by Asst.DGFT Chennai.

2. M/s Dikstat Transworld Ltd. Chennai 17 had obtained an EPCG Authorisation No. 04300001015 dated 12.03.2003 for a cif value of Rs. 43,96,309.90 from the Office of Addl.DGFT, Chennai, for import of capital goods with an export obligation of export of service by broadcasting television for f.o.b. value of US \$ 4,58,905/- to be fulfilled within a period 8 years from the date of issue of authorization. The Firm had not submitted documents evidencing fulfillment of export obligation after the completion of export obligation period. Therefore, Order-in-Original dated 16.01.2014, imposing penalty of Rs. 40,27,020/- 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 31.05.2018. In the Appeal the firm has requested for waiver of pre-deposit of penalty since they had not violated the conditions of the licence nor willfully defaulted in the fulfillment of export obligation. After considering the circumstances enumerated in the appeal, the condition of pre-deposit of penalty is hereby waived.

...contd.2/-

4. The firm in its appeal has stated that the Show Cause Notice and the order in original dated 16.1.2014 were not at all received by them and that they came to know of the same only through Customs, when they were informed about the order orally. Subsequent to this upon their request the order in original was mailed to them on 15.5.2018. Hence they have requested to consider the date of receipt of order i.e. 15.5.2018, as the effective date from which last date for filing of appeal be calculated, under section 15 of the FTDR Act 1992. The firm has stated that they have not utilized the licence at all and that the question of export obligation fulfillment does not arise. In this regard, they have submitted a letter from Customs, Chennai stating that the licence had not been registered with them and is unutilized. Hence the firm has requested to remove them from DEL and set aside the Order in Original. The firm has also submitted an affidavit stating that in case any information and statement submitted by them are proved contrary in future, they will without demur or protest indemnify the Government. The firm has also requested for a Personal Hearing to represent their case.
5. Personal Hearing was granted to the firm on 14.6.2018 at 12 Noon. Shri C.Nandhakumar, Chief Accounts Officer, authorized by the firm attended the hearing. He stated that the firm had not imported any capital goods under the licence and therefore pleaded that the Order in Original be set aside. He also stated that the Order in Original was not received by the firm and that they had filed the appeal immediately on coming to know that the firm were placed under DEL with IE Code suspension. He also pleaded for waiver of pre-deposit of penalty.
6. I have carefully gone through the submissions made in the appeal and during the Personal Hearing. The firm has stated that they have not received the Show Cause Notices issued by this office which fact has also been recorded in the Order in Original issued wherein it has been stated that all the Show Cause Notices, except one have been returned undelivered. Customs Chennai, vide their letter dated 23.4.2018 have stated that the EPCG licence in question has not been utilized and have enclosed a copy of EDI printout showing the non-utilisation of the licence. As such no export obligation remains unfulfilled and prima facie there appears to be no revenue loss to the Government. Though the firm has not utilized the licence, they are supposed to surrender the same upon non-utilisation. They have neither surrendered the licence nor intimated the change of office address due to which the letters from this office were returned undelivered which is an omission on the part of the firm and therefore liable for penal action.

...contd.3/-

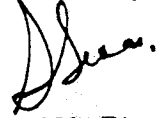
7. I therefore, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following Order:

ORDER

F.No. A(02)/Zonal Addl.DGFT/ECA/Che/AM 19

Dated 18/ 6/2018

1. The condition of pre-deposit of penalty is waived.
2. The penalty imposed is reduced to Rs. One Lakh which shall be paid within 30 days from the date of this Order.
3. The Order of DEL and suspension of IE Code is set aside.
4. The case is Remanded back to adjudicating authority for denovo examination. After examination of the documents submitted by the firm, appropriate orders may be passed.



(D.K.SEKAR)

Zonal Additional Director General of Foreign Trade

✓ M/s Dikstat Transworld Limited
No.3, Deenadayalu Street,
T.Nagar,
Chennai 600 017