



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(03)/Addl.DGFT/ECA/Chen/AM 18/Chennai

Dated 14/11/2018

Name of the Appellant

M/s Daejung Moparts P.Ltd.  
Plot No. 6, Sengundram Indl. Estate,  
Melrosapuram Post,  
Kancheepuram District 603 204

Order appealed against

Order –in-Appeal No.  
A(03)/Addl.DGFT/ECA/Chen/AM 18/Cbe.  
dated 09-11-2017, passed by  
Zonal Addl.DGFT Chennai

Order-in-Review of Appeal petition  
passed by

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

### Order-in-Review of Appeal Order

M/s Daejung Moparts, P.Ltd., Chennai, has filed this additional affidavit as per the Order of the Hon'ble High Court of Madras, in WP 28989 of 2017 of the firm, against Order-in-Appeal No. A(03)/Addl.DGFT/ECA/Chen/AM 18/Chennai, dated 09-11-2017 passed by Zonal Addl.DGFT Chennai.

2. M/s Daejung Moparts, P.Ltd., Chennai, had obtained an EPCG Authorisation No. 0430001649 dated 21.04.2004, for Rs. 1,01,13,549/- from the Office of Zonal DGFT, Chennai, for import of Capital Goods, with export obligation to export of sophisticated rubber and polymer components, O rings and gaskets for automotive FMCG & Heavy Industry applications to be fulfilled within a period of 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 05.02.2013 imposing penalty of Rs. 3,04,92,816/- was passed and the firm was also placed in Denied Entity List by the Adjudicating authority. Against this adjudication order, the firm had filed an appeal which was dismissed by the appellate authority vide Order of even number dated 09-11-2017, as the same was filed beyond the condonation period.

3. Aggrieved by the above said Order-in-Appeal, the Firm had filed a Writ Petition in Hon'ble High Court of Madras seeking to quash the Order issued by the Appellate authority.

...contd.2/-

4. The Hon'ble High Court while disposing of the petition at the admission stage, without going into the merits of the case, has stated that the petitioner can file additional affidavit explaining the reasons for delay in filing the appeal. And it is for the Appellate Authority to consider the application on merits, after satisfying itself of the reasons given therein. The Court has thus closed the case.

5. The firm has accordingly filed the additional affidavit giving the reasons for delay in filing of appeal and requested to consider the same. The firm has given the following reasons among others for the delay in filing of appeal:

- (a) That the management of the company was vested with Korean MD who was not well versed in English language and not aware of the existing issues in the company and also that the middle management employees did not have knowledge about legal issues;
- (b) that the accounts department on receipt of the Order-in-Original did not inform the higher officials
- (c) that only on receipt of intimation from the revenue authorities, did the accounts department inform the higher ups who were not well versed in English language, and action taken;
- (d) that consequent to the action taken to search files, it was seen that the original licence and other records had been misplaced;
- (e) that, due to loss of original documents, there was delay in responding to Order-in-Original.

6. As per FTDR Act, the appeal has to be filed within 45 days from the date of receipt of the order, and the appellate authority has got powers to condone the delay by a further period of 30 days, if it is satisfied that the appellant was prevented from filing the appeal within the time limited due to sufficient cause. Other than the above provision, there is no other rule which gives powers to the appellate authority to condone the delay in filing of appeal beyond the period given for condonation.

7. I have fully gone through and analysed the points given in the additional affidavit. I find that none of the reasons given therein for delay in filing of appeal against the Order-in-Original merit consideration.

8. 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(03)/Addl.DGFT/ECA/Chen/AM 18/Chennai**

**Date of Order: 14/11/2018**

The prayer to reconsider the order in appeal based on the additional affidavit filed, is dismissed, since there is no provision in the FTDR Act to consider the same.

  
**(D.K.SEKAR)**

**Appellate Authority &  
Zonal Additional Director General of Foreign Trade**

✓  
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