



भारत सरकार Govt. of India

वाणिज्य एवं उद्योग मंत्रालय M/o Commerce and Industry

आँचलिक अपर महानिदेशक विदेश व्यापार का कार्यालय

Office of the Zonal Additional Director General of Foreign Trade

26 Haddows Road, शास्त्री भवन अनेक्स, Shastri Bhavan Annexe

Phone:044-28283404/08 * चेन्नै/CHENNAI - 600 006 * Fax: :044-28283403

ईमेल/Email:chennai-dgft@nic.in

F.No. A(12)/Addl.DGFT/ECA/Che/AM 19/Cbe.

Dated 17/12/2018

Name of the Appellant

M/s Sri Ram Tex
23/11, Vaiyampalayam,
Coimbatore 641110

Order appealed against

Order –in-Original No.
32/36/021/00159/AM 06 dated
13.02.2018
(File No.32/36/021/00163/AM 06)
issued by Office of Jt.DGFT
Coimbatore

Order-in-Appeal
Passed by

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

Order-in-Appeal

M/s Sri Ram Tex Coimbatore has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 32/36/021/00159/AM06 dated 13.02.2018 passed by Office of Jt.DGFT Coimbatore.

2. M/s Sri Ram Tex Coimbatore had obtained an EPCG Authorisation No. 3230005162 dated 01.09.2005 for a duty saved value of Rs. 16,63,473 from the Office of Jt.DGFT, Coimbatore, for a FOB value of US\$ 3,03,139/- 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 no. 32/36/021/00159 /AM06 dated 13.02.2018 imposing penalty of Rs. 33,26,946/- 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 14.05.2018. The appellant pleaded that since they have already regularised the case by payment of custom duty with interest, it has been requested to waive the condition of pre-deposit of penalty amount. The plea of the appellant is allowed.

4. In the appeal they have stated that because of fall in international market price and technology upgradation in the industry they could not make export which resulted in difficulties in fulfilling export obligation and consequent default. It is also stated that the staff in charge of the exports, who later left the company, had misguided them by stating that since the bank guarantee amount had been invoked, there was no further liability against the licence to be completed which had led them to believe that the licence had been closed. After receipt of the Order in Original they had paid the balance duty with interest to Customs and hence have requested to set aside the order of penalty and remove from DEL.

5. The appellant was granted Personal Hearing on 30.11.2018, Shri M.Palanisamy, Accounts officer, authorized by the firm, attended the Personal Hearing. During the hearing it was stated that they knew about their liability only on receipt of Order in Original and immediately thereafter they paid the balance duty and interest. He requested that the Order imposing penalty should be set aside and also requested for waiver of pre-deposit of penalty.

6. I have carefully gone through the appeal and the submissions made before me during the Personal Hearing. The appellant has stated that they had received the Order dated 13.02.2018 only on 28.02.2018. The appellant had filed the appeal on 14.05.2018, which is within the permissible time for condoning the delay in filing of appeal. It is also seen from the appeal that the appellant became aware of the fact that there was balance liability to be settled only on receipt of the order in original, after which they have paid the amount and obtained letter from the Customs, Tuticorin confirming the total payment. Hence there appears to be no intent on the part of the appellant to defraud the exchequer. Though the firm's failure merits imposition of penalty under the FTDR Act, the intent of the firm in honouring its obligations and their plea on the basis of their current business situation deserves to be considered to determine the quantum of penalty.

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(12)/Addl.DGFT/ECA/Che/AM 19/Cbe.

Dated 17/12/2018

1. The Order that no further authorization shall be issued to the firm or any other firm in which the Proprietor/Partners/Directors of the firm are directly involved, is set aside.
2. The penalty imposed by the adjudicating authority is reduced to Rs.10,000/- being the minimum penalty prescribed under the FTDR Act., which shall be paid within 30 days of the date of Order.
3. The case is Remanded back to the Office of Jt.DGFT, Coimbatore for denovo examination. RA, Coimbatore may examine the documents submitted by the firm and pass appropriate orders.


(D.K.SEKAR)

Zonal Additional Director General of Foreign Trade

M/s Sri Ram Tex
23/11, Vaiyampalayam,
Coimbatore 641110