



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

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(14)/Addl.DGFT/ECA/Chen/AM 18/Coimbatore

Dated 24/ 09/ 2018

Name of the Appellant

M/s Pallavan Clothing Company
53, Gobi Road,
Kunnathur 638 103

Order appealed against

Order –in-Original No.
32/21/039/0009/AM 09 dated 03.09.2015
Issued by Office of Jt.DGFT Coimbatore

Order-in-Appeal
Passed by

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

Order-in-Appeal

M/s Pallavan Clothing Company, 53, Gobi Road, Kunnathur 638 103 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 32/21/039/0009/AM 09 dated 03.09.2015 passed by Jt.DGFT Coimbatore.

2. M/s Pallavan Clothing Company, 53, Gobi Road, Kunnathur 638 103 had obtained an Advance Authorisation No. 3210040032 dated 20.03.2009, for CIF value of Rs.1,50,00,000/- from the Office of JDGFT, Coimbatore, with export obligation to export for a FOB value of US\$ 3,34,008/- within a period of 24 months 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 32/21/039/0009/AM 09 dated 03.09.2015 imposing penalty of Rs.1,50,00,000/- 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 15.12.2017. The firm in their appeal have stated that from the year 2011 onwards, they have been facing several problems including staff problems and that they have closed the factory and vacated the premises. Hence while shifting the documents they stated they have misplaced the documents pertaining to this licence and hence could not submit the export obligation fulfillment documents in time, even though they had fulfilled the export obligation within the prescribed period. They state that subsequently, they were able to trace the same with the help of their old staff which they have submitted recently.

5. The firm was given opportunity of Personal Hearing on 1.6.2018. Shri K.P.Sivakumar, Proprietor along with the firm's Manager, attended the Hearing. During the hearing, it was stated that they had closed down their factory and vacated the premises in 2011 and they did not receive the Show Cause Notice nor Order in Original. In November 2017 only they came to know about the Order in Original and they filed an appeal in December 2017. They also stated that the Company was not in a position to pay the pre-deposit of penalty and that they have already fulfilled the export obligation. The appellant was asked to provide proof of non-receipt of Order in Original and only after that the case can be considered for examination in appeal. Accordingly, the appellant has submitted Bank Account closure certificate and sales tax certificate surrender as proof of documents towards closure of the firm during April 2015.

6. I have carefully gone through the appeal submitted by the firm and arguments put forth during the Personal Hearing. From the documents submitted by the firm, it is seen that the firm has been closed down even before the issue of Order in Original. The appellant had come to know of the same only when they went to submit the export obligation documents. Subsequently they have obtained a copy of the Adjudication order and DEL order from the adjudicating authority in November 2017. Immediately in December 2017 the firm has submitted the appeal against the adjudication order. The firm's contention that they have not received the Order in Original owing to closure of their premises needs to be accepted since RA Coimbatore has not been able to submit the delivery date of the adjudication order on the firm. Hence the date of obtaining the Order in Original from RA Coimbatore, i.e. 17.11.2017 has to be taken as effective date of receipt of Order, for considering the appeal. The firm has filed the appeal on 15.12.2017 which is within the prescribed time limit for filing of appeal. From the copy of documents submitted, it appears that the firm has fulfilled the export obligation within the export obligation period. However it remains that they have not submitted the necessary documents evidencing fulfillment, within the prescribed period.

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

Dated 24/09/2018

F.No. A(14)/Addl.DGFT/ECA/Chen/AM 18/Cbr.

1. The condition of pre-deposit of penalty is waived.
2. The Order of the adjudicating authority is set aside. The penalty imposed is reduced to Rs. One lakh, which shall be paid within 30 days from the date of this 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. After examination of the documents, appropriate orders shall be passed by RA Coimbatore.


(D.K. SEKAR)

Zonal Additional Director General of Foreign Trade

To

✓ M/s Pallavan Clothing Company
No. 53, Gobi Road,
Kunnathur 638103