



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(16)/Addl.DGFT/ECA/Che/AM 19-Cbe

Dated 11/10/2018

Name of the Appellant

M/s Hotel Aravind
No.34/F, Kamakodi Street,
Fairlands, Salem 636016

Order appealed against

Order –in-Original No.
32/21/021/01447/AM 09
Dated 20/03/2018 issued by
Office of Jt.DGFT, Coimbatore

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 Hotel Aravind, Salem 636016 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 32/21/021/01447/AM 09 dated 20/03/2018, passed by Office of Jt.DGFT, Coimbatore.

2. M/s Hotel Aravind Salem, 636016 had obtained an EPCG authorisation No. 3230013145 dated 06.03.2009 for Rs. 10,42,748/- from the Office of JDGFT, Coimbatore, with export obligation for export of tourism related services for a FOB value of US\$ 1,65,844/- within a period of 8 years from the date of issue of authorization. The Firm had not submitted documents evidencing fulfillment of export obligation . Therefore, Order-in-Original dated 20.03.2018 imposing penalty of Rs. 20,85,496/- 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 21.05.2018. The firm has requested to waive the condition of pre-deposit of penalty since they have fulfilled the export obligation before issue of adjudication order. The condition of pre-deposit of penalty is hence waived.

4. The firm in their appeal have said that the last date for fulfillment of export obligation was 31.3.2017. The office of Jt.DGFT had issued SCN dated 9.8.2017 which was received on 1.9.2017 for which was replied on 7.9.2017, seeking more time for submission of documents. Subsequently, it is stated that due to delay in getting utilization certificate from Customs, the firm had submitted redemption documents on 12.4.2018.

4(i) It is stated in the appeal that the impugned order dated 20.3.2018 was dispatched on 18.4.2018 and received by the appellant on 19.4.2018. It is pointed out in the appeal that the Order in Original was received by them after submission of redemption documents. Hence appellant has sought to set aside the Order.

5. The appellant was granted Personal Hearing on 28.9.2018. Shri M.S.Krishnakumar, Advocate, authorized by the firm, attended the Hearing. During the Hearing, the firm's representative stated that they had filed the redemption documents before dispatch of the Order in Original by the Regional Authority. They stated that they have fulfilled the export obligation and therefore the Order imposing penalty should be set aside.

6. I have gone through the submissions made by the appellant in the appeal and during the personal hearing. It is evident therefrom that, the appellant has submitted the documents well before the receipt of the Order in Original. Even though the Order is dated 20.3.2018, it has been received by the appellant only on 19.4.2018, as can be seen from the seal of the postal department on the cover, a copy of which has been submitted. From the documents submitted by the firm it appears prima facie that the firm has fulfilled the export obligation, though there has been delay in submission of documents. But there appears to be no intention on the part of the firm to defraud the Government.

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(16)/Addl.DGFT/ECA/Che/AM 19-Cbe

Dated 11/10/2018

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.


(D.K.SEKAR)

Zonal Additional Director General of Foreign Trade

✓ M/s Hotel Aravind
No.34/F, Kamakodi Street,
Fairlands,
Salem 636016