



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

Dated 14/12/2018

Name of the Appellant

M/s G.Plast P.Ltd.
Gopal Bagh
1065 Avinashi Road,
Coimbatore 641018

Order appealed against

Order –in-Original No.
32/21/040/00218/AM 08 dated
23.04.2018 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 G Plast P.Ltd., Coimbatore 641018 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 32/21/040/00218/AM 08 dated 23.04.2018, passed by Office of Jt.DGFT Coimbatore.

2. M/s G Plast P.Ltd., Coimbatore 641018 had obtained an Advance Authorisation No. 3210037172 dated 07.02.2008 for CIF value of Rs. 99855/- from the Office of Jt.DGFT, Coimbatore, with export obligation to export in assly highflow Ing for a FOB value of US\$ 1,26,000/- 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 no. 32/21/040/00218/AM 08 dated 23.04.2018 imposing penalty of Rs. 10,000/- 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 11.06.2018. 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 due to continuous resignation of staff in their documentation department, they could not submit the export obligation fulfillment documents in time, and that only after receipt of the Order-in-Original did they come to know of the same. It is further stated on receipt of the Order, they had traced the old documents and regularized the excess imports by payment of Customs duty with interest and also submitted copy of TR Challan and letter from Customs evidencing payment of the same. They also have stated in the appeal that in view of the business situation prevalent the company is unable to meet the expenditures of day to day affairs and hence has requested to set aside the order of penalty and for removal from DEL.

5. The appellant was granted Personal Hearing on 30.11.2018, Shri D.Balakrishnan, Finance Manager, attended the Personal Hearing. During the hearing it was stated that they had regularized the case by payment of duty and interest and requested to set aside the order.

6.I have carefully gone through the appeal and the submissions made before me during the Personal Hearing. It is seen from the appeal that the appellant became aware of the order in original when they went to submit their redemption documents and that immediately thereafter they had filed the appeal. It also appears that the firm had regularized the excess imports voluntarily and had submitted proof of the same to RA Coimbatore and hence there appears to be no intent on the part of the appellant to defraud the government.

7.The firm on receipt of the order in original had voluntarily opted for payment of Customs duty and interest in May 2018, as reported by the Asst.Commissioner of Customs (EODC) Chennai. The firm has requested that their failure to submit the EODC documents on time may be condoned considering the difficult business conditions.

8.While there is no doubt that the firm had failed to fulfill export obligation as per the terms of the licence and they had also failed to regularize the case within the stipulated time, the fact that they had deposited the duty and interest voluntarily on receipt of the order-in-original indicates that the firm had the bonafide intents to fulfill its commitments/obligations. 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(20)/Addl.DGFT/ECA/Che/AM 19/Cbe.

Dated 14/12/2018

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 of Rs. 10000/- imposed by the adjudicating authority being the minimum penalty prescribed under the FTDR Act, the quantum of penalty imposed is confirmed.The penalty amount 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 Addl. Director General of Foreign Trade &
Appellate Authority**

M/s G.Plant P.Ltd.
Gopal Bagh
1065 Avinashi Road,
Coimbatore