



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

Dated 18/12/2018

Name of the Appellant

M/s Shamrock  
SF 335/341, New Colony,  
15, Velampalayam,  
Anuppaerpalatam Post,  
Tirupur 641652

Order appealed against

Order –in-Original No.  
32/36/021/00228/AM 06  
dated 09.05.2018  
issued by 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 Shamrock, Tirupur 641652 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 32/36/021/00228/AM 06 dated 09.05.2018, passed by Jt.DGFT, Coimbatore.

2. M/s Shamrock, Tirupur 641652 had obtained an EPCG authorisation No. 3230005328 dated 28.09.2005 for Rs. 4,84,019/- from the Office of JDGFT, Coimbatore, with export obligation to export Cotton Hoisery Garments for a FOB value of US\$ 88,204/- 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 09.05.2018 imposing penalty of Rs. 9,68,038/- 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 24.07.2018. The appellant has requested to waive the condition of pre-deposit of penalty amount in view of the closure of the firm and since they have no business activities since 2010. The condition of pre-deposit of penalty is waived.

4. The firm in their appeal have said that they have submitted the documents towards export obligation fulfillment. The firm has stated that the required export obligation fulfillment documents were submitted on 26.2.2014. It is further stated that the machineries imported were installed in their factory and manufactured products were exported and there was no diversion of imported capital goods. The firm states that due to general decline in exports due to global changes, lack of export orders from their major buyer from Italy and also due to poor efficiency of their workforce, they could not complete their export obligation in full. Also because of the above reasons they were not able to sustain their business and ultimately closed down during 2010-11. Hence the appellant has sought to set aside the order of penalty.

5.The appellant was granted Personal Hearing on 29.10.2018. Shri Bhaskar T.Menon Partner of the firm attended. He stated that they had submitted redemption documents in 2014 and as their firm was closed, they had not received the deficiency letter sent by the office, due to which they could not reply. The appellant vide their letter dated 30.11.2018 has submitted copy of challan towards payment of Customs duty with interest.

6.I have gone through the submissions made by the appellant in the appeal and during the personal hearing. From the above it appears that the firm had closed down the business in 2010-11. The export obligation fulfillment documents seem to have been submitted before the issue of order in original. Since they had closed down the business they may not have received the deficiency letter and other communications. The firm has regularized the shortfall by payment of customs duty with interest Hence it is evident that the firm did not have any intention of defrauding 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(30)/Addl.DGFT/ECA/Che/AM 19/Cbe

Dated 18/12/2018

1. The Penalty amount payable is reduced to Rs.10,000/- being the minimum penalty prescribed under the FT(D&R) Act, 1992. The penalty shall be payable within 30 days from the date of delivery of this Order.
2. The case is remanded back to the adjudicating authority for de-novo examination. After examining the documents submitted by the firm and also after necessary verification from Customs of the correctness of duty paid, appropriate orders may be passed.

Sd/-

**(D.K.SEKAR)**

**Zonal Additional Director General of Foreign Trade**

M/s Shamrock  
SF 335/341, New Colony,  
15, Velampalayam,  
Anuppaerpalatam Post,  
Tirupur 641652

Copy to: **Jt.DGFT, Coimbatore, for necessary action.**

  
**(D.K.SEKAR)**