



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(34)/Addl.DGFT/ECA/Chen/AM 18/Mdu

Dated 21/12/2018

Name of the Appellant	M/s Sree Kaderi Ambal Mills Ltd. Super B-3 Industrial Estate, Madurai 625007
Order appealed against	Order-in-Original No. 35/21/021/00372/AM06 dated 26.10.2017 issued by Jt.DGFT, Madurai
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 Sree Kaderi Ambal Mills Ltd., Super B-3 Industrial Estate, Madurai 625007 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 35/21/021/00372/AM 06 dated 26.10.2017 passed by office of Jt.DGFT, Madurai.

2. M/s Sree Kaderi Ambal Mills Ltd., had obtained an EPCG authorisation No. 3530001662 dated 31.03.2006 for a duty saved value of Rs. 5,97,696/- for import of capital goods from the Office of JDGFT, Madurai, with export obligation to export Cotton and Polyester for a FOB value of US\$ 1,07,089.98 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 26.10.2017 imposing penalty of Rs. 11,95,392/- 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 23.11.2017. The firm has requested to waive the condition of pre-deposit of penalty due to financial hardship. The condition of pre-deposit of penalty is hence waived.

4. The firm in their appeal and through additional submissions has stated that though the authorization was initially issued for direct imports, it was subsequently invalidated for procurement of capital goods indigenously and that they have only partially utilized the licence. It is also stated that the capital goods procured have been installed at their factory as certified by the Installation certificate issued by Central Excise. It is also given in the appeal that the Show Cause Notice dated 25.07.2017 was not received by them. The appellant states that adequate and

sufficient opportunity was not given to be heard in person. It is also said in the appeal that more than ten years have passed since the licence was issued and the Penalty Order is not proper in law. In their additional submissions it is stated that if personal hearing had been given they would have intimated their intention to regularize the issue. It is stated that they could not fulfill their obligations due to general recession in textile industry which was beyond their control. In view of the above the appellant has sought to set aside the Order and had requested for a Personal Hearing.

5. The appellant was granted Personal Hearing on 28.9.2018, 25.10.2018 and 30.11.2018. Shri A. Seetharaman, Manager, authorized by the firm attended the Personal Hearings. He said that the firm had regularized the case by payment of Customs duty with interest and submitted copy of TR challan for having paid the same. Hence the appellant requested to set aside the order of penalty.

6. I have gone through the submissions made by the appellant in the appeal and during the personal hearing. The appellant stated that they have not received the SCN dated 25.07.2017. Also it is seen that after the expiry of the export obligation period the firm had sought time for submission of documents on more than one occasion which had also been granted. The contention of the firm that the Order is not valid since it was issued after ten years is not correct. Export Obligation Period is valid upto 8 years after issue of licence. It is the duty of the appellant to submit the documents within the prescribed period. Here the firm has not submitted the same and had sought for time to submit the documents. As there was no response even after completion of the time sought RA had taken action. However it is seen that the firm has voluntarily regularized by payment of customs duty with interest and submitted copy of proof of payment fact of which has been evidenced by the letter from Customs. Hence the firm did not have any intention of defrauding the government. But it remains that the documents were not submitted on time.

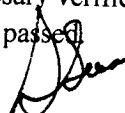
I, therefore, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following Order:

**ORDER**

F.No. A(34)/Addl.DGFT/ECA/Che/AM 18/mdu

Dated 21/12/2018

1. The Penalty amount payable is reduced to Rupees one lakh which shall be paid within 30 days of delivery of 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.

  
(D.K.SEKAR)

Zonal Additional Director General of Foreign Trade