



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. I (08)/Addl.DGFT/ECA-Chen/AM-17/Cbe	Date of Order	04/04/2018
Name of the Appellant	M/s Spac Starch Products I Ltd. Poonachi Antiyur Taluk, Erode 638314	
Order appealed against	Order –in-Original No. 32/24/040/007/AM 10 Dated 7.6.2016 passed by Dy.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 Spac Starch Products India Ltd., (formerly M/s SPAC Tapioca Products (India) Ltd.) has filed this Appeal under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992 against Order –in-Original No. 32/24/040/007/AM- 10 Dated 7.6.2016 passed by Dy.DGFT Coimbatore.

2. The firm had obtained an Advance Authorisation No. 3210040260 dated 24.4.2009 for a cif value of Rs. 38055600/- (US\$ 744000) under No-Norms category from the Office of JtDGFT Coimbatore for import of Tapioca Starch with export obligation to export Modified Starch Corrugation Gum powder etc., for a FOB value of US\$ 854350/- within a period of 36 months from the date of issue of authorization under para 4.7 of HBP 2004-09. The Norms Committee of DGFT vide its meeting no. 10/83-ALC 1/2010 held on 9.6.2010 had rejected the application of the firm for fixation of norms. The party had failed to submit proof of fulfillment of export obligation and did not submit any original documents as per 4.28 of HBP 2004-09 and also failed to regularise the case. Therefore, Order-in-Original dated 7.6.2016 imposing penalty of Rs.38055600/- was passed and the firm was also placed under Denied Entity List by Office of Jt.DGFT Coimbatore.

3. Aggrieved by the above said Order-in-Original, the Company has preferred the present appeal on 22.7.2016. In the appeal they have requested to waive the condition of penalty as it would cause undue hardship to the appellants. Considering the plea of the appellant, the pre-deposit of penalty is waived.

(i) The appellant has stated in their appeal and also in their additional facts submitted, that their case was placed before the Norms Committee for fixation of norms only on 9.6.2010., i.e. after delay of 1 year and 2 months. As per para 4.7.6 of HBP firm states that if adhoc norms are not fixed within 4 months, norms as applied for will prevail. However, since norms committee had rejected their application, owing to non-submission of documents called for, the appellant had again applied to norms committee for reconsideration .

(ii) The appellant states that the consultant who was incharge of their affairs had changed the address and hence they could not contact him and collect the relevant papers and hence could not participate in the adjudication proceedings. This was the reason they state why they could not reply to Norms Committee communications.

(iii) They have stated that against the advance authorisation issued to them they were permitted to import "Tapioca Starch" for a quantity of 3000 MT out of which they had imported a total quantity of 2029.350 MT. The proportionate exports to be made was 1370MTs whereas they had exported 1839MTs during the extended export obligation period and claim to have fulfilled more than the required export obligation both in terms of value and quantity and achieved higher value addition fixed in the authorisation.

(iv) In view of the above the appellant has requested to set aside the Order and to given an opportunity of personal hearing. Accordingly, the appellant was called for a personal hearing on 5.7.2017 and 18.8.2017. The firm's authorised representatives submitted copies of reference made to PRC and Norms Committee and in the subsequent personal hearings and communications, requested for time to submit the decision of PRC. The firm vide their e-mail dated 16<sup>th</sup> March 2018, has attached the Minutes of Norms Committee dated 16.2.2018, wherein the Committee has ratified the norms as applied for by the firm.

4. After examining all the facts and arguments put forth by the appellant in the appeal and the personal hearings, I find that the firm had fulfilled the export obligation in the extended export obligation period as per the norms as ratified by the Norms Committee. There does not seem to have been any intent to defraud the government.

5. 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. I (08)/Addl.DGFT/ECA-Chen/AM-17/Cbe

Date of Order 04 /04/2018

1. The Order of the Adjudicating Authority is set aside .
2. Remand back the case to the Adjudicating Authority for de-novo examination based on the norms committee decision.
3. Adjudicating authority will examine the documents submitted by the firm and pass appropriate orders.

Sd/-

(D.K.SEKAR)

Zonal Additional Director General of Foreign Trade

M/s Spac Starch Products I Ltd.  
Poonachi Antiyur Taluk,  
Erode 638314

✓ Copy to: Jt.DGFT Coimbatore for information and necessary action.



(D.K.SEKAR)