



GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
ZONAL ADDITIONAL DIRECTORATE GENERAL OF FOREIGN TRADE
SHASTRI BHAWAN, NO. 26, HADDOWS ROAD, CHENNAI 600 006

F.NO. I(10)/ECA/Addl.DG/Che/AM 17

Dated 03/07/2018

Name of the Appellant

M/s Tulip Clothing Pvt. Ltd.
No. 5 & 6, M.P.Nagar,
Kongu Nagar Extension,
Tirupur 641607

Order appealed against

Order-in-Original No.
32/24/040/0041/AM 10 dated
17.06.2016, passed by
O/o Jt.DGFT, Coimbatore.

Order-in-Appeal
Passed by

Shri D.K.Sekar
Appellate Authority & Zonal Additional
Director General of Foreign Trade Chennai

Order-in-Appeal

1. M/s Tulip Clothing Pvt. Ltd. Tirupur has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992 against Order-in-Original No.32/24/040/0041/AM 10 dated 17.06.2016, passed by Office of Jt.DGFT, Coimbatore.
2. M/s Tulip Clothing Pvt. Ltd., Tirupur, had obtained an Advance Authorisation No. 3210042217 dated 15.12.2009 for a cif value of Rs. 43,19,978/- from the Office of Joint DGFT, Coimbatore, for import of duty free items as specified in the licence with an export obligation to export resultant products as given in licence for a FOB value of US\$ 218192/- 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. Hence, Order-in-Original dated 17.06.2016 imposing penalty of Rs. 43,19,978/- 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 08.08.2016. The appellant has stated that the insistence of pre-deposit of penalty will be prejudicial to the interest of the firm as they are facing financial hardship due to heavy loss and hence has requested to waive the condition of pre-deposit of penalty.
4. The appellant has said in the appeal that they have fulfilled the export obligation. They had applied to Norms committee for fixation of norms but were yet to receive the approval by which time the Order had been issued. They have also stated that the SCN was not received by them and also that they are ready to regularize by payment of customs duty with interest for any shortfall.

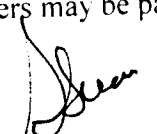
4. A Personal Hearing was granted to the firm on 6.7.2017, 8.8.2017 and 15.9.2017. Shri R.Vigneshwaran, Manager, authorized by the firm attended the Personal Hearing on 15.9.2017 at 4.30 p.m. The firm's representative stated that the firm had made exports as per export obligation fixed and that they had calculated the shortfall and paid the duty and interest to Customs. He requested for a week's time to submit the original challan evidencing payment of the same. He also requested for waiving the condition of pre-deposit of penalty.
5. Accordingly time was given to the firm upto 25.9.2017 to provide evidence of payment. The firm vide their e-mail dated 23.9.2017 requested for time upto 3.10.2017 to submit the same. Again on 4.10.2017 the firm requested for time upto 10.10.2017 to submit the required papers. On 2.4.2018, vide interview slip no. 1, the authorized representative showed the original challan for having paid the amount.
6. The firm has prima facie fulfilled export obligation. But the case has been delayed due to pending decision of ratification by norms committee. The firm has volunteered to regularize the shortfall in export obligation fulfillment. However it remains a fact that the actual regularization was delayed and the firm was able to provide the evidence to the effect only on 2.4.2018.
7. 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(10)/ECA/Addl.DG/Che/AM 17

Dated 03/07/2018

1. The condition of pre-deposit of penalty is waived.
2. The penalty imposed is reduced to Rs. Fifty thousand which shall be paid within 30 days from the date of this Order.
3. Order in Original is set aside.
4. The case is remanded back to adjudicating authority for denovo examination. After examination of the documents submitted by the firm, appropriate orders may be passed.


(D.K.SEKAR)

Zonal Additional Director General of Foreign Trade

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M/s Tulip Clothing Pvt. Ltd.
No. 5 & 6, M.P.Nagar,
Kongu Nagar Extension,
Tirupur 641607