



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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Dated 12/11/2018

F.Nos. I(13,14,15,16)/Addl.DGFT/ECA-Chen/AM 17/Mdu

Name of the Appellant

M/s Benitha Textiles Pvt. Ltd.  
142-C. Bungalow Street, Kovilpatti,  
Tuticorin 628501

Order appealed against

Orders-in-Original No.  
Dated 17.01.2017, passed by  
Jt.DGFT, Madurai

Order-in-Appeal passed by

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

**Order -in- Appeal**

M/s Benitha Textiles Pvt. Ltd. Tuticorin 628501, has filed the appeals under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992 against Orders-in-Original as given below dated 17.01.2017 passed by Office Jt.DGFT, Madurai.

2.M/s Benitha Textiles Pvt. Ltd., Tuticorin 628501 had obtained EPCG authorisations details of which are given below, from the Office of Jt.DGFT, Madurai for import of Capital Goods, with export obligations to be fulfilled within a period of 8 years from the date of issue of the respective authorisation. The firm had not submitted documents evidencing fulfilment of export obligation after the completion of export obligation period in respect of the said authorisations. Therefore, after due process, Orders-in-Original dated 17.01.2017 imposing penalties given below against the respective authorisation, were issued and the firm was also placed under Denied Entity List by Jt.DGFT Madurai..

S.No.	Authorisation No. & date	Duty Saved (Rs.)	FOB (US\$)	Order No.	Penalty imposed (Rs.)
1.	3530003137 dt. 29.02.2008	8,73,872	1,76,075	35/21/021/572/AM08	33,00,000
2.	3530003138 dt. 29.02.2008	3,89,744	78,537	35/21/021/574/AM08	15,00,000
3.	3530003049 dt. 03.01.2008	41,21,888	8,29,562	35/21/021/501/AM08	1,55,00,000
4.	3530003136 dt. 29.02.2008	9,83,476	1,98,181	35/21/021/573/AM08	37,00,000

...contd.2/-

3.The appellant has stated that they are undergoing financial hardship and they have no source to pay the penalty amounts. Hence they have requested to waive the condition of pre-deposit of penalty amount for considering the appeal. The request of the appellant is allowed.

4.Aggrieved by the above said adjudication orders, the firm has preferred the present appeal on 17.03.2017 in which it is stated that they have done partial exports and imported to the full value and they are facing crisis in their business due to which export obligation could not be fulfilled. The appellant further states that they have applied to Policy Relaxation Committee (PRC) for extension of export obligation period and hence have appealed to set aside the Orders.

5.Personal Hearings were granted on 08.08.2017, 15.09.2017 and 29.10.2018. Shri R.Jeikrishnan, advocate, authorised by the firm appeared for the personal hearing. During the Hearings it was stated that the appellant had approached the PRC for condonation of delay in fulfilment of block wise export obligation and had sought for extension of the period by two years beyond 10 years on deposit of 50% Customs duty. It was also informed that DGFT had communicated the condonation of the delay and had asked RA Madurai to consider the case for export obligation extension as per Public Notice no. 35,36/20-15-20 dated 25.10.2017. It was further informed that the grant of extension was not considered as the firm had filed an appeal which was pending with the appellate authority. The appellant had also furnished copy of demand draft for payment of 50% duty with interest and has stated that the relevant duty paid challan and acknowledgement from Customs for the same shall be produced to RA Madurai. The appellant was asked to provide assurance and proof of the firm's ability to fulfil the export obligation within the period for which extension is being sought. The firm's representative assured to provide documents within a week's time. Accordingly, the authorised representative has submitted copy of export order showing that the firm had export commitments enough to be able to fulfil the balance export obligation.

6.I have gone through the submissions made by the appellant in the appeal and also arguments put forth during the personal hearings. It appears that the appellant could not fulfil the export obligation within the stipulated period and hence had approached the PRC for condonation of not fulfilling the block-wise export obligation and had sought extension for four years. PRC had granted permission for extension in terms of the Public Notice no. 35,36/2015-20 dated 25.10.2017 and had asked RA Madurai to examine the case on merits. The appellant has submitted copies of export orders to show their capacity to fulfil the export obligation within the extended period. They have also assured that the duty paid challan and payment confirmation from Customs will be produced to RA Madurai. There seems to be no intent on the part of the appellant to defraud the Government or cause any loss to the exchequer.

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:

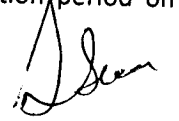
....contd.3/-

**ORDER**

F.Nos. I(13,14,15,16)/Addl.DGFT/ECA-Chen/AM 17/Mdu

Dated 12/11/2018

1. Order of the Adjudicating Authority is set aside
2. Remand back the case to the Adjudicating Authority for de-novo examination and consideration of the application for extension in export obligation period on merits based on the PRC decision and to pass appropriate orders.



**(D.K.SEKAR)**

Zonal Additional Director General of Foreign Trade &  
Appellate Authority

M/s Benitha Textiles Pvt. Ltd.  
142-C. Bungalow Street, Kovilpatti,  
Tuticorin 628501