



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(94)/Addl.DGFT/ECA/Che/AM 17-Cbe

Date of Order: 11/07/2018

Name of the Appellant

M/s Shreenidhi Apparels Pvt. Ltd.  
Plot No. E, Netaji Apparels Park,  
Eettiveerampalayam,  
New Tirupur-641666

Order appealed against

Order –in-Original No. 32/36/021/00337/AM 04  
dated 14.01.2016 passed by  
Office of Jt.DGFT, Coimbatore

Order-in-Appeal  
Passed by

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

### Order-in-Appeal

M/s Shreenidhi Apparels Pvt. Ltd., New Tirupur 641666, has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992 against Order-in-Original No. 32/36/021/00337/AM 04 Dated 14/01/2016 passed by Office of Jt.DGFT, Coimbatore.

2. M/s Shreenidhi Apparels Pvt. Ltd., New Tirupur 641666 had obtained an EPCG Authorisation No. 3230002086 dated 30.07.2003 for Rs. 51,172/- from the Office of Jt.DGFT Coimbatore, for import of Capital Goods, with export obligation to export Hosiery Garments, for a FOB value of US\$ 8,729/-within a period of 8 years from the date of issue of authorization. The firm had not submitted documents in support of fulfilment of export obligation. Therefore, Order-in-Original dated 14/01/2016 imposing penalty of Rs. 1,02,344/- was passed and the firm was also placed under Denied Entity List vide DEL Order dated 14/01/2016 by Office of Jt.DGFT, Coimbatore.

3. Aggrieved by the above said Order-in-Original, the Company has preferred the present appeal with DGFT New Delhi, the then Appellate authority. After re-delegation of appellate powers to Zonal Addl.DGFT, Chennai, the appeal was transferred to this office by DGFT New Delhi.

4. In the appeal the firm has requested to quash the Order of the Adjudicating authority. The firm has also subsequently requested to waive the condition of pre-deposit of penalty as it will lead to financial hardship to the firm. The condition of Pre-deposit of penalty is hence waived.
5. The firm in its appeal has said that 4 EPCG authorisations were issued, out of which three had been redeemed. However, the fourth authorisation, i.e, the authorisation for which adjudication order had been issued, was not redeemed. This, the applicant states in the appeal, was due to the lapse on the part of their office staff who was looking after redemptions and who has since left the firm. It is stated that the firm has made excess exports in one of the previous authorisations which have been redeemed. Hence they have requested to redeem the case by clubbing with the previous authorisation which was redeemed and which has excess exports sufficient to offset the shortfall. The appellant further states that as advised by RA Coimbatore, they have paid the duty on the imported capital goods. They have also requested to refund the duty paid in view of the fact that the shortfall would be made good by the excess exports of the previous redeemed authorisation.
6. Personal Hearing was granted to the firm on 28.8.2017. Shri C.Nachimuthu, General Manager and Shri Srinivasan, General Manager, Accounts, authorised by the appellant appeared on behalf of the firm. During the Hearing the representatives stated that they have approached the PRC for clubbing the two authorisations, one of which had already been redeemed. They requested that decision on the appeal be taken based on PRC's decision. The firm was asked to provide the PRC's decision before first week of November 2017 to take a final decision on the appeal. Subsequent Personal Hearings were granted on 22.12.2017, 16.2.2018 and 16.5.2018 which were attended by Shri S. Dhandapani, Managing Director of the firm. During the Hearings the Managing Director stated that the PRC decisions were still awaited and pleaded that the firm should not be penalised, more so because the duty had already been paid by the firm and it was only a procedural lapse. On 9.7.2018, the firm has submitted a letter dated 2.7.2018 from Central Excise Tirupur, confirming the payment of duty plus interest by the firm. In view of the above the firm has requested to set aside the order and remove from DEL.
7. On perusal of the documents submitted by the firm, it is seen that the duty has been paid by the firm as advised by the adjudicating authority. The firm had been waiting for a decision on their clubbing request made to PRC. Since no decision had been received, the firm decided to pay the interest also to Customs. The payment of duty plus interest has been confirmed by the Central Excise vide their letter dated 2.7.2018. There seems to be no intent to defraud the Government. However, it remains that the firm failed to initiate necessary action for redeeming the case within the prescribed time.

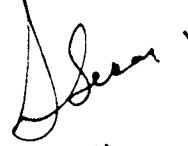
I, therefore, in exercise of the powers vested in me under Section-15 of the Foreign Trade (Development & Regulation ) Act, 1992, as amended, pass the following Order:

F.NO. 1(94)/Addl.DGFT/ECA/Che/AM 17-Cbe

Date of Order: 11 /07/2018

**ORDER**

1. The condition of pre-deposit of penalty is waived.
2. The penalty amount is reduced to Rs. Ten thousand.
3. The Order of the adjudicating authority is set aside.
4. The case is remanded back to the adjudicating authority for denovo examination. After examination of all the documents submitted by the firm appropriate orders may be passed .

  
(D.K.SEKAR)

Zonal Additional Director General of Foreign Trade

✓ M/s Shreenidhi Apparels Pvt. Ltd.  
Plot No. E, Netaji Apparels Park,  
Eettiveerampalayam,  
New Tirupur-641666