



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

26 Haddows Road, शास्त्री भवन अनेक्स, Shastri Bhavan Annexe

Phone: 044-28283404/08 * चेन्नै/CHENNAI - 600 006 * Fax: 044-28283403

ईमेल/Email: chennai-dgft@nic.in

F. No. A(31)/Addl.DGFT/ECA/AM 20

Dated: 13/08/2020

Name of the Appellant

M/s. EL Forge Limited

New No.338/Old No. 247/4.

Ambujammal Street,

Alwarpet, Off TTK Road,

Chennai - 600 018

IEC No. 0488009103

Order appealed against

Order-in-Original No.

04/21/21/00566/AM 05 dated

28.06.2019 issued by Dy. DGFT,

Chennai.

Order-in-Appeal
passed by

Dr. M.K. Shanmuga Sundaram

Appellate Authority &

Zonal Additional Director General of

Foreign Trade, Chennai

Order-in-Appeal

M/s. El Forge Limited filed this Appeal under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992 against the Order-in-Original No. 04/21/21/00566/AM 05 dated 28.06.2019 issued by Deputy DGFT, Chennai.

2. M/s. El Forge Limited had obtained an EPCG licence No. 0430002577 dated 15.04.2005 for a duty saved value of ₹ 1,34,66,863/- from the Office of the Zonal Additional DGFT, Chennai with an obligation to export steel forgings for an FOB value of US \$ 2,445,741.30 within a period of 8 years from the date of issue of authorisation. The firm had not submitted the installation certificate or export obligation fulfilment documents even after the expiry of export obligation period.

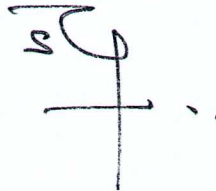
54

Hence, a Show Cause Notice dated 21.05.2019 was issued with an opportunity of personal hearing on 14.06.2019. The firm had not replied to the Show Cause Notice nor did anyone attend the said personal hearing. Therefore, the Order-in-Original dated 28.06.2019 imposing a penalty of ₹ 5,00,000/- was issued and the firm was also placed in Denied Entities List.

3. Aggrieved by the aforesaid Order-in-Original, the firm has preferred the present appeal on 16.08.2019. The firm has requested for waiver of the condition of pre-deposit of penalty since they have accumulated losses and are finding it difficult to run their day to day operations and also cited that they have fulfilled the export obligation. The plea of the appellant is allowed.

4. The appellant has stated in the appeal that on receipt of the Show Cause Notice dated 21.05.2019, they had, vide letter dated 13/06/2019, sought for time to file the documents as it was more than 13 years since the licence was issued and due to passage of time and shifting of records frequently owing to shifting of factory to various places in the interim period and also due to exodus of the concerned employees from the Company, they needed time to file the documents. The applicant states that they were able to get hold of the past documents and file the redemption application. It is stated that, ignoring their request, the lower authority had passed the *ex parte* order. If their request for grant of time had been allowed, they would have submitted the necessary documents, it is stated. In view of the aforesaid, the appellant has prayed for setting aside the Order-in-Original.

5. The appellant was given a personal hearing on 13.08.2020. Shri V. Srinivasan, Vice President (Finance) along with Shri L. Rahothishan, Export and Import Executive of the firm attended the personal hearing. During the hearing, it was stated by them that on receipt of the Show Cause Notice, they had submitted a letter to the Office seeking time to submit the relevant documents. The representatives also said that, the Order-in-Original had been issued without considering their request for grant of time. During the hearing, the authorised representatives showed the copy of acknowledgement for having submitted aforesaid letter.



6. I have gone through the appeal and the submissions made during the personal hearing. On perusal of the above and other documents submitted by the appellant, it is seen that the appellant had submitted a reply to the Show Cause Notice on 13.06.2019 where it has been requested to grant time of 4 weeks for submission of the necessary documents. But, it appears that the request had not been taken note of as is evident from the Order-in-Original, where it has been mentioned that the firm has not replied to the Show Cause Notice which is not factually correct. Subsequently, the appellant has submitted documents claiming fulfilment of export obligation. Hence, *prima facie*, there does not seem to be any intent on the part of the appellant to defraud the Government.

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. A(31)/Addl.DGFT/ECA/AM20

Dated: 13/08/2020

1. Order imposing penalty of ₹ 5,00,000/- and placing the firm under Denied Entity List is set aside.
2. The case is remanded back to the adjudicating authority for *de novo* examination. After verifying the documents submitted by the firm and also after calling for any other documents that may be required, appropriate orders may be passed.



(Dr. M.K. SHANMUGA SUNDARAM)

Appellate Authority & Zonal Additional DGFT

M/s. EL Forge Limited
New No.338/Old No. 247/4,
Ambujammal Street,
Alwarpet, Off TTK Road,
Chennai - 600 018.