



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.Nos. A(07,08)/Addl.DGFT/ECA/Chen/AM-20/Cbe

Dated 04/06/2019

Name of the Appellant

M/s MAK Controls and Systems (P) Ltd
7/41-B, Aviniashi Road, Civil Aerodrome Post,
Coimbatore 641014
IEC No. 3290001458

Orders appealed against

Orders –in-Original No.
(As tabulated below)
issued by Office of Jt.DGFT, Coimbatore

Order-in-Appeal passed by

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

Order-in-Appeal

M/s MAK Controls and Systems (P) Ltd., Coimbatore 641014, has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Orders-in-Original no. as tabulated below, passed by Office of Jt.DGFT Coimbatore.

2. M/s MAK Controls and Systems (P) Ltd Coimbatore had obtained Advance Authorisation Nos. as tabulated below from the Office of Jt.DGFT, Coimbatore with an obligation to export the resultant export product within a period of 18 months from the date of issue of authorization.

Advance Authorisation No. and date	Order in Original No. and Date	Penalty imposed (Rs.)
3210063581, dated 29.05.2013	32/21/040/00032/AM 14 dated 03.04.2019	30,00,000/-
3210072953, dated 07.02.2014	32/21/040/00182/AM 14 dated 03.04.2019	30,00,000/-

The firm had been issued Show Cause Notices due to reason that the firm had not fulfilled the export obligation against the said Advance authorisations. Therefore, Orders-in-Original as above were passed and the firm was also placed in Denied Entity List by the Adjudicating authority.

3. Aggrieved by the above said Orders--in-Original, the firm has filed the appeals on 15.04.2019. The appellant stated that the pre-deposit of penalty may be waived as the firm had fulfilled the export obligation as per the norms and had submitted the documents showing fulfillment in 2015 itself. The request of the appellant is allowed.

4. The appellant has stated in the appeals that demand cum show cause notice was issued on the ground that their application for advance authorization under para 4.7 had been rejected by Norms Committee in 2017. They state that their applications were on Net to Net basis and the same need not have been referred to norms committee. They further stated that their applications were approved by the norms committee on 18.07.2018 and 14.08.2018, respectively wherein some items of import had to be accounted for on net to net basis, while for remaining items net +1% accountability was determined.

5.The appellatant stated that all the documents evidencing fulfillment of export obligation based on net to net accountability had been submitted to the licensing authority and therefore the DCSCN and Orders in Original issued on 03.04.2019 were unjust and against normal justice. The appellatant therefore pleaded that the Orders be set aside.

6.The licensing authority also confirmed that the firm had submitted export obligation documents in 2014/2015. The licensing authority further informed that the firm had furnished the copies of the norms committee decision on the two cases under appeal after issue of the Adjudication Orders. It was also intimated by the Regional Authority that the firm had provided evidence that the exports were made after obtaining necessary SCOMET authorization.

7.The appellatant was given a Personal Hearing on 03.06.2019. Shri Saravanan Manickam, Managing Director of the appellatant firm along with his executives attended the hearing. During the hearing, he reiterated his written submissions and requested for early decision to set aside the Orders in Original and remove the firm from DEL as the same is seriously hampering their business activities.

8.I have gone through the submissions made in the appeal and during the personal hearing. The Show Cause Notices have been issued on 11.03.2019, stating that they have to regularize the cases since the norms committee had rejected their applications. The Orders in Original were issued on 03.04.2019 stating that the export obligation was not fulfilled, which is not correct since their cases had been redeemed on 06.02.2015 and 17.6.2015 by the R.A. On perusal of the documents it is seen that Norms Committee approval had been issued on 18.07.2018 and 14.08.2018 whereas the SCN and the Orders in Original stating that the export obligation have not been fulfilled, have been issued much later in March 2019.

9.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.Nos. A(07,08)/Addl.DGFT/ECA/Chen/AM-20/Cbe

Dated 04/06/ 2019

1. The Orders of the adjudicating authority against advance authorization nos. 3210063581 and 3210072953 are set aside.

2.The case is remanded back to the Regional Authority for de-novo examination .

Sd/-

(D.K.SEKAR)

Appellate Authority &

Zonal Additional Director General of Foreign Trade

M/s MAK Controls and Systems (P) Ltd
7/41-B, Aviniashi Road, Civil Aerodrome Post,
Coimbatore 641014

Copy to: Jt.DGFT Coimbatore for necessary action.


(D.K.SEKAR)