



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 21/04/2020

F.No. A(16)/Addl.DGFT/ECA/Che/AM 20

Name of the Appellant

M/s MGB Spinners India Pvt. Ltd.
MGB Gardens Kanagapuram Post,
V.Vellore Via,
Erode 638112
IEC No. 3208022310

Order appealed against

Order -in-Original No.
32/21/021/00872/AM 10 dated 29.05.2019,
issued by Office of Jt.DGFT, Coimbatore.

Order-in-Appeal
Passed by

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

Order-in-Appeal

M/s MGB Spinners India Pvt. Ltd., Erode 638112 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 32/21/021/00872/AM 10 dated 29.05.2019 issued by Office of Jt.DGFT Coimbatore.

2. M/s MGB Spinners India Pvt. Ltd., Erode 638112 had obtained an EPCG licence No. 3230014066 dated 30.11.2009 for a duty saved value of Rs. 3,80,380/- from the Office of Jt.DGFT, Coimbatore with an obligation to export Processed Fabrics for a FOB value of US\$ 64,334.88 within a period of 8 years from the date of issue of authorization. The Firm had not submitted export obligation documents as required and hence a Show Cause Notice dated 19.03.2018 was issued. There was no reply to the Show Cause Notice. Hence Order in Original dated 29.05.2019 imposing a penalty of Rs. 5,00,000/- was issued and the firm was also placed under Denied Entities List.

3. Aggrieved by the above said Order-in-Original, the firm has preferred the present appeal on 01.07.2019. The appellant has requested for waiver of the condition of pre-deposit of penalty as they have not utilized the licence. The plea of the firm is allowed.

4.The appellant has stated in the appeal that though they had invalidated the licence for direct imports for import of capital goods against the said EPCG authorization and executed BG / LUT with RA Coimbatore, they have not sourced the capital goods from the local supplier, i.e., M/s Lakshmi Machine Works and that the local supplier also have not availed the Excise Duty benefit from the Excise authorities. It is stated that being a small scale spinning unit, they were not aware of the procedure to surrender the EPCG authorization. Further it is stated that due to adverse marketing conditions and stiff competition, the Unit became sick and defunct and they had not received the Show Cause Notice and hence could not either reply or attend the Personal Hearing. It is also stated that due to lack of knowledge of Policy and Procedures, they had not surrendered the unutilized licence and that they have now surrendered the original EPCG licence along with original invalidation letter to RA Coimbatore. In view of the above the appellant has requested to set aside the Order and to restore the blocked IEC and has requested to give a Personal Hearing to explain their case.

5.The appellant was given a Personal Hearing on 18.02.2020. Shri P.Chidambaram, Director of the Firm, appeared for the Hearing. He stated that they had not used the invalidation letter and stated that they had procured the Capital Goods on payment of Excise Duty. He was asked to either produce the original invalidation letter or proof of having submitted it to R.A. for which he asked for a month's time. Another Personal Hearing was granted on 17.03.2020, which was also attended by him. He stated that they not availed the benefit of duty exemption by using the invalidation letter and that they had also not claimed TED refund. He further stated that the supplier, i.e., M/s Lakshmi Machine Works had also agreed to submit a letter that they had not availed TED. Vide E-Mail dated 31.03.2020, the appellant has attached a copy of NOC issued by R.A. Coimbatore, confirming that the firm has not availed TED benefits, but the supplier had availed DBK claim which has been refunded by the supplier with 15% interest and that there was no due pending from the appellant.

6.I have gone through the appeal and the submissions made during the Personal Hearing. The appellant has not utilized the licence and has surrendered the same and also the original invalidation letter, though belatedly. R.A. Coimbatore has confirmed that the appellant has not availed TED benefits and the DBK claim availed has also been refunded by the local supplier along with interest and that there is no due pending from the appellant. But it remains that there was a delay on the part of the appellant in submitting the original unutilized licence and the invalidation letter.

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(16)/Addl.DGFT/ECA/Che/AM 20

Dated 21/04/2020

1. Order placing the firm under Denied Entity List is set aside.
2. The penalty payable is reduced to Rs. 10000/- being the minimum penalty leviable.
3. The case is remanded back to the adjudicating authority for de-novo examination. The appellant firm shall furnish all original documents to the licensing authority within 30 days from the date of receipt of this Order. The adjudicating authority shall examine the documents so submitted and pass appropriate orders.

Sd/-

(D.K.SEKAR)

Appellate Authority &

Zonal Additional Director General of Foreign Trade

M/s MGB Spinners India Pvt. Ltd.
MGB Gardens Kanagapuram Post
V.Vellore Via, Erode 638112

(D.K.SEKAR)