



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. A(17)/Addl.DGFT/ECA/Che/AM 20

Dated 16/01/2020

Name of the Appellant

M/s Billion Clothing Pvt. Ltd.
37, Bridgeway Colony Extension,
2nd Street, Tirupur 641607
IEC No. 3205009860.

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 & Zonal
Addl. Director General of Foreign Trade
Chennai

Order-in-Appeal

M/s Billion Clothing Pvt. Ltd., 37, Bridgeway Colony Extension, 2nd Street, Tirupur 641607 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No.32/21/87/7457/AM 14 dated 24.04.2019 issued by Office of Jt.DGFT Coimbatore.

2. M/s Billion Clothing Pvt. Ltd., Tirupur 641607 had obtained MLFPS Authorisation No. 3210070483 dated 02.12.2013 for a duty credit of Rs. 17,203/- from the Office of Jt.DGFT Coimbatore. Finance Audit had raised an objection that duty credit allowed in the authorization is higher than the value realized in the Bank Realization Certificate and had hence requested the office to recover the excess duty credit amount of Rs. 6057/- with interest. In view of this the firm had been intimated about the audit objection and asked to remi the excess amount availed. As the firm had not replied, a Show Cause Notice dated 07.06.2018 was issued. As there was no reply to the Show Cause Notice, Order in Original dated 24.04.2019 imposing a penalty of Rs. 6057/- along with interest was issued and the firm was placed in Denied Entities List.

3. Aggrieved by the above said Order-in-Original, the firm has preferred the present appeal on 04.07.2019. The firm has paid the penalty amount of Rs. 6087/-, while filing the appeal.

4.The appellant has stated in the appeal that they were not provided with copy of the audit objection made based on which they have been asked to remit the amount. It is also stated that they had filed the reply to the Show Cause Notice on 19.06.2018 and hence that what is stated in the Order in Original that the appellant firm had not replied to Show Cause Notice issued, is not true. Further, it is pointed out that in the Order in Original, that there was no appearance of personal hearing, whereas there was no mention in the Order of any of date of Personal Hearing. The appellant further states that the DEL Order was issued earlier than the Order in Original. As they have been placed in DEL, it is stated that their export business is adversely affected and has sought to set aside the Order and also remove from DEL. It has also been appealed to refund the penalty amount paid by them on the above grounds.

5.The appellant was called for Personal Hearing on 6.12.2019. During the Hearing, the firm's representative stated they had not been informed about the specific reason for which payment was demanded against the scrip. They stated that they would provide all necessary evidence or regularize the case if one month time was given. Accordingly another opportunity of Personal Hearing was given on 10.01.2020. The appellant in the meantime, vide their letters submitted on 16.12.2019 and 30.12.2019, have enclosed copies of receipt issued by Customs, Tuticorin for having paid the amount of Rs. 12598/- being the excess duty credit availed along with interest.

5.I have gone through the appeal and the submissions made during the Personal Hearing. The appellant firm has been issued excess duty credit, as pointed out by the Audit which had to be recovered. The Scrip has been issued in 02.12.2013 and the letter calling for payment of excess duty credit availed, has been issued on 6.10.2017 after the objection raised by the Audit. The firm has not been made aware of the reason for which the audit objection was made. The appellant has not been given an opportunity of personal hearing to present their case before issue of the Order in Original. However the firm has paid the penalty and interest under protest as their business was getting adversely affected because of having been placed in Denied Entities List. There appears to be no intent on the part of the appellant to defraud the Government or cause loss to the exchequer.

6. 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(17)/Addl.DGFT/ECA/Che/AM 20

Dated 16/01/2020

Order of the adjudicating authority imposing penalty on the appellant is set aside..
The Order that no further authorization shall be issued to the firm, is also set aside.


(D.K.SEKAR)

Appellate Authority &

Zonal Additional Director General of Foreign Trade

M/s Billion Clothing Pvt.Ltd.
37, Bridgeway Colony Extension,
2nd Street, Tirupur 641607
IEC No. 3205009860