



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(26)/Addl.DGFT/ECA/Che/AM 19/Cbe

Dated 25/03/2019

Name of the Appellant

M/s Renaissance RTW Asia P.Ltd.
No. 1, Thennampalayam,
Tirupur 641604

Order appealed against

Order –in-Original No.
32/21/040/00061/AM 12
Dated 08.05.2018, 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 Renaissance RTW Asia Pvt. Ltd., Tirupur 641604 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 32/21/040/00061/AM 12 passed by Office of Jt.DGFT Coimbatore.

2. M/s Renaissance RTW Asia Pvt. Ltd., Tirupur 641604 had obtained Advance Authorisation No. 3210049129 dated 29.07.2011 for a cif value of Rs. 1,43,10,035/- from the Office of Jt.DGFT, Coimbatore, with export obligation to export for a FOB value of US\$ 7,31,986/- within a period of 36 months from the date of issue of authorization. The firm had requested for 6 months extension of export obligation period which was granted by RA. The extended export obligation period expired on 29.01.2015. The Firm had not submitted documents evidencing fulfillment of export obligation after the completion of the extended export obligation period. Therefore, A Show Cause Notice was issued to the firm on 23.11.2015. In the meantime the firm had approached PRC and in its meeting dated 11.04.2017 considered the request and directed the firm to submit original licence and other original e.o.fulfillment documents and to execute Bank Guarantee equal to the duty saved value plus 18% interest. As the firm failed to comply with the recommendations of the PRC, Order-in-Original no. 32/21/040/00061/AM 12 dated 08.05.2018 imposing penalty of Rs.5,00,000/- was passed and the firm was also placed in Denied Entity List by the Adjudicating authority.

...contd.2/-

3. Aggrieved by the above said Order-in-Original, the firm has preferred the present appeal on 04.07.2018.

4. The firm has requested that since their company is undergoing severe financial hardship due to critical position of their business, they have requested to dispense with the condition of pre-deposit of penalty. The request of the appellant is allowed.

5(i) The firm in the appeal has stated that they had applied to Policy Relaxation Committee on 11.4.2017. It is stated that they are first generation entrepreneurs hailing from an agricultural family, who have been doing exports regularly for the last 20 years without any default and that they have been awarded certificates by various agencies. This default it is stated was mainly on account of problems faced with their banker. Due to which they did not have any working capital and the business was brought to a grinding halt. Hence they were not able to export the raw material imported under the advance licence. Because of this they had applied to Policy Relaxation Committee and requested for granting extension, which was granted with the condition to execute bank guarantee for the amount of duty plus interest. Subsequently the Adjudication Order had been issued on 08.05.2018.

5(ii) During this period, the buyer got into financial trouble and became bankrupt. Due to this appellant was unable to get export orders. The appellant had in the meanwhile applied to PRC for relaxing the conditions of the Bank Guarantee, and requested for granting extension upto March 2019. By which time, the appellant stated that the entire exports shall be completed.

6(i). The appellant was granted Personal Hearing on 20.9.2018. Shri C. Anandhkumar, Director of the Firm appeared for the Personal Hearing. He explained that they had approached the RA for extending the export obligation period in line with the PRC decision. They stated that instead of giving extension, RA had adjudicated the case. It was pleaded that the firm and its associate firm had been put under DEL, though they are keen to fulfill the export obligation and they have ready orders. Vide its letter dated 07.01.2019, submitted during the Personal Hearing on that date, the appellant has stated that PRC has considered their request for granting extension of 90 days with Bank Guarantee for duty saved amount only, waiving the interest portion, which was imposed in the earlier decision of the Committee against which they had appealed to the PRC. It was also stated that they have got ready export orders and assured to complete the export obligation within 90 days.

6(ii). The PRC has vide Meeting No. 26/AM 19 dated 03.01.2019 has acceded to the request of the firm and allowed Export Obligation Period extension for a period of three months from the date of endorsement subject to furnishing of 100% BG equivalent to amount of duty saved only. The Meeting has stated that the firm shall approach RA within 30 days from the date of uploading of the minutes of the meeting.

7. I have gone through the appeal and the submissions made during the Personal Hearing. The appellant had defaulted in the fulfillment of export obligation after getting first extension from RA for 6 months. Since they could not fulfill the obligation after the first extension, they got another extension from the PRC, but since the firm was unable to meet the conditions laid down with regard to the submission of Bank Guarantee, they applied for relaxing the conditions of the same, which PRC has acceded to. PRC has extended the period by 90 days from the date of endorsement on the authorization and has stated that the authorization should be submitted within 30 days of uploading the minutes. The appellant is confident of fulfilling the obligation within the stipulated period of 90 days.

...contd.3/-

8. Considering the decision of PRC to grant extension in the export obligation period, the Order imposing penalty for the failure of the appellant to fulfill its exports obligations against the advance authorization no. 3210049129 has become infructuous.

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.No. A(26)/Addl.DGFT/ECA/Che/AM 19/Cbe

Dated 19/03/2019
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1. The Order in Original is set aside
2. The case is remanded back to the licensing authority for de-novo examination in the light of PRC decision. RA Coimbatore may ensure that the appellant has submitted the original authorisation for endorsement within 30 days of uploading the minutes of PRC meeting dated 03.01.2019. Appropriate action may be taken after ensuring that the conditions laid down in the minutes are strictly adhered to.



(D.K.SEKAR)

Appellate Authority &
Zonal Additional Director General of Foreign Trade

M/s Renaissance RTW Asia P.Ltd.
No. 1, Thennampalayam,
Tirupur 641604