



भारतसरकार Govt. of India

वाणिज्य एवं उद्योग मंत्रालय M/o Commerce and Industry

ऑचलिक अपर महानिदेशक विदेश व्यापार 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 - 600006\* Fax: 044-28283403

ईमेल/Email: chennai-dgft@nic.in

F.No.A(35)/Addl.DGFT/ECA/Chen/AM 18/Mdu

Dated 06/02/2020

Name of the Appellant

M/s Sree Kaderi Ambal Mills Ltd.  
Super B-3 Industrial Estate,  
Madurai 625007 (IEC No.3595001524)

Order appealed against

Order-in-Original No.  
35/21/021/000278/AM06  
dated 26.10.2017  
issued by Jt.DGFT, Madurai  
(since merged with 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**

1. M/s SreeKaderiAmbal Mills Ltd., Super B-3 Industrial Estate, Madurai 625007 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 35/21/021/00278/AM 06 dated 26.10.2017 passed by office of Jt.DGFT, Madurai, (since merged with Office of Jt.DGFT Coimbatore).

2. M/s Sree Kaderi Ambal Mills Ltd., had obtained an EPCG authorisation No. 3530001569 dated 15.03.2006 for a duty saved value of Rs. 2900520/- for import of capital goods from the Office of JDGFT, Madurai, with export obligation to export Cotton and Polyester for a FOB value of US\$ 519690.03 within a period of 8 years from the date of issue of authorization. The Company had not submitted documents evidencing fulfillment of export obligation even after expiry of export obligation period. A Show Cause Notice was issued dated 01.05.2017, to the Company and its Directors, with an opportunity of Personal Hearing on 16.05.2017. The Company had requested for time of 90 days for payment of notional customs duty with interest. As evidence of payment of the same was not submitted after the expiry of the above requested period, another Show Cause Notice dated 25.09.2017 was issued. As no documents were submitted, Order-in-Original dated 26.10.2017 imposing penalty of Rs. 5801040/- was passed and the Company was also placed in Denied Entity List by the Adjudicating authority.

3. Aggrieved by the above said Order-in-Original, the Company has preferred the present appeal on 07.11.2017. The Company has requested to waive the condition of pre-deposit of penalty as they are not in financially sound position. The plea of the appellant is allowed.

4.The Company in its appeal and through additional submissions has stated that the authorization was invalidated for procurement of capital goods indigenously. It is also stated that the capital goods procured have been installed at their factory as certified by the Installation certificate issued by Central Excise. It is also given in the appeal that the Show Cause Notice dated 25.09.2017 was not received by them. The appellant states that adequate and sufficient opportunity was not given to be heard in person. It is also said in the appeal that more than ten years have passed since the licence was issued and the Penalty Order is not proper in law. It is stated that they could not fulfill their obligations due to general recession in textile industry which was beyond their control. In view of the above the appellant has sought to set aside the Order and had requested for a Personal Hearing.

5.The appellant was granted Personal Hearing on 28.9.2018 and several other Hearings during which the authorized representative stated that custom duty with interest had been paid and had sought time for submission of confirmation from Customs of payment of the same. During the final personal hearing granted on 20.01.2020, the authorized representative Shri A.Seetharaman, Manager, submitted copy of letter issued by Customs Madurai, confirming payment of the amount towards duty and interest. Hence the appellant has requested to set aside the Order .

6.I have gone through the submissions made by the appellant in the appeal and during the Personal Hearings. The appellant stated that they have not received the Show Cause Notice dated 25.07.2017. It is seen that after the expiry of the export obligation period, the appellant Company had sought time for submission of documents which had been granted. The contention of the appellant that the Order is not valid since it was issued after ten years is not correct. Export Obligation Period is valid upto 8 years after issue of licence. It is the duty of the appellant to submit the documents within the prescribed period. The appellant has not submitted the same and had sought time to submit the documents. As there was no response even after completion of the time sought, licensing authority had taken action. However it is seen that the appellant has voluntarily regularized by payment of customs duty with interest and submitted copy of proof of payment, fact of which has been evidenced by the letter from Customs, Madurai which was submitted by the appellant during the course of the Personal Hearings granted. The appellant does not appear to have any intention of defrauding the Government. But it remains that the documents were not submitted within the prescribed time limit.

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(35)/Addl.DGFT/ECA/Che/AM 18/mdu

Dated 06/02/2020

1. The penalty amount payable is reduced to Rupees fifty thousand, which shall be paid within 30 days of delivery of Order.
3. The case is remanded back to the adjudicating authority for de-novo examination. After examining the documents submitted by the firm and also after necessary verification from Customs of the correctness of duty paid, appropriate orders may be passed.

Sd/-

**(D.K.SEKAR)**

**Appellate Authority &**

**Zonal Additional Director General of Foreign Trade**

M/s SreeKaderi Ambal Mills Ltd.  
Super B-3 Industrial Estate,  
Madurai 625007

Copy to: Jt.DGFT, Chennai (Appeals) for necessary action.

  
**(D.K.SEKAR)**