



सत्यमेव जयते

भारतसरकारGovernment of India

वाणिज्यएवंउद्योगमंत्रालयMinistry of Commerce and Industry

आंचलिकअपरमहानिदेशकविदेशव्यापारकाकार्यालय

Office of the Zonal Additional Director General of Foreign Trade

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F.No.A(36)/Addl.DGFT/ECA/Che/AM 20

Dated 11/ 03/2020

Name of the Appellant

M/s Southern Agro Engine Pvt. Ltd.
24 A, III Phase, Industrial Estate,
Guindy, Chennai 600 032
IEC No.0497000270

Order appealed against

Order-in-Original No.
04/21/021/00342/AM 07 Dated
17.06.2019 issued by
Office of Addl.DGFT Chennai

Order-in-Appeal
Passed by

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

Order-in-Appeal

M/s Southern Agro Engine Pvt. Ltd., Chennai 600032 has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 04/21/021/00342/AM 07 dated 17.06.2019 passed by Office of Addl.DGFT Chennai.

2. M/s Southern Agro Engine Pvt. Ltd., Chennai 600032, had obtained EPCG licence No. 0430003933 dated 01.08.2006 for a duty saved value of Rs. 3,47,474/- from the Office of Addl.DGFT, Chennai with an obligation to export "Multipurpose IC Engines" for a FOB value of US\$ 59,716.26 within a period of 8 years from the date of issue of authorization. The Company had submitted certain documents towards fulfillment of export obligation. On scrutiny of the documents submitted, it was observed that complete set of export documents as required under ANF 5B were not submitted, which was communicated to the Company. In reply, the Company informed that they were collecting the pending documents and that the same would be submitted shortly. But even after a period of 4 years, no reply was received from the Company. Hence a Show Cause Notice dated 26.03.2019 was issued, with an opportunity of Personal Hearing, during which the representative of the Company requested for a copy of the deficiency letter issued. As requested, a copy of the deficiency letter issued was handed over to the Company's representative, during the Personal Hearing, asking them to rectify the deficiencies within 15 days. Accordingly some documents were submitted by the Company, which were not complete, as called for by this office letter. Hence, Order in Original dated 17.06.2019 was passed, imposing a penalty of Rs. 10,000/- and the Company was placed in DEL.

3. Aggrieved by the above said Order-in-Original, the firm has preferred the present appeal on 03.10.2019. The Company has requested for waiver of the condition of pre-deposit of penalty, as they suffered heavy losses due to the floods in December 2015. The plea of the appellant is allowed.

4. The Company in its appeal has stated that as it was situated near the river, the building was submerged in water during 2015 floods and suffered lot of damages causing loss of documents in addition to other damages to machineries and products. Also it is given that the shipping bills which were available had been submitted and has made the plea that the procedural lapse of not mentioning the EPCG authorization number in the shipping bills may be condoned. It is further stated that they have no other obligation to account these exports and that the exports are only against the said authorization, manufactured in their own factory declared while obtaining the authorization and that the export proceeds had been realized by the Company and that there is no outstanding foreign exchange realization. The appellant states that there was no willful default on their part and that demanding payment of Customs duties with interest was not justified when export obligation was completed but the relevant documents could not be submitted due to natural calamity. In view of the above, the appellant has requested to set the Order aside imposing penalty.

5. The appellant has requested to condone the delay in filing of appeal as they could not file the same within the time limit due to loss of documents in the heavy floods in 2015.

6. I have gone through the appeal and the submissions made therein. It is seen that the date of issue of Order in Original is 17.06.2019 and the appeal has been filed on 03.10.2019 which is beyond the time limit prescribed for condonation of delay in filing of appeal. The appellant was granted Personal Hearings on 10.01.2020 and 18.02.2020. During the Personal Hearings, the appellant requested for condonation of delay in filing of appeal and pleaded that the appeal be decided on merit.

7. Section 15 (1)(b) of the Foreign Trade (Development & Regulation) Act, 1992, as amended reads as follows:

(b) ' Where the decision or order has been made by an officer subordinate to the Director General, to the Director General or to any officer superior to the adjudicating authority authorized by the Director General to hear the appeal, within a period of forty-five days from the date on which the decision or order is served on such person; Provided that the appellate authority, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period, allow such appeal to be preferred within a further period of thirty days'.

8. 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 (36)/Addl.DGFT/ECA/Che/AM 20

Dated 11/03/2020

The appeal of the firm is dismissed as the same is Time Barred, as per above provisions of the FTDR Act 1992.


(D.K.SEKAR)

**Appellate Authority &
Zonal Additional Director General of Foreign Trade**

M/s Southern Agro Engine Pvt. Ltd.
24 A, III Phase, Industrial Estate, Guindy, Chennai 600 032