



सत्यमेव जयते

भारतसरकार Government of India

वाणिज्य एवं उद्योग मंत्रालय Ministry of Commerce and Industry

आंचलिक अपर महानिदेशक विदेश व्यापार कार्यालय

Office of the Zonal Additional Director General of Foreign Trade

26, हैडोसरोड 26, Haddows Road

चौथी मंज़िल, शास्त्री भवन अनेक्स 4<sup>th</sup> Floor, Shastri Bhavan Annexe

चेन्नै - 600006 Chennai - 600006

Phone: 044-28283404/08

E-mail: chennai-dgft@nic.in

F.No. A(61)/Addl.DGFT/ECA/Che/AM 20

Dated 6/02/2020

Name of the Appellant

M/s Durferrit Asea Pvt. Ltd.  
No. 5, Pattammal Street,  
Mandaveli, Chennai 600028  
IEC No. 0404007031

Order appealed against

Order -in-Original No.  
04/36/021/00160/AM 05 dated  
01.07.2019, issued by  
Office of Zonal 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 Durferrit Asea Pvt. Ltd., No. 5, Pattammal Street, Mandaveli, Chennai 600028, has filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 04/36/021/00160/AM05 dated 01.07.2019 issued by Office of Zonal Addl.DGFT Chennai.

2. M/s Durferrit Asea Pvt. Ltd., No. 5, Pattammal Street, Mandaveli, Chennai 600028 had obtained EPCG licence No. 0430001916 dated 08.09.2004 for a duty saved value of Rs. 4919732/-- from the Office of Zonal Addl.DGFT, Chennai with an obligation to export Special Non-corrosive coating Chemical for hard coating of metallic components, for a FOB value of US\$ 849144.68, within a period of 8 years from the date of issue of authorization. The Firm had not submitted the installation certificate nor the required documents evidencing fulfillment of export obligation even after expiry of the export obligation period. Hence a Show Cause Notice dated 21.05.2019 was issued with an opportunity for Personal Hearing on 14.06.2019. As there was no reply to the Show Cause Notice, Order in Original dated 01.07.2019 imposing a penalty of Rs. 10,00,000/- was issued and the Company was placed under Denied Entities List.

3. Aggrieved by the above said Order-in-Original, the Company has preferred the present appeal on 02.08.2019. The Company has requested to waive the condition of pre-deposit of penalty as the amount is very high. The plea of the appellant is allowed.

4. The appellant has stated that they have not imported the machine and due to oversight, they had not submitted the original licence. And that after receipt of the Show Cause Notice, they searched for the same, which took time as they had shifted their office. It is further stated that on receipt of the Order in Original, they approached the Customs for obtaining the non-utilisation certificate, which was submitted to the Office on 02.08.2019 and hence it has been sought to remove the Company from DEL so that they can continue with their normal operations

5. I have gone through the appeal and the submissions made therein. The adjudicating authority had issued a Show Cause Notice on 21.05.2019, giving an opportunity of Personal Hearing to the appellant on 14.06.2019. The appellant had not replied to the Show Cause Notice nor had attended the personal hearing. After receipt of the Order in Original the appellant has taken steps to obtain the non-utilisation certificate from Customs and has submitted a copy of certificate so obtained from Customs. 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(61)/Addl.DGFT/ECA/Ché/AM 20

Dated 6/02/2020

1. Order imposing penalty of Rs. 10,00,000/- and placing the firm under Denied Entity List is set aside.
2. 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 case based on the original non-utilisation letter issued by Customs and pass appropriate orders.

(D.K.SEKAR)

Appellate Authority &  
Zonal Additional Director General of Foreign Trade

(1) M/s Dufferrit Asea Pvt. Ltd.  
No. 5, Pattammal Street,  
Mandaveli, Chennai 600028  
IEC No. 0404007031

(2) M/s Dufferrit Asea Pvt. Ltd.  
A 25/26, SIDCO Indl.Estate  
Maraimalainagar, KANCHEEPURAM  
Chennai 603209