



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

26 Haddows Road, शास्त्री भवन अनेक्स, Shastri Bhavan Annexe

Phone:044-28283404/08 \* चेन्नै/CHENNAI - 600 006 \* Fax: :044-28283403

ईमेल/Email:chennai-dgft@nic.in

F.No. A(78)/Addl.DGFT/ECA/Che/AM 20

Dated 21/04/2020

Name of the Appellant

M/s Hipcon Valves Pvt. Ltd.  
8/A, New Street, Cholambedu Road,  
S.M.Nagar Post, Chennai 600062  
IEC No. 0408001275

Order appealed against

Order-in-Original No.  
04/21/021/00093/AM 09 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 Hipcon Valves Pvt. Ltd. Chennai had filed this Appeal under Section-15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 04/21/021/00093/AM 09 dated 03.10.2019 issued by Office of Zonal Addl.DGFT, Chennai.

2. M/s Hipcon Valves Pvt. Ltd. Chennai had obtained an EPCG licence No. 0430006119 dated 09.05.2008 for a duty saved value of Rs. 1503075.65 from the Office of Zonal Addl.DGFT, Chennai with an obligation to export High Pressure and High Temperature Gate Globe, Non-return valves and spares for a FOB value of US \$ 296903.83 within a period of 8 years from the date of issue of authorization. The firm had not submitted export obligation documents as required and hence a Show Cause Notice dated 01.12.2017 was issued for which no reply was received. Another Show Cause Notice dated 23.08.2019 was issued with an opportunity of Personal Hearing on 19.09.2019. There was no reply to the Show Cause Notice and the opportunity of Personal Hearing was also not availed. Hence Order in Original dated 03.10.2019 imposing a penalty of Rs. 5,00,000/ was issued and the firm was also placed in Denied Entities List.

3. Aggrieved by the above said Order-in-Original, the firm has preferred the present appeal on 27.12.2019. The appellant has requested for waiver of the condition of pre-deposit of penalty as they have paid the Custom Duty with interest. The request of the appellant is allowed.

4.The appellant has stated in the appeal that after issue of the licence, due to circumstances beyond their control, were unable to complete the export obligation as mandated and also the installation certificate and other export documents could not be submitted as required. It is stated that they had executed Bank Guarantee at the time of obtaining the licence, which has been enforced for non-fulfillment of export obligation. Subsequent to the issue of the Order in Original, it is stated that they have paid the Custom duty and interest as mandated and had submitted a copy of the letter from the bank confirming the same. In addition to this, they have stated that they were awaiting No Objection Certificate from Customs which has subsequently been issued on 20.11.2019. In view of the above, the appellant has requested to set aside the Order in Original.

5.The appellant was given a Personal Hearing on 17.03.2020. Ms. K.Nancy, advocate, authorized by the appellant appeared for the Hearing and stated that they had paid the duty and interest even before filing of appeal and requested that the Order in Original be set aside.

6. I have gone through the appeal and the submissions made during the Personal Hearing. The firm has imported the capital goods, but has not furnished the installation certificate and other documents towards fulfillment of export obligation. It is seen that the Bank Guarantee has been enforced and Customs has issued No Objection Certificate confirming payment of duty with interest. Hence there is no loss to the Government exchequer. There also does not seem to be any intent on the part of the appellant to defraud the Government. But the fact remains that the export obligation has not been fulfilled.

7. 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(78)/Addl.DGFT/ECA/Che/AM 20

Dated 21/04/2020

1. Order placing the firm under Denied Entity List is set aside.
2. The penalty payable is reduced to Rs. 10000/- being the minimum penalty leviable.
3. 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 documents so submitted shall be examined the and appropriate orders may be passed.

  
(D.K.SEKAR)

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

**M/s Hipcon Valves Pvt. Ltd.  
8/A, New Street, Cholambedu Road,  
S.M.Nagar Post, Chennai 600062  
IEC No. 0408001275**