

Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi -110011

F.No. 18/36/2018-19/ECA-I/221

Date of Order: 17.08.2019
Date of Dispatch: 19.08.2019

Name of the Applicant:

Mahalaxmi Vanijya Private Ltd.,
VILL & P.O.:- Prasastha
N.H. 6, Bombay Road, P.S.- Domjur,
Howrah, West Bengal- 711302

IEC No. :

0210023074

Order reviewed against:

Order-in-Appeal No.18/48/FA/17-18/ECA/KOL/Appeal-
231/390 dated 18.07.2018 passed by the Addl. DGFT,
Kolkata.

Order-in-Review passed by:

Shri Alok Vardhan Chaturvedi, DGFT

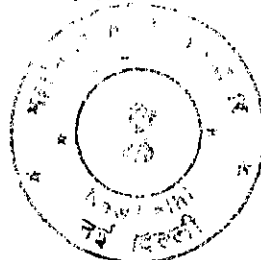
Order-in-Review

Mahalaxmi Vanijya Pvt. Ltd. (here-in-after referred to as "the petitioner"), Howrah, West Bengal, filed a Review Petition dated 27.07.2018 under section 16 of the Foreign Trade (Development & Regulation) Act, 1992 (here-in-after referred to as "the Act") against Order-in-Appeal No. 18/48/FA/17-18/ECA/KOL/Appeal-231/390 dated 18.07.2018 passed by the Addl. DGFT, Kolkata dismissing the appeal, being time barred and upholding the Order-in-Original dated 22.05.2017. The Adjudication Authority had imposed a penalty of Rs.5,00,000/- in addition to payment of customs duty along with 15% interest per annum on the petitioner.

Brief Facts of the Case

2.1 The Applicant obtained an Advance Authorisation No. 0210152302 dated 16.12.2010 from RA, Kolkata as per the provisions of the Foreign Trade Policy prevalent during that period for a CIF value of Rs. 57,61,735.20 (US\$ 1,24,848.00) with an export obligation to export specified products for a value of Rs. 66,54,804.16 (US\$. 1,44,199.44) to be completed within a period of 36 months from the date of issue of the Authorisation. As per conditions of the authorisation, the applicant was required to submit the export documents towards fulfilment of export obligation within the time frame as mentioned in the relevant FTP.

2.2 The Export Obligation (EO) period expired. The petitioner did not submit any export documents towards fulfilment of export obligation despite several reminders and opportunities of personal hearings. A show cause notice dated 22.10.2014 was issued under section 14 of the Act for violation of conditions of Advance Authorisation and imposition of fiscal penalty under section 11(2) of the Act. The Adjudicating Authority passed Order-in-Original dated 22.05.2017



imposing a fiscal penalty of Rs.5,00,000 in addition to payment of customs duty along with 15% interest per annum on the petitioner.

2.3 The petitioner filed an appeal on 12.06.2018 before the Appellate Authority against Order-in-Original dated 22.05.2017. The Appellate Authority, vide the Order-in-Appeal dated 18.07.2018 rejected the appeal as time barred.

3.0 The petitioner has now submitted a review petition dated 27.07.2018 before the undersigned seeking review of Order-in-Appeal dated 18.07.2018. The petitioner has, inter-alia, submitted the following:

(i) It imported materials against Bill of Entry No.2559615 dated 10.01.2011 and paid full duty with interest vide challan No.20679 dated 19.07.2011 for Rs.7,93,000.

(ii) It requested RA, Kolkata on 15.06.2017 and 27.12.2017 for cancellation of Advance Authorisation No.0210152302 and paid Rs. 66549 vide D/D No. 937054.

4 It is observed that:

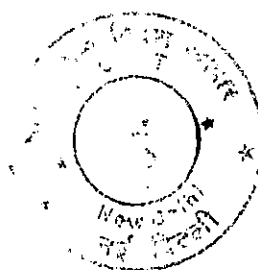
(i) Along with its review application, the petitioner submitted these two photocopies:

(a) First photocopy purported to be of a Bill of Entry No. 2559615 dated 10/01/2011 showing import of 4 containers of sheet film for an assessable value of Rs. 27,89,957/-. It also shows execution of a Bond of Rs. 756550 backed by a bank guarantee of Rs. 1,13,482/- which was debited by the customs fully. It also has a stamp of customs showing payment of Rs. 1,37,476/- on 16/11/12 whereas there was no need to pay any amount when the import has been cleared under advance authorisation. The petitioner nowhere in its submissions has claimed to have paid the amount of Rs. 1 37 476/-.

(b) Second photocopy is of a challan having number 20679. This has two figures of deposit. At one place it shows an amount of Rs. 7,93,000/- paid vide cheque no. 007614 dated 18/07/11. The clearing stamp of receipt which is partly readable shows three dates 19/7/11, 21/07/11 and 23/07/11. It also has one stamp showing an amount of Rs. 1,37,476/- paid on 16/11/12.

(ii) Comments were also obtained from RA, Kolkata. As per the information received, in reply to the show cause notice, the petitioner first submitted to RA, a photocopy of export obligation discharge certificate claiming to have fulfilled the export obligation. On being asked to produce the original, the petitioner changed its version and submitted a photocopy of challan as mentioned in para 4(i)(b) supra claiming to have paid the duty. The petitioner neither submitted original receipt nor any other original document substantiating settlement of its dues with the customs authorities.

(iii) In view of the above situation, I have no reason to rely on these two photocopies which contain contradictory information. The petitioner has failed to submit any credible documentary evidence to prove payment of full duty and interest on the material imported by it without payment of duty against the subject advance authorisation.



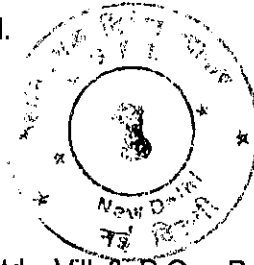
A handwritten signature, possibly "Ch", written in black ink. Below the signature is a long, thin diagonal line.

5.0 I, therefore, in exercise of the powers vested in me under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992 (as amended) pass the following order:

Order

F.No. 18/36/2018-19/ECA-I

Review Appeal is dismissed.



Dated: 17.07.2019

(Alok Vardhan Chaturvedi)
Director General of Foreign Trade

Copy To:

- (1) Mahalaxmi Vanija Private Ltd., Vill & P.O.:- Prasastha N.H.: 6, Bombay Road, P.S.:- Domjur, Howrah, West Bengal- 711302
- (2) RA, Kolkata with an advice to take effective steps to make recoveries.
- (3) DGFT website

(Dilip Kumar)

Dy. Director General of Foreign Trade