

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

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F.No. 18/65/2018-19/ECA-I/223

Date of Order: 17 .09.2019

Date of Dispatch: 19 .09.2019

Name of the Appellant:

Nagar Haveli Perfumes and Aromatics, Scent  
House, Station Road, Goregaon (West), Mumbai-  
400062

IEC No.

0399010823

Order reviewed against:

Order-in-Appeal No. 03/16/144/00053/AM19/1146  
dated 20.11.2018 passed by the Addl. DGFT,  
Mumbai.

Order-in-Review passed by:

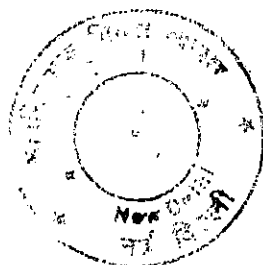
Shri Alok Vardhan Chaturvedi, DGFT

**Order-in-Review**

Nagar Haveli Perfumes and Aromatics, Mumbai filed a Review Petition dated 21.12.2018 under section 16 of the Foreign Trade (Development & Regulation) Act, 1992 against Order-in-Appeal No. 03/16/144/00053/AM19/1146 dated 20.11.2018 passed by the Addl. DGFT, Mumbai dismissing the appeal. The Adjudication Authority imposed a penalty of Rs.1,50,00,000/- on the petitioner and its partners in addition to payment of Customs Duty and applicable interest thereon.

**Brief facts of the case**

2.1 The petitioner obtained an Advance Authorisation No. 0310487431 dated 23.09.2008 from RA, Mumbai as per the provisions of the Foreign Trade Policy(FTP) prevalent during that period for a CIF value of Rs. 1,50,66,473/- (US\$ 3,46,358/-) with an export obligation of Rs. 2,58,82,500/- (US\$. 5,95,000/-) to be completed within a period of 24 months (extended upto 36 months) from the date of issue of the Authorisation. As per the conditions of the authorisation, the petitioner was required to submit the prescribed export documents towards fulfillment of export obligation within the time frame as mentioned in the relevant FTP.



A handwritten signature in black ink, appearing to be "Alok Vardhan Chaturvedi".

2.2 The extended Export Obligation (EO) period expired on 23.09.2011. The petitioner did not submit complete export documents towards fulfillment of export obligation despite several reminders and opportunities of personal hearings. A demand notice was issued on 22.11.2010 under Rule 7 of Foreign Trade (Regulation) Rules, 1993. The petitioner was also placed under Denied Entity List. A Show Cause Notice dated 21.11.2012 was issued to the petitioner and its partners under Section 14 of FT(D&R) Act, 1992 for imposing fiscal penalty under Section 11(2) for violation of Rules 10, 13 and 14 of Foreign Trade (Regulations) Rules, 1993. The petitioner neither responded to notices nor appeared for personal hearings. The petitioner was also advised to inform whether it was willing to avail the benefits of clubbing under Public Notice No. 34/2015-20 dated 24.10.2017. The petitioner did not respond. The Adjudicating Authority passed Order-in-Original dated 15.01.2018 imposing a fiscal penalty of Rs. 1,50,00,000/- on the petitioner and its partners in addition to payment of Customs Duty and applicable interest thereon.

2.3 The petitioner filed an appeal on 25.04.2018 before the Appellate Authority against Order-in-Original dated 15.01.2018. The Appellate Authority gave personal hearing on 13.11.2018. The Appellate Authority observed that the petitioner did not submit original export documents and got the case regularized by paying Customs Duty and applicable interest thereon. The Appellate Authority, vide the Order-in-Appeal dated 20.11.2018 rejected the appeal.

3.0 The petitioner has now submitted a review petition dated 21.12.2018 before the undersigned requesting to set aside Order-in-Appeal dated 20.11.2018. The petitioner has, inter-alia, submitted the following:

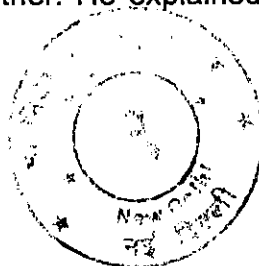
(i) It has imported goods worth US \$ 2,25,114/- and exported goods US \$ 9,21,719/- . It submitted consumption certificate duly certified by Central Excise and requested for fixation of revised norms indicating 70% import and 85% export completed.

(ii) Its requested several times for norms fixation. Norms have not been fixed. It requested for clubbing of license vide his applications dated 01.01.2018 and 15.01.2018. The same were not considered.

(iii) There is miscommunication and therefore ex-party order has been passed.

(iv) The Adjudicating Authority imposed heavy penalty for violation of procedure of non-submission of requisite documents.

4.0 The petitioner was afforded an opportunity of personal hearing on 31.01.2019 which was availed by Mr. Yatesh Jain, partner. He explained that although they have



made the export but they could not get the case closed as the norms were not fixed by the norms committee (NC). He was advised to submit the prescribed documents showing fulfillment of export obligation to the concerned RA and also get the norms fixed by representing to the concerned NC. The NC was also advised to fix norms in the subject authorization. It is gathered that the NC has taken up fixation of norms of the petitioner in its meeting dated 14.08.19 and the matter was referred to the Technical Authorities for examination. A report was also called for from the RA Mumbai. Vide its letter dated 13.09.2019, RA Mumbai has informed to have received some documents showing fulfillment of export obligation.

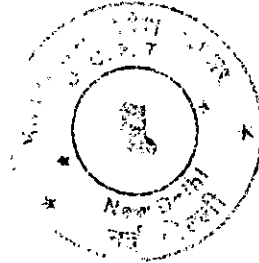
5.0 I, therefore, in exercise of the powers vested in me under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992 (as amended) pass the following order:

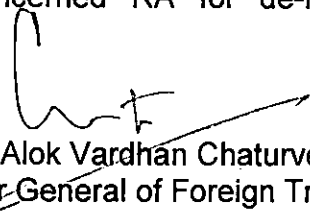
**Order**

F.No. 18/65/2018-19/ECA-I

Dated: 17 .09. 2019

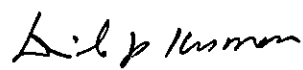
Order-in-Appeal dated 20.11.2018 and Order-in-original dated 15.01.2018 are set aside. The matter is remanded back to the concerned RA for de-novo consideration.



  
(Alok Vardhan Chaturvedi)  
Director-General of Foreign Trade

**Copy To:**

- (1) Nagar Haveli Perfumes and Aromatics, Scent House, Station Road, Goregaon (West), Mumbai-400062.
- (2) Additional DGFT, Nishtha Bhavan, (New C.G.O. Building), New Marine Lines, Churchagate, Mumbai – 400020
- (3) DGFT website.

  
(Dilip Kumar)  
Dy. Director General of Foreign Trade