

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

F.No. 18/66/2018-19/ECA-I/225

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. 03/16/144/00054/AM19/1147
dated 20.11.2018 passed by the Addl. DGFT,
Mumbai.

Order-in-Review passed by:

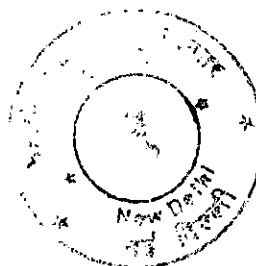
Shri Alok Vardhan Chaturvedi, DGFT

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. 03/16/144/00054/AM19/1147 dated 20.11.2018 passed by the Addl. DGFT, Mumbai dismissing the appeal. The Adjudication Authority imposed of penalty of Rs.18,00,000/- on the petitioner and its partners in addition to payment of Customs Duty and applicable interest thereon vide Order-in-Original dated 18.01.2018.

Brief facts of the case

2.1 The petitioner obtained an Advance Authorization No. 0310475546 dated 19.06.2008 from RA, Mumbai as per the provisions of the Foreign Trade Policy (FTP) prevalent during that period for a CIF value of Rs. 9,56,165/- (US\$ 36428/-) with an export obligation of Rs. 29,75,000/- (US\$. 70,000/-) to be completed within a period of 24 months from the date of issue of the Authorization. As per the conditions of the authorization, 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.



2.2 The Export Obligation (EO) period expired on 18.06.2010. 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 18.08.2010 under Rule 7 of Foreign Trade (Regulations) Rules, 1993. The petitioner was placed under Denied Entity List. A Show Cause Notice dated 08.07.2013 was issued to the petitioner and its partners under Section 14 of FT(D&R) Act, 1992 for imposition of fiscal penalty under Section 11 of the Act 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 given an opportunity for availing the benefits of one time relaxation of export obligation and clubbing of advance authorizations as per Public Notice No. 34/2015-20 dated 24.10.2017 vide the letter dated 05.01.2018. The petitioner did not avail it. The Adjudicating Authority passed Order-in-Original dated 18.01.2018 imposing a fiscal penalty of Rs. 18,00,000/- 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 18.01.2018. 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.

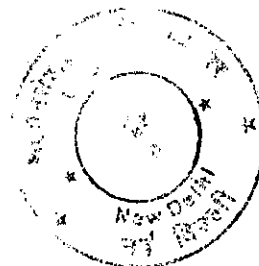
3.0 The petitioner has now submitted a review petition dated 21.12.2018 before the undersigned requesting to set aside Order-in-Appeal dated 20.11.2018. The petitioner has, inter-alia, submitted the following:

(i) It imported goods worth US \$ 18433/- and exported goods US \$ 36026/-. It submitted consumption certificate duly certified by Central Excise and requested for fixation of revised norms.

(ii) It requested several times for fixations of norms. Norms has not been fixed. It also requested for clubbing of licenses as per Public Notice No. 34/2015-20 dated 24.10.2017 vide its letter 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 I have considered the matter carefully. The petitioner was afforded an opportunity of personal hearing on 31.01.2019 which was availed by its partner Mr. Yatesh Jain. He explained that they have already fulfilled the export obligation but could not get the matter closed as the norms were not fixed. He was advised to follow up fixation of the norms in the norms committee and to submit the prescribed documents to the concerned RA showing fulfillment of the export obligation. It is gathered that norms for the authorization were fixed in the norms committee meeting dated 30.05.2019. Vide its letter dated 13.09.2019, RA Mumbai has informed to have received some documents showing fulfillment of the export obligation.

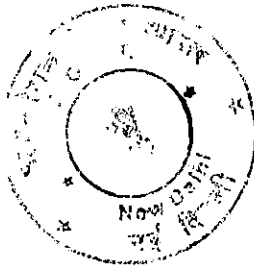
5.0 I, therefore, in exercise of the powers vested in me under Section 16 of the Foreign Trade (Development & Regulation) Act, 1992 (as amended) pass the following order:

Order

F.No. 18/66/2018-19/ECA-I

Dated: 17 .09. 2019

Order-in-Appeal dated 20.11.2018 and Order-in-original dated 18.01.2018 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