

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

F.No. 18/16/2016-17/ECA-I/234

Date of Order: 26 .09.2019

Date of Dispatch: 26 .09.2019

Name of the Appellant:

Shamrock Chemie Pvt. Ltd., 201, University Plaza, Vijay
Cross Road, Navrang pura, Ahmedabad-380 009

IEC No.

0807002259

Order reviewed against:

Order-in-Original No. 08/F-3/2/AM16/ECA dated
11.02.2016 passed by the Jt. DGFT, Ahmedabad.

Order-in-Review passed by:

Shri Alok Vardhan Chaturvedi, DGFT

Order-in-Review

Shamrock Chemie Pvt. Ltd., Ahmedabad (here-in-after called "the respondent") was issued a show cause notice dated 10-08-2015 by Joint Director General of Foreign Trade, Ahmedabad, the Adjudicating Authority, for:

- (i) Suspension/cancellation of IEC No. 0807002259 under Section 8(1) of the Foreign Trade (Development and Regulation) Act, 1992 (here-in-after called 'the act'), as amended.
- (ii) Refusal to issue further licences/benefits/authorizations under Rule 7 of the Foreign Trade (Regulation) Rules, 1993. (here-in-after called 'the rules')
- (iii) Cancellation of the 12 Advance Authorizations under section 9(2) of the act.
- (iv) Recovery of all such benefits obtained/availed by it which are ineligible under DEPB Scheme.
- (v) Imposition of fiscal penalty under Section 11(2) of the act.
- (vi) Any other action as deemed fit.

Concluding that the allegations contained in the above said show cause notice are not proven, the Adjudicating Authority, vide its Order-in-Original (OIO) No. 08/F-3/2/AM16/ECA dated 11.02.2016, dropped proceedings initiated under the said Show Cause Notice. Aggrieved by the said decision of the Adjudicating Authority, the Ahmedabad Zonal Unit of the Directorate of Revenue Intelligence (DRI), filed a Review Petition dated 04.08.2016 under section 16 of the act.



Brief facts of the case:

2.1 For manufacturing products for exports, eligible exporter can import raw materials and consumables etc. free of import duties, under an Advance Authorization (AA) issued by Regional Authority (RA) of the Directorate General of Foreign Trade (DGFT), as per duty exemption scheme contained in chapter 4 of the Foreign Trade Policy (FTP) read with chapter 4 of the Hand Book of Procedures (HBP). Product specific import entitlements, both in terms of description and quantity of item of import(s), against a particular export product, are published in Standard Input Output Norms (SION) Book. Exporter, while applying for obtaining an AA, mentions in its application, serial number of the SION as contained in the book, on the basis of which import entitlement against that export product is calculated and allowed. In case entitlement of a particular export product is not published in the SION book, norms for such products are fixed by Norms Committee (NC) in the office of DGFT, New Delhi. NC is an inter-ministerial committee containing technical experts. In such cases, an exporter files an application for obtaining AA categorizing the application as under "No Norms". On the basis of such application, the applicant obtains AA, from the RA, for import and export of items and quantities provisionally on self declaration basis, undertaking to make imports and exports under that authorization on its own risk and to pay to the govt. applicable duties along with interest in case there is any change in its entitlement as decided by the NC. After issuance of such AA, the relevant application is examined by NC for fixation of entitlement and adhoc norms specifying description and quantity of imports and exports are fixed.

2.2 On basis of its applications filed on different dates with the RA Ahmedabad, the respondent obtained thirteen AAs. All these applications were filed mentioning serial number A1250 of the SION Book. Accordingly the respondent was eligible for obtaining AA for the exact description of imports and exports along with the quantitative entitlement as mentioned in serial number A1250 of the SION book.

2.3 Entry at S.No. A1250 of SION Book mentions the following:

Sl. No.	Export Item	Quantity	Import Item	Qty. Allowed
A1250	Linear Alkyl Benzene Sulphonic Acid	1 kg	Linear Alkyl Benzene	0.720 Kg.

2.4 However the respondent applied and obtained thirteen AAs with the following description:

S.No.	A.A No.	Date	Description of Export Product as per application and Authorization	Quantity (M.T.)
1.	0810128566	31.01.2014	Linear Alkyl Benzene Sulphonic Acid, Sodium Salt Powder Form, Industrial Surfactant	100
2.	0810128565	31.01.2014	Linear Alkyl Benzene Sulphonic Acid, Sodium Salt Powder Form, Industrial	482



			Surfactant	
3.	0810128640	04.02.2014	Linear Alkyl Benzene Sulphonic Acid, Sodium Salt Powder Form, Industrial Surfactant	40*
4.	0810124641	04.02.2014	Linear Alkyl Benzene Sulphonic Acid, Sodium Salt Powder Form, Industrial Surfactant	40*
5.	0810128706	05.02.2014	Linear Alkyl Benzene Sulphonic Acid, Sodium Salt Powder Form, (Industrial Surfactant)	132
6.	0810128564.	31.01.2014	Linear Alkyl Benzene Sulphonic Acid, Sodium Salt Powder Form, (Industrial Surfactant)	132
7.	0810128563	31.01.2014	Linear Alkyl Benzene Sulphonic Acid, Sodium Salt Powder Form, (Industrial Surfactant)	40
8.	0810129199	26.02.2014	Linear Alkyl Benzene Sulphonic Acid	352
9.	0810130768	22.04.2014	Linear Alkyl Benzene Sulphonic Acid	220
10.	0810130769	22.04.2014	Linear Alkyl Benzene Sulphonic Acid	220
11.	0810130732	21.04.2014	Linear Alkyl Benzene Sulphonic Acid	396
12.	0810133356	17.09.2014	Linear Alkyl Benzene Sulphonic Acid	396
13.	0810133720	03.11.2014	Linear Alkyl Benzene Sulphonic Acid	1012

* These two AAs have been got redeemed by the respondent.

From the above it is observed that the respondent wrongly applied and obtained seven AAs as mentioned in the serial no. 1 to 7 in the table above with description of export item different from that mentioned in serial no. A1250 of the SION Book.

2.5 The respondent filed four shipping bills i.e. 6142638 dated 19/11/14, 6158159 dated 20/11/14, 6179746 dated 21/11/2014 and 6201415 dated 22/11/2014 for export of 484 MT goods in 22 containers having a declared value of Rs. 5,24,05,622/- at customs port, Pipavav. These four consignments were declared as "Linear Alkyl Benzene Sulfonic Acid Sodium Salt (Powder Form) (Industrial Surfactant)" to be exported against AA no. 0810133720 dated 03.11.2014 (appearing at S.No. 13 of the table above). DRI, Gandhidham examined these export shipments on 26.11.2014 and drew samples. Analysis of these samples done at Custom House Laboratory, Kandla revealed that the goods were mainly composed of flavoured Sodium Chloride (89.4% to 95.6%) and there were only traces of active matter, alkalinity, moisture, calcium, magnesium, iron, etc. Finding that the goods being exported were misdeclared in terms of description and were grossly overvalued, the DRI seized the goods. In view of DRI obtaining samples of its exports goods, the respondent surrendered Advance Authorisation No. 0810133720 dated 03.11.2014 to RA, Ahmedabad. During the investigation, DRI found that the various such consignments exported by the respondent in the past under 12 Advance Authorisations (at S.No. 1-12 above) were also of similar nature. Sh. Paresh D Patel Director of the respondent, in his voluntary statement dated 16.12.2014, given under section 108 of the



