

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
OFFICE OF THE ADDITIONAL DIRECTOR GENERAL OF FOREIGN TRADE
4, ESPLANADE EAST ::: KOLKATA – 700 069.

F. No. 02/21/021/00284/am07

Date : 16.12.2015

ORDER-IN-ORIGINAL

1. Any person /party aggrieved by this order, may under Section 15(1)(b) of the Foreign Trade (Development & Regulation) Amendment Act, 2010, file an appeal against the same to the appropriate authority viz. The Addl. Director General of Foreign Trade, Kolkata within 45 days from the date of serving of this Adjudication Order together with a copy of this order and complete set of evidence in the form of annexure to the appeal relied upon in support of the appeal under intimation to this office.
2. Any person/party desirous of filing an appeal against this order shall deposit the penalty amount along with the appeal to the Appellate Authority filing which the appeal is liable to be rejected for non-compliance of the provisions of Section 15(1) of the Foreign Trade (Development & Regulation) Amendment Act, 2010.
3. The penalty amount is to be deposited under the “ Heads of Account: Foreign Trade and Export Promotion Minor Head 102 other receipts and penalties etc” Imports and Exports Control Organization maintained by Central Bank of India, Kolkata.
4. An evidence of payment of penalty of appeal is required to be submitted to the Adjudication Authority within 45 days from the date of serving of this adjudication order, failing which import export code no. of the persons/Companies entities concerned is liable to be suspended as per provision of Section 11(7) and as well the penalty amount shall be recovered as an arrear of land revenue under the provision of section-11(5)(d)(1) of Foreign Trade (Development & Regulation) Amendment Act, 2010 as amended without making any further reference to them.

5. The brief fact of the case is that M/s.Hindustan Motors Ltd., 9/1, R.N.Muukherjee Road, Kolkata-700001 (IEC No.0288000072) (hereinafter referred to as "the firm") obtained an EPCG Authorisation No. **0230001745 dt.01.09.2006** for import of Capital Goods (as a Manufacturer Exporter) for a Duty Saved Value Rs.11,46,068/- with an export obligation of FOB Rs.91,68,544/- (\$1,94,248/-) and **Average Export Performance of Rs. nil** to be completed within a Period of 8 years from the date of issue of the License as per the condition of the license .

6. And whereas, the firm's export obligation period has expired on **01.09..2014** but could not furnish complete set of export documents towards fulfilment of Export Obligation till date. Therefore, a show cause Notice was issued to the firm on **26.5.2015** giving them 15 days time for submission of written reply. Since the firm have failed to submit the documents, refusal of licence issued to them on **17.9.2015** in terms of section 9 (2) of the Foreign Trade (D&R)Act, 1993 read with Rule 7(i)(a) and (k) of Foreign Trade(Regulation) Rules, 1993 followed by an Show Cause Notice under section 14 dated 23.12.2014 allowing further 30 days time for submission of documents.

7. And whereas, the firm did not respond to the Show Cause Notice and the Refusal Order nor appeared for personal hearing. Therefore, I am constrained to issue this order to M/s.Hindustan Motors Ltd., 9/1, R.N.Muukherjee Road, Kolkata-700001 and its Directors asking him to Show Cause the reason as to why the fiscal penalty should not be imposed under Section 11(2) of the said Act for violation of the conditions of the licence and misuse of imported Capital Good allowed with 'Actual User' condition at concessional rate of Customs Duty. The firm has still not submitted the required documents or any other evidence of having fulfilled the export obligation imposed.

ORDER

8. Therefore, in exercise of the power as vested upon me under section-13 of Foreign Trade (Development & Regulation) Amendment Act, 2010 I do hereby impose fiscal penalty of **Rs. 10 Lakhs Rupees** only) (Penalty amount for non-submission of complete documents including realization Certificate) in addition to payment of Customs duty and 15% interest per annum. on **M/s.Hindustan Motors Ltd., 9/1, R.N.Muukherjee Road, Kolkata-700001** and its Director under section 11(2) of the said Act. They are collectively and severally made responsible to deposit the said penalty amount.

9. This order is issued without prejudice to any other actions that may be taken against the company under any other Rules/Law in force.

(K.M.HARILAL)
Dy. DIRECTOR GENERAL OF FOREIGN TRADE

To

- 1). M/s.Hindustan Motors Ltd., 9/1, R.N.Muukherjee Road, Kolkata-700001
- 2) Appeal Section.