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**Government of India**  
**Ministry of Commerce & Industry**  
**Office of the Zonal Jt. Director General of Foreign Trade**  
**4, Esplanade East, Kolkata - 700 069.**

F. No. 02/36/021/00073AM'04

Date : 13.12. 2013

**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, New Delhi 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 : 1453 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 or 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 provisions 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.SHIV RAJ KIRAN CAPS PVT.LTD,10A,Jackson Lane,2<sup>nd</sup> Floor, Kolkata-700 001 having IEC No. 0202004724 (hereinafter referred to as "the firm" ) obtained an EPCG Authorisation No.0230000411 dated.16.09.2003 for import of Capital Goods (as a Manufacturer Exporter) for a duty save value Rs.418,371.00 with an Export Obligation of Rs.3,346,968.00 (US\$-69,947.08) to be completed within a Period of 8 years from the date of issue of the License. As per the condition of the license, the licensee has to furnish the export documents within two months from the date of expiry of the said obligation period.
6. And whereas, the firm's export obligation period has expired on 31.07.2011 but the firm could not furnish any export documents. Therefore, a Show Cause Notice was issued to the firm on 22.02.2013 giving them 15 days time for submission of written reply. Since the firm have failed to submit the written reply an order for refusal of licence has been issued to them on 13.03.2013 in terms of Section 9(2) of the Foreign Trade(D&R) Act, 1993 read with Rule 7(1)(a) and (K) of Foreign Trade (Regulation) Rules,1993.
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.SHIV RAJ KIRAN CAPS PVT.LTD,10A,Jacson Lane,2<sup>nd</sup> Floor, Kolkata-700 001 and its Director asking him to Show Cause the reason as to why the fiscal penalty should not

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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.

8. And whereas an inspection team of ECA Division inspected to the Firm/Company address 10A, Jackson Lane, Kolkata-700 001. The team went to 2<sup>nd</sup> floor and found no such firm/Company in this name. On inquiry from other offices at 2<sup>nd</sup> floor one Gentleman (name did not disclosed) informed the team that the Company has been closed much earlier and left the building.

9. And whereas the team then went to the office of Landlord of that building at 2<sup>nd</sup> floor of 10B, Jackson Lane. No body in that office also could provide the team, the residential address/contact number of Directors or M.D. of that Company. One of the member of that office came down with the team and shown one shop name M/s. M. N. Trading Co. and M/s. Gupta Enterprises of 10B, Jackson Lane, Kolkata-700 001. The person who was presented at that shop also could not help the team in any way rather he has firmly told the team that Directors of the earlier company (M/s. Shiv Raj Kiran Pvt.Ltd.) has got no relation with their company/firm. So, the team is of the view that the firm/Co is not in existence at the time of inspection.

### ORDER

10 Therefore, in exercise of the power as vested in me under section-13 of Foreign Trade ( Development & Regulation) Amendment Act, 2010 I do hereby impose fiscal penalty of Rs. 418,371.00 (penalty amount for non-submission of complete documents including realization Certificate) in addition to payment of Customs duty and 15% interest p.a. on M/s. M/S.SHIV RAJ KIRAN CAPS PVT.LTD, 10A, Jackson Lane, 2<sup>nd</sup> Floor, Kolkata-700 001. and its director under section 11(2) of the said Act. They are collectively and severally made responsible to deposit the said penalty amount.

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

*S. Badhal*  
13/12/13

Dr. Sukhbir Singh Badhal  
Asst. Director General of Foreign Trade  
For Zonal. Joint Director General of Foreign.

To

1. M/s. SHIV RAJ KIRAN CAPS PVT.LTD,  
10A, JACKSON LANE, 2<sup>ND</sup> FLOOR,  
KOLKATA-700 001.
2. Mr. Krishnan kumar Gupta,  
P-15 New C.I.T. Scheme ,  
Kolkata-700 010.
3. Mr. Ajay Kumar Gupta,  
P-15, New C.I.T. Scheme,  
Kolkata-700 010.
4. Mr. Anup Kumar Gupta,  
P-15, New C.I.T. Scheme,