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Draft for approval PA

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

E. No. 02/36/021/00079/AM'03

Date : /06/2014

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 : 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 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. Emmbee Forest Products Pvt Ltd., 25/4, Rustomjee Street, Gr. Floor, Kolkata - 7000 19 having IEC No. 0288027396. (hereinafter referred to as "the firm") obtained an EPCG Authorisation No.0230000287 dated.12.12.2002 for import of Capital Goods

(as a Manufacturer Exporter) for a Duty Saved Value Rs.11,15,884.84- with an Export Obligation of Rs.55,79,424.24 (US\$118,585.00) 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 original Export Obligation Period has expired on 11.12.2010.

6. And whereas the EPCG Committee of the DGFT, New Delhi has considered the case vide meeting dated 30.03.2012 on the basis of the request made by the firm and allowing extension in Export obligation period for 4 years on the basis of payment of composition fee equal to 2% of proportionate duty saved amount on unfulfilled export obligation for the first two years of extension and 50% of duty payable in proportion to the unfulfilled export obligation for the subsequent 2 years extension in terms of provision contained in para 5.11 of Hand Book of procedure, (Vol.I). Similarly, Committee decided to allow condonation of block wise export obligation as per the provision of para 5.8.3 of Hand Book of Procedure, (Vol.I) subject to the payment of composition fee of 2% on duty saved amount in proportionate to the shortfall at the end of each block. Accordingly, this office has intimated the firm to pay an amount in the respective head of Customs as well as in the head of Jt.DGFT as specified in the said minutes vide letter dated 17.05.2012 followed by reminder dated 30.08.2012 but neither any reply/clarification of the said nor the submitted ~~the~~ *by them so far* ~~copy of the receipt of payment made under the heads as stated above~~

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.Emmbee Forest Products Pvt Ltd., , 25/4, Rustomjee Street, Gr. Floor, Kolkata – 7000 19 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.

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ORDER

8. 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. 500000/- (penalty amount for non-submission of complete documents including realization Certificate) in addition to payment of Customs duty and ~~15%~~ ^{applicable} interest per annum . on M/s. Emmbee Forest Products Pvt Ltd., 25/4, Rustomjee Street, Gr. Floor, Kolkata – 700 019 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.

~~This issues with the approval of Jt. DGFT (EPCG)~~


(R.L.MEENA)

JT. DIRECTOR GENERAL OF FOREIGN TRADE

To

- 1). M/s. Emmbee Forest Products Pvt Ltd.,
25/4, Rustomjee Street, Gr. Floor, Kolkata - 700019
- 2) Sri Arup Majumder, 23/2E Moore Avenue, Kolkata – 700 040
- 3). Sri Subir Mazumder, Mukulika Apartment, Flat No. 3B, 248, B.B. Chatterjee Road, Kolkata – 700 040
- 4). The Asstt. Commissioner of Customs, EPCG CELL, Group -7
Customs House, 15/1, Strand Road, Kolkata – 700 001.