

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
OFFICE OF THE ADDL.DIRECTOR GENERAL OF FOREIGN TRADE
4, ESPLANADE EAST, KOLKATA-700069.**

File No. ALS-E1/02/21/040/00159/AM'10/422/423/ Dated:- 17.10.2014

424/425/426/

ORDER-IN-ORIGINAL

Passed by:-

Shri R.L. Meena, Joint Director General of Foreign Trade, Kolkata.

1. Any person aggrieved by this Order may under Section-15 of the Foreign Trade (Development and Regulation) Act, 1992 file an appeal against the same to the appropriate authority i.e. the Additional Director General of Foreign Trade, Kolkata-700069 within a period of 45 days from the date of serving of this Order together with a copy of this Order and a complete set of evidence to be relied upon in support of the appeal.

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 failing which the appeal is liable to be rejected for non-compliance of the provisions of Section-15(1) of the Foreign Trade (Development & Regulation) Act, 1992.

3. The penalty amount is to be deposited within a period of 15 days from the date of issue of this order under the head of amount "1453 Foreign Trade & Export Promotion", Minor Head-102 other receipts, fines and penalties etc. failing which, the Importer Exporter Code Number **0204021880** allotted to the Noticee firm may be suspended without any further notice, till payment of the full fiscal penalty amount.

4. I have gone through the facts and records of the case carefully, I find that M/s. Malsons Polymers Pvt. Ltd., Stephen House, Room No. 57 ABC, 4th Floor, 56E, Hemanta Basu Sarani, Kolkata-700001 and hereinafter referred to as the "Noticee firm" had obtained an Advance Authorization for Exports. One of the conditions of the licence was that the licensee shall deliver or cause to deliver to this office within 2 months from the date of expiry of the export obligation period stated export documents as prescribed under Para 4.25 of Hand Book Vol-1 2009-14 as amended from time to time as evidence of fulfillment of export obligation imposed on this licence. Failure to fulfillment the export obligation in the manner as prescribed in the Hand Book Vol-1, 2009-14 shall attract penal proceedings under the provisions of Foreign Trade (Development & Regulation) Act 1992 and as per provision of Para 4.24 of the Hand Book Vol-1, 2009-14 as amended from time to time.

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5. Consequently Show Cause Notice (SCN) was issued to the Noticee firm under Section-14 of Foreign Trade (Development & Regulation) Act, 1992 calling upon the Noticee firm to show cause as to why fiscal penalty should not be imposed upon them under Section 11 of the said Act for violation of the conditions of the said licence issued to them.

7. While I am willing to accept that the Noticee firm may have had no intention to contravene the provisions of the import export policy when it first applied for the Advance Authorization, but its subsequent behavior belies its contention that it was forced by circumstances to do so. There is ample evidence about the willful contravention of the conditions imposed on the licences, this makes the Noticee firm liable to penalty under the FT(D&R) Act 1992.

8. Further, in exercise of the powers vested in me under Section-13 of the Foreign Trade (Development & Regulation) Act, 1992 and also Section-11 of the said act, I hereby impose a penalty of Rs.2500000.00 (Rupees Twenty five lakh only) on the noticee firm and also its Directors/Partners/Proprietor. In addition, the noticee firm and its Directors/Partners/Proprietor shall also be liable to pay Custom Authority, the entire amount of custom duty saved on the authorization and applicable interest thereon.

9. This action is without prejudice to any other actions that may be taken against the notice firm under the Foreign Trade (Development & Regulation) Act, 1992 and the rules and orders made there under of any other act or law in force.



(R.L. MEENA)

JT.DIRECTOR GENERAL OF FOREIGN TRADE

TO

1. M/s. M/s. Malsons Polymers Pvt. Ltd., Stephen House, Room No. 57 ABC, 4th Floor, 56E, Hemanta Basu Sarani, Kolkata-700001.
2. M/s. M/s. Malsons Polymers Pvt. Ltd., 29, Strand Road, 3rd Floor, Room No.9, Kolkata-700001.
3. Mr. Anil Agarwal, 5, Camac Street, Kolkata-700017.
4. Shakuntala Devi Agarwal, 5, Camac Street, Kolkata-700017.
5. Sikha Agarwal, 5, Camac Street, Kolkata-700017.
6. Asstt. Commissioner of Customs, (DEEC Cell), Kolkata-700001.
7. ADG/FTDO(B/L Cell) for information and necessary action.
8. DGFT., Udyog Bhavan, Maulana Azad Road, New Delhi-110107.

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21.10.14