

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE
OFFICE OF THE ADDL. DIRECTOR GENERAL OF FOREIGN TRADE
4, ESPLANADE EAST : KOLKATA - 700 069.
E.mail: jtdgftkol@nin.in : Tel-22486831-34.

No. 02/21/040/00179/am10

dated : 23.07.2015

ORDER IN ORIGINAL

IEC NO.0288000749

01. Any person aggrieved by the order may under Section 15 of the Foreign Trade (Development and Regulation) Act, 1992 file an appeal against the same to 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 complete set of evidence to be relied upon in support of the appeal in the form an annexure.
02. 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 and Regulation)Act, 1992.
03. The Penalty amount is to be deposited within a period of 45 days from the date of issue of this order under the Head of Amount "1453 Foreign Trade and export Promotion" Minor Head - 102 other receipts, fines and penalties etc. failing which the Importer Exporter code allotted to the party may be suspended without any further notice, till payment of the full fiscal penalty amount. The penalty amount is liable to be recovered as an arrear of land revenue under the Provisions of Section 11(4) of the Foreign Trade (Development & Regulation) Act, 1992 without making any further reference to them.

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A show cause notice of even number dated 19.12.2013 with opportunity of Personal Hearing was issued to M/s. Engser Limited, 7, Foreshore Road, Shibpur, Howrah-711 103 (hereinafter referred to as the firm) and their Directors in terms of Rule-7 of the Foreign Trade (Regulation) Rules, 1993 read with Section 9 of Foreign Trade (Development & Regulation) Act, 1992 for non-fulfillment of export obligation and violation of provision of the above mentioned Act and Rules. On receipt of the aforesaid SCN on meeting with JDG Sh.A Sen (p.h. fixed on 02.01.14) they have informed that their case to be clubbed with other cases where EOP is still valid, Also as per their request further P.H. was given on 08.09.14, 22.01.14., and 10.2.14. Since the firm could not furnish the complete set of documents, defaulter order under Rule 7(k) was issued to them on 16.06.2014. Then they have informed vide their letter dt. 24.12.2014 that their unit is under lockout i.e. suspension of work from 7th July 2014 due to lack of export order and employee trouble & therefore no documents were submitted by them & requested for withdrawal of DEL order. Mr M.K. Budhia ; Director met with Sh.R.L. Meena, JDG vide gate pass no.6 dt. 30.03.2015 wherein they have further requested to withdraw DEL order & the same request letter was submitted by them on 14.05.2015 but till date they have failed to submit the documents.

5. I have gone through the facts and records of the case carefully, I find that the firm had obtained the Advance Authorisation No.0210130849 dt.26.08.2009 for duty free import of items as allowed in the authorization with the obligation to earn FOB value of Rs.14454290.00, U\$. 303391.00. One of the conditions of the authorization was that the licensee would export the item as indicated in the said authorization to foreign Countries within the stipulated period.
6. Since after expiry of the export obligation period, the firm has not produced all documents prescribed in Para 4.25 of the Hand Book of Procedures, 2009-14 as evidence for fulfillment of export obligation, in exercise of the powers vested in me under Section 13 of the Foreign Trade (Development & regulation) Act, 1992 and Section 11 of the said act, I hereby impose a penalty of Rs.-10,00,000/- (Rupees Ten lakhs only) on the noticee firm and their Directors so that

it acts as deterrence against any such misadventure by the firm in future. They are collectively and severally responsible to deposit the said penalty amount. This is in addition to the Customs duty and interest @15% payable for excess import made by the firm.

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


(V. Sraman)

Zonal Jt. Director General of Foreign Trade

To

1. M/s. Engser Limited, 7, Foreshore Road, Shibpur, Howrah-711 103
2. Shri Mahesh K. Budhuia, Director 1, Sarat Bose Road, Kol-700 020