

BY SPEED POST

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE
OFFICE OF THE ADDL. DIRECTOR GENERAL OF FOREIGN TRADE
4, ESPLANADE EAST :: KOLKATA-700069
e-mail no.dgft@wb.nic.in : Tel.: 2248-6831-34

No.ALS-G/02/24/40/00262/AM'08

Dated: 29/12/2015

ORDER – IN - ORIGINAL

Passed by:-

S.Bhattacharya, Dy. Director General of Foreign Trade.

1. 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 appropriate authority i.e. the Additional Director General of Foreign Trade, 4, Esplanade East, Kolkat-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 in the form of an annexure.
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(I) of the Foreign Trade(Development and 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 account "1453 Foreign Trade & Export Promotion", Minor Head – 102 other receipts, fines and penalties etc. failing which, the Importer Exporter Code Number 0205030009 allotted to the party may be suspended without any further notice, till payment of the full fiscal penalty amount under File No. 02/24/40/00262/AM'08.
4. have gone through the facts and records of the case carefully. I find that M/s. Concord Nonwoven Industries Pvt. Ltd., 8, Ho Chi Minh Sarani, Suit No.26, 2nd Floor, Kolkata-700071 had obtained Advance Authorisation bearing No. 0210109763 dt. 29.02.2008 for duty free import of items as allowed on the authorisation for a CIF Value US\$.81375.00 (Rs. 3255000.00) with the obligation to export 50.00 M.T. of Nonwoven Fabric Polyproplene in Roll for a FOB Value of US\$.92500.00 (Rs.3700000.00/-) mentioned in the authorisation which has not been fulfilled within the stipulated period as mentioned in the Condition sheet of the authorisation . E.O. period has already expired on 28.02.2011.
5. As per para 2.15 of Foreign Trade policy, if an Authorisation holder violates any condition of such Authorisation or fails to fulfil export obligation, he shall be liable for action in accordance with FT (D &R) Act, the Rules and orders made there under, FTP and any law for time being in force.

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6. As per para 4.45 (b) of Hand Book of Procedures, Vol.1, 2009-2014, Authorisation holder shall submit requisite evidence in discharge of export obligation in accordance with paragraph 4.46 ibid.
7. As per para 4.44(f) of said Hand Book of procedures in case Authorisation holder fails to complete EO or fails to submit relevant information/documents, RA shall take action by refusing further Authorisations, enforce condition of Authorisation an Undertaking and also initiate penal action as per law.
8. Export obligation period expired on 28.02.2011, The firm did not submit full set of export documents. Therefore, a notice of even number dated 14/02/2012 was issued to M/s. Concord Nonwoven Industries Pvt. Ltd., 8, Ho Chi Minh Sarani, Suit No.26, 2nd Floor, Kolkata-700071 (hereinafter referred to as the "Noticee firm") under section 7(1)(K) of Foreign Trade (Development & Regulation) Act, 1992, calling upon the notice firm to show cause as to why they should not be put under "Denied Entity List" for non submission of documents towards fulfillment of export obligation and why Legal undertaking should not be enforced. The firm was given 15 days time for submission of their reply and an opportunities for personal hearing was allowed. The reason for the notice arose from the fact that the firm had failed to fulfill the export obligation imposed against the above mentioned Advance Authorisation.
9. The firm neither submitted any export documents nor availed the opportunity of personal hearing. Therefore, the firm was placed under "Denied Entity List" vide order of even number dated 07.06.2012. Thereafter, a Show Cause Notice of even number dated 18.10.2012 under section 11(2) of Foreign Trade (Development & Regulation) Act, 1992 was issued to the firm calling upon to show cause as to why fiscal penalty should not be imposed against them for violation of the condition of the Authorisation. An opportunity of personal hearing was also allowed to the noticee firm. The firm was granted another personal hearings on 22.02.2013, 13.08.2013 & 03.10.2013. The firm was also given several opportunities to submit full set of documents towards fulfillment of E.O.
10. After expiry of the export obligation period, the firm have not produced full set of documents prescribed as evidence for fulfillment of export obligation. The firm have imported 50.66 M.T. Polypropylene Granules, but export in proportionate to the imported quantity is not established. Hence he has imported goods in violation of the provisions of the export-import policy. He has diverted duty free imported goods for purposes other than export.
11. Since the firm have not produced full set of documents in support of full exports, as such, I am left with no option but to conclude that the firm have failed in fulfillment of the export obligation that was imposed upon them.

12. Further, in exercise of the powers vested upon me under section 13 of the Foreign Trade (Development & Regulation) Act, 1992 and section 11 of the said Act, I hereby impose penalty of Rs.10,00,000/- in addition to Customs Duty and applicable interest to be paid to customs authority for non compliance and non submission of full export documents for failing of fulfillment of the E.O.
13. This action is without prejudice to any other action that may be taken against the notice 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.



(S.BHATTACHARYA)
Dy. DIRECTOR GENERAL OF FOREIGN TRADE.

Copy to:

- 1.M/s Concord Nonwoven Industries Pvt. Ltd., 8, Ho Chi Minh Sarani, Suit No.26, 2nd Floor,, Kolkata-700071.
2. Mr. Kunal Jhunjunwala, 158/2, G-Block, New Alipore, Kolkata-700053.
3. Mr. Ashish Jhunjunwala, 6, Lee Road, Kolkata-700020.
- 4.FTDO (E.C.A. Section)
5. FTDO (B.L.Cell.)
6. Asstt. Commissioner of Customs, DEEC Cell, 15/1, Strand Road, Kolkata-1 for information and taking necessary action

2- ADG (OL) (Compl.)