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

No.ALS-G/02/77/40/0058/AM04/123.

Dated: 20/05/2013.

ORDER - IN - ORIGINAL

Passed by:-

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

1. Any person aggrieved by the order may, under 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, Udyog Bhawan, New Delhi-110 107 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 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(1) 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 0200006100 allotted to the party may be suspended without any further notice, till payment of the full fiscal penalty amount.
4. The firm obtained an Advance Authorization No.0210056456 dt.20.10.2003 in the following manner in terms of para 4.7 of Handbook of Procedure, Vol.I, 2004-2009:-  
  
 Item of import:-Copper Cathode-30271.000 K.G., Zinc Ingot-3106.000 K.G., Aluminium Ingot-1871.000 K.G., Stearic Acid-406.000 K.G. for a C.I.F. Value of US\$95703.00 (Rs.4402325.00).  
  
 Item of Export:-Bronze Powder-24000.000K.G.,Copper Powder-5500.000 K.G. Aluminium Powder-1650.000 K.G. for Feb value of US\$113988.00 (Rs.5203552.00).
5. In terms of Para 4.24 of Hand Book of Procedures, Vol.I 2004-2009. Authorization Holder shall submit requisite evidence in discharge of export obligation in accordance with paragraph 4.25 of the said Hand Book of Procedures.

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6. As per para- 4.24 1 of Hand Book of Procedures Vol.I, 2004-2009, in case Authorization Holder fails to complete EO or fails to submit relevant information/documents RA shall take action by refusing further Authorization, enforce condition of Authorization and undertaking and also initiate penal action as per Law.
7. The Export Obligation period on 19.04.2005. The firm did not submit complete export documents towards fulfillment of export obligation.
8. Show Cause Notice of even no. dated 30.08.2012 was issued for failure of submit export documents. Since the firm failed to submit original export documents, they were placed under "Denied Entity List" vide order of even number dated 01.10.2012.
9. A notice of even number dated 30.08.2012 was issued to M/s Orion Metal Powder Pvt. Ltd., 37, Shakespeare Sarani, 2<sup>nd</sup> Floor, Kolkata-700 017 (hereinafter referred to as the "Noticee firm") under Rule of Foreign Trade Regulation Rules, 1993, 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 toward fulfillment of E.O. and violation of the conditions of the Advance Authorisation bearing No.0210056456 dt.20.10.2003 issued to them. The Notice was given 15 days time for submission of their reply and 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 Authorization. The firm neither submitted complete export documents nor appeared for personal hearing. So, they were placed under Denied Entity List vide order of even number dated 01.10.2012. Thereafter, a notice of even number dated 10.01.2013 was issued to the firm calling upon the notice firm to Show Cause under section 11(2) of the Act, as to why Fiscal Penalty should not be imposed against them for violation of the conditions of the Authorization as well import of duty free goods this made in violation of exim policy.
10. I have gone through the facts and records of the case carefully. I find that M/s Orion Metal Powder Pvt. Ltd., 37, Shakespeare Sarani, 2<sup>nd</sup> Floor, Kolkata-700 017 had obtained the above mentioned advance authorization for duty-free import of items as allowed on the authorization for a CIF Value of U.S. 95703 (4402325.00) Authorization holder should export for a FOB Value of US 113988.00 (5203552.00) mentioned in the authorization which has not been fulfilled within the stipulated period as mentioned in the Condition sheet of the authorization.
11. After expiry of the export obligation period, the firm have not produced complete documents prescribed as evidence for fulfillment of export obligation. 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.
12. Since the firm have not produced documents in support of completion of export as such, I am left with no option but to conclude that the firm has failed to fulfill export obligation that was imposed upon.
13. Further, in exercise of the powers vested in me under Section 13 of the Foreign Trade

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(Development & Regulation) Act, 1992 and section 11 of the said act, I hereby impose penalty of R.4400000/- in addition to Customs Duty and applicable interest to be paid to Customs Authority for non-compliance and non-submission of complete export documents towards fulfillment of the E.O.



( R.L.MEENA )

JOINT DIRECTOR GENERAL OF FOREIGN TRADE.

Copy to:

- ✓ 1. M/s.Orion Metal Powder Pvt. Ltd., 37, Shakespeare Sarani, 2<sup>nd</sup> Floor, Kolkata-17.
2. R.K. Agarwal, Director, Ganges Garden, Bldg. GA-1, 2<sup>nd</sup> Floor, 106, Kiran Chandra Singha Road, Shibpur, Howrah-711 102.
3. Asstt,Commissioner of Customs, (DEEC CELL), Customs House, 15/1, Strand Road, Kolkata-700 001.
4. F.T.D.O., BL Cell for information please.