

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. 02/21/40/00606/AM08 | 421

dated : 03.02.2016

ORDER IN ORIGINAL

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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- 700 069 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.
4. show cause notices of even number dated 26.07.2011, 22.03.2013 & 18/12/2015 with opportunity for Personal Hearing was issued to M/s. Nokia Siemens Networks India Private Ltd., Salt Lake Electronics Complex, Block-GP, Plot-G, Sector -V, Bidhan Nagar, Kolkata-700091 (hereinafter referred to as the firm) and their Directors under section 11 of Foreign Trade (Development and Regulation) Act, 1992, calling upon them 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 Advance Authorisation bearing no. 0210110331 dated 13.03.2008 issued to them. The firm was given 15 days time for submission of the reply and opportunities for Personal Hearing. The reason for the notice arose from the fact that the firm had failed to submit full set of export documents regarding fulfillment of export obligation imposed against the above mentioned Adv. Authorisation. The firm failed to submit the documents prescribed in the Foreign Trade Policy as evidence of fulfillment of export obligation or surrender the Authorisation for cancellation, if not utilized.

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5. I have gone through the facts and records of the case carefully, I find that the firm had obtained the above mentioned Advance Authorisation for duty free import of items as allowed in the authorization with the obligation to earn FOB value of US\$481247.14. One of the condition of the authorization was that the licensee would export of item as indicated in the said authorization to foreign Countries within the stipulated period.
6. 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.
7. Since the firm has not produced all prescribed documents or surrendered authorization unutilized, I am left with no option but to conclude that export obligation has not been fulfilled. Hence the duty free imported goods have been diverted for purposes other than licenced and as laid down in policy. The firm procured duty free goods in violation of the Foreign Trade Policy and provisions of Foreign Trade (Development & Regulation) Act and Rules.
8. Further, 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-Twenty Lakhs (Rs-2000000) on the notice 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 alongwith applicable interest.
9. 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 )

Jt. Director General of Foreign Trade

To

M/s. Nokia Siemens Networks India Pvt. Ltd., Salt Lake Electronics Complex, Block-GP, Plot-G,  
Sector-V, Bidhan Nagar, Kolkata- 700091. / Nokia Solutions and Networks India Pvt. Ltd.,  
422 7<sup>th</sup> Floor, Tower A, Building No. 9, DLF Cybercity, Phase III, Gurgaon - 122 002, Haryana.

Directors:-

1. MR. ASHISH CHOWDHARY, LATE PHOOL CHOWDHARY, D 1/5, II FLOOR, VASANT VIHAR, NEW DELHI, PIN NO. 110 057
- 423 2. MR. SURESH C WADHWANI, CHANDERBHAN D WADHWANI, 118 B, HAMILTON COURT, GURGAON, HARYANA, PIN - 122 001
- 424 3. MR. ANINDA CHATTERJEE, RAMANANDA CHATTERJEE, 1B, BLDG., 1, GANGULY APARTMENT, 8 DR. ASHUTOSH SAS TRI ROAD, BELIAGHATA, KOLKATA - 700 010.