

GOVERNMENT OF INDIA/Ministry of Commerce  
Office of the Additional Director General of Foreign Trade  
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Bangalore – 560 034

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Date: 26.04.2019

F.NO.07/36/021/00209/AM03

**ORDER IN ORIGINAL**

**Subject: Adjudication under section 13 of the Foreign Trade (Development and Regulation) Act, 1992, due to non compliance with the Show Cause Notice Issued under Section 14 of the said Act, dated 06/01/2014 for non-fulfilment of Export Obligation for EPCG license number 0730000764 dated 17.10.2002.**

**General Instructions:**

1. Any person/party aggrieved by this Order may, under Section 15(b) of the Foreign Trade Development & Regulation Act, 1992, file an appeal against the same to the appropriate Appellate Authority, i.e. Addl. Director General of Foreign Trade, Bangalore within 45 days from the date of serving this Adjudication Order, with a copy of this order and a complete set of evidence in the form of annexure to the appeal 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 appeal to the Appellate Authority failing which the appeal is liable to be rejected for non-compliance of the provisions of Section 15(b) of the Foreign Trade (Development & Regulation) Act, 1992.
3. The penalty amount is to be deposited under the Head of Account 1453 – Foreign Trade Export Promotion, Minor Head – 102 other receipts, fines and penalties etc, Imports and Exports Control Organization, within a period of 30 days from the date of this Order failing which their Importer Exporter Code Number may be suspended without any further intimation, till the payment of full penalty amount. The proof of such payment must be intimated in writing to the adjudicating authority in order to avoid suspension of IEC.

**Brief facts of the case:**

4. Whereas, you **M/S Fab Distributors** with IEC number **0799000621** have been issued an Export Promotion Capital Goods Authorization no. **0730000764** dated **17.10.2002** for Duty Saved value of **Rs. 3,67,416/-** from this office for duty free imports of capital goods with a condition to fulfill export obligation and to earn free foreign exchange of FOB value **Rs.18,37,080/- (USD 37,800)** within the stipulated period of time as per the conditions mentioned in the license.
5. The export obligation period expired on **16.10.2010**
6. Accordingly, for the purpose of discharge of said obligation you are required to submit documents, in terms of Para 5.5 of the Foreign Trade Policy, as prescribed under the Paras 5.7 and 5.8 of the Hand Book of procedures, within three months from the date of expiry of the said obligation period as above, towards discharge of said obligation. But, you have not submitted documents towards fulfillment of export obligations till date.

7. And, Whereas, in case of failure to fulfillment of stipulated export obligation or submission of documents within the specified period, licence/Authorisation holder shall pay customs duty with 15%/18% interest as applicable on imported capital goods brought in duty free/reduced duty, to the customs Authority concerned and submit proof of the duty paid to the licensing Authority concerned. But, you did not avail the opportunity of this option too.
8. And whereas, in terms of Para 2.10 of EXIM/ FT Policy, if a licensee/ certificate/ permission/Authorization holder violates any condition of the licence/certificate/permission or fails to fulfill the export obligation, he shall be liable for action in accordance with the Act, the rules and orders made there under, the policy and any other law for the time being in force.
9. Therefore, you were issued a Show Cause Notice dated **06/01/2014** from this office with an appointment of personal hearing. However till date you have neither attend the personal hearing nor regularized this case and furnished evidence of the same to this office till date. Hence their name was placed under DEL by this office.

#### Considerations:

10. In the interest of natural justice, this office has given you opportunities, as outlined above, to comply with the procedures. This office issued a Show Cause notice for non-compliance on **06/01/2014**. You had sufficient time to follow up and ensure that you comply with the directions from this office or regularize the matter by way of payment of customs duties with interest.
11. You have failed to neither establish fulfilment of your export obligation nor have regularized the case by way of payment of customs duties with interest.
12. After careful examination of the documents in hand, it is seen that you are well aware that there is an export obligation that you need to fulfil in lieu of the EPCG Licence. The non regularisation of the case on your part and lack of interest to close the matter in the interim is viewed seriously by the undersigned.
13. As there is huge Govt. Revenue involved, I see no reason in prolonging the matter any further.

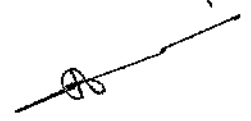
#### ORDER

I, hold the firm guilty of contravening the provisions of Section 11 of FTD&R Act by contravening the provisions of Foreign Trade Policy. I also hold the firm guilty of willfully ignoring the demand raised by this office to submit EO documents and hence under Section 9(4), **I order the license is to considered cancelled ab-initio, and full duty plus interest as applicable to be paid by the firm.**

In addition, under Section 13 and 14 of FTD&R Act read together, I impose a **penalty of Rs. 3,67,416/-, (Rupees Three Lakh Sixty Seven Thousand Four Hundred Sixteen Only)** which is equal to the duty saved value of the license. The quantum of penalty is fixed keeping in mind the fact that the firm has been given sufficient time and opportunities to comply with the license conditions, and the fact that the firm has willfully chosen to ignore the matter.

I further order that no further license shall be issued to the firm/company or to any other firm/company in which the Proprietor/Partners/Directors of this firm/company are directly or indirectly involved in the day – to – day activities of that firm as per Provisions of Handbook read with Rule 7(1) of the Foreign Trade Regulation Rules, 1993.

This is issued without any prejudice to any other action that may be initiated against them under any other applicable law in force.



**RAMESH HOLEYACHI**  
**DEPUTY DIRECTOR GENERAL OF FOREIGN TRADE**

To

1. FABDISTRIBUTORS, SUBRAMANYAPURA, BANGALORE,  
KARNATAKA PIN-560061

**Directors:**

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| 1. | Y.G.MADHUSUDAN,<br>LATE Y.S.G.SETTY,<br>36, 39TH CROSS, 8TH BLOCK,<br>JAYANAGAR, BANGALORE,<br>PIN-560082<br>Phone/Email:6341562                                      |
| 2. | VINAY M.YADALAM,<br>Y.G.MADHUSUDAN,<br>46, 39TH CROSS, 8TH BLOCK,<br>JAYANAGAR,BANGALORE<br>PIN-560082<br>Phone/Email:6341562   |
| 3. | Y.G.DWARAKANATH,<br>LATE Y.S.G.SETTY,<br>NO.746/39, 13TH C ROSS, WEST OF -<br>KANAKAPURA ROAD,7TH BLOCK,<br>JAYANAGAR BANGALORE,<br>PIN-560082<br>Phone/Email:6762290 |
| 4. | VIKRAM D.YADALAM,<br>Y.G.DWARAKANATH,<br>746/39, 13TH CROSS, WEST OF-<br>KANAKAPURA ROAD,B 7TH BLA,<br>JAYANAGAR BANGALORE,<br>PIN-560082<br>Phone/Email:6762290      |

2. OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS, BENGALURU  
INTERNATIONAL AIRPORT, DEVANAHALLI, BENGALURU – 560300
3. CENTRAL ECONOMIC INTELLIGENCE BUREAU (CEIB) 1<sup>ST</sup>, 6<sup>TH</sup>, 8<sup>TH</sup>, FLOOR B  
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