

SPEED POST

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. 02/21/40/00072/AM'16

dated : 25-04-2019

ORDER IN ORIGINAL

IEC NO. 0297005821

01. Whereas M/s. Aristo Texcon Pvt. Ltd., (herein after referred to as the 'firm') Stephen House, Room No.-79, 5th floor, 4, B.B.D. Bag (East), Kolkata-700 001 had applied for an Advance Authorization on 09-06-2016 for a CIF Value of Rs. 8903125/- (US \$ 137500.00);
02. Whereas an Advance Authorization bearing No. 0210205870 dated 09-06-2016 for duty free import 100000.00 KG. of Latex Rubber Wet (60% DRC) as per list attached to the Authorization for a CIF Value of Rs. 8903125/- (US \$ 137500.00) was issued to the firm on 09-06-2016 for Export item: 61.850 M.T. of Heat Resistance Latex Rubber Threads (Talc / Silicone Coated) (as per Condition Sheet) SION Sl. No. 62/2888-ITCHS Code No.40070010 with an obligation of Rs.10327625.00 (\$ 159500.00-FOB) within 18(eighteen) months from the date of issue of the authorization, as stipulated in the Foreign Trade Policy 2015-2020 and Hand Book of Procedures, 2015-2020 and as per the condition sheet attached to the Authorization;
03. Whereas the firm was required to submit the stipulated export documents towards fulfillment of export obligation within 2 (two) months from the date of expiry of the export obligation period on 08-12-2017 under para-4.44(b) of the Hand Book of Procedures, 2015-20;
04. Whereas the firm had failed to submit all necessary and stipulated documents towards fulfillment of export obligation and, therefore, prima facie had established that they had failed to fulfill the export obligation violated the provisions of the Foreign Trade Policy and Foreign Trade (Development & Regulation) Act, 1992 as amended;
05. And whereas a Show Cause Notice, dated 11-10-2018 under Rule-7 (1) (k) of the Foreign Trade (Regulation) Rules, 1993 read with Section 9 of the Foreign Trade (Development & Regulation) Act, 1992 for action under Rule 7 of the Foreign Trade (Regulation) Rules 1993,as amended was issued to the firm for refusal of further grant/renewal of authorization and to show cause as to why fiscal penalty should not imposed against them for violation of the conditions of the Authorization as well violation of the Exim Policy;
06. Whereas the firm was provided with the opportunity of Personal Hearing allowing the Directors / Partners / Proprietor of the firm to appear in person or through their authorized representative valid Power of Attorney or through their practicing Advocate with Vakalatnama duly stamped and executed in his favor, before the Adjudicating Authority and explain their case with sufficient reason and with valid documents vide the Show Cause Notice dated 11-10-2018;

07. Whereas the firm had failed to comply to the Show Cause Notice dated 11-10-2018 within the stipulated time and thereafter a DEL Order was issued to the firm on 27-12-2018 since no reply / documents was submitted by the firm.

08. The under signed has carefully gone through the facts and submission of the case and perused records available on file. It is observed that the firm has not made any efforts to get their case regularized in terms of the Policy Provisions. The firm has obtained the subject Advance Authorization for import of duty free materials and failed to fulfill the export obligation as stipulated in the condition sheet attached to the said Authorization. It is observed that the firm failed to submit the complete evidence of fulfillment of export obligation, nor attended the personal hearings to explain the case for delay and non-submission of documents and has therefore contravened the provisions of Foreign Trade Policy. In the absence of any evidence to the contrary, it can be concluded beyond reasonable doubt that complete evidence of export has not been evidenced against the subject Authorization even after one year of expiry of the Authorization. The firm is, therefore, guilty of contravening the conditions of the Authorization and the provisions of the Foreign Trade Policy and its Act and Rules which govern the Authorization.

09. And Now, therefore, in exercise of the powers as conferred on the undersigned under Section 8 & 13 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, the following Order is passed:

The firm is hereby imposed with a fiscal penalty of **Rs.1,00,000/- (Rupees One Lakh)** under Section 11 (2) of the Foreign Trade (Development & Regulation) Act, 1992, as amended. The firm and its Directors shall be liable to pay the Penalty amount. The firm and its Directors are hereby directed to pay the above said penalty amount and produce the requisite evidence to this office within a period of 30 days from the date of this Adjudication Order. The firm and its Directors are also directed to pay the customs duty plus interest, as applicable, to the concerned customs authorities;

10. The penalty amount is to be deposited within a period of 30 days under the Head of Account: "1453 Foreign Trade and Export Promotion" Minor Head 102 other receipts Fines and Penalties etc.," Import & Export Control Organization, maintained by Central Bank of India, Kolkata.

11. The evidence of payments of penalty amount is required to be produced to the Adjudicating Authority within 45 days from the date of serving of this Order-in-Original, failing which the Import Export Code No. 0297005821 shall be suspended till the penalty is paid in terms of Section 11(7) of Foreign Trade (Development & Regulation) Act, 1992, as amended.

12. The firm may under Section 15 of the Foreign Trade (Development and Regulation) Act, 1992 as amended, file an Appeal against the same to the Appellate Authority viz. The Additional Director General of Foreign Trade, Kolkata. The Appeal has to be filed within 45 days from the date of receipt of the Adjudication Order. Appeal must be

