

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/02/24/40/00160/AM15 / 85 80 - 87

Dated: 01.05.2019

ORDER - IN - ORIGINAL

Passed by:-
U.K. Acharya, Jt. 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(l) 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 0299003108 allotted to the party may be suspended without any further notice, till payment of the full fiscal penalty amount under File No. 02/24/40/00160/AM15.
4. I have gone through the facts and records of the case carefully. I find that M/s.Ostern Private Ltd., Rajveena, 2nd floor, 50A,Block-C, New Alipore, Kolkata-700 053 had obtained an Advance Authorisation bearing No. 0210205413 dt. 02.01.2015 for duty free import of items as allowed on the authorisation for a CIF value US\$2,140,600.00 (Rs. 128,436,000.00) with the obligation to export 100000000 Number Plastic Body Ball Point Pens for a FOB value of US\$ 2,900,000.00 (Rs. 174,000,000.00) 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 July 2016.
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.
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

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further Authorisations, enforce condition of Authorisation an Undertaking and also initiate penal action as per law.

8. Export obligation period expired on July 2016.. The Norm Committee vide their meeting No. 6/85-ALC3/2015 dt. 23.07.2015 considered the case as per agenda. The committee noted that SION exists for this export product at Sl.No. H-175. The committee decided to ratify the norms as per SION H-175. A Show Cause Notice was issued on 03.08.2017. The firm was given 15 days time for submission of their reply and an opportunity for personal hearing was allowed. But the firm neither appeared for personal hearing nor submitted documents.

9. After expiry of the period as allowed by this office, the firm have not submitted required documents towards redemption/regularization of the case.

10. Since the firm have not produced documents towards payment of CD + interest on the imports effected as called for, 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.

11. 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. 50,00,000/- addition to Customs Duty and applicable interest to be paid to customs authority for non compliance and non submission of documents for regularization of the case.

12. This action is without prejudice to any other action that may be taken against the noticee 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.



(U.K. Acharya)

JT., DIRECTOR GENERAL OF FOREIGN TRADE.

Copy to:

1. M/s Ostern Private Ltd., Rajveena, 2nd Floor, 50A, Block-C, New Alipore, Kolkata-700 053..

2. Mr. Lalit Agarwal, Director, Rajveena, 2nd Floor, 50A, Block -C, New Alipore, Kolkata- 700 053.

3. FTDO (E.C.A. Section)

5. Asstt. Commissioner of Customs, DEEC Cell, 15/1, Strand Road, Kolkata-1 for information and taking necessary action

6. PS to Addl. DGFT, Kolkata