

Ministry of Commerce & Industry  
Directorate General of Foreign Trade  
Udyog Bhawan, New Delhi -110011

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F.No. 18/56/2018-19/ECA-I (1)

Date of Order:

03.04.2019

Date of Dispatch:

08.04.2019

Name of the Appellant:

Pan Drugs Limited,  
167-168 GIDC Nandesari Industrial Estate,  
Vadodara, Gujarat 391340, India.

IEC Number:

0388063670

Order reviewed :

Order-in-Appeal No. 08/01/144/00015/AM17,  
dated 29.03.2018 passed by the Addl. DGFT,  
Mumbai.

Order-in-Review passed by:

Shri Alok Vardhan Chaturvedi, DGFT

**Order-in-Review**

Pan Drugs Limited, 167-168 GIDC Estate, Nandesari, Vadodara- 391340, has filed this review under section 16 of the Foreign Trade (Development & Regulation) Act 1992, as amended, against order in appeal No. 08/01/144/00015/AM17, dated 29.03.2018.

**Brief facts of the case**

2.0 Pan Drugs Limited, applied and obtained an advance Authorisation No. 3410014929 dated 09.12.2005 for a CIF value Rs. 54,68,616/- for import of 18000 kgs of Guaiacol and 15360 Kgs. Of Epichlorohydrin free of import duties with an obligation to export 24000 Kgs. Of Guaifenesine for an FOB value of Rs 64,72,800/-(USD 144000). One of the conditions of the licence was that the licensee had to fulfil the export obligation within a period of 24 months from the date of issuance of the licence and submit the prescribed documents evidencing fulfilment of the export obligation within one month from the date of expiry of the export obligation period.

2.1 The company submitted export documents showing the export of 32100 Kgs. for an FOB value of USD 237445.44. The documentary evidence showing export of 17100 Kgs for USD 131557.44 were accepted by the licensing authority and the other documents were returned to it as there was no evidence for receipt of foreign exchange against such exports. In view of the admitted exports, there was an excess import to the extent of 3995 kgs. of Epichlorohydrin for USD 31968.42. The company was required to regularise the case by paying customs duty and interest on such excess imports which it failed to do. The company submitted request for clubbing of licence on 10.11.2004 which was rejected by the licensing authority. Thus the company violated the conditions of the licence.



2.2 Therefore, the Adjudicating Authority in exercise of power vested in him under section 13 of the FT (DR) Act, 1992, vide order-in-original 34/01/002/00016/AM11 dated 30.11.2016 imposed a fiscal penalty of Rs:1,10,00,000/- on the company and its directors under section 11(2) of the said act.

3.0 Aggrieved by the order-in-original, the applicant company filed an appeal before the Additional Directorate General of Foreign Trade, Mumbai.

4.0 After hearing the applicant and going through the adjudicating order as well as documents available on record, the Appellate Authority observed as under:

- (i) The Applicant approached PRC, DGFT, New Delhi in the month of February 2011 and again in April 2017 for clubbing but it did not receive any relief from the PRC.
- (ii) The Applicant claimed to be in BIFR since 2003, but no supporting documents provided.

Therefore, the appeal was rejected vide Order-in-Appeal dated 29.03.2018.

5.0 Aggrieved by the Order-in-Appeal dated 29.03.2018 the applicant filed the present review . An opportunity of personal hearing was granted to the applicant on 13.12.2018 in which Mr. Sunil Kumar K, Mr. Babu Ezhumavil and Mr. Bhavin Chokshi appeared. The review has been filed on the following grounds:

- (i) The company does not have finance to pay such a huge amount.
- (ii) The company has export to their credit and put together there may be negligible gap.
- (iii) The company had applied for clubbing of advance authorisations which was rejected and the RA redeemed the authorizations individually. The company's request for closing authorisation was not approved for clubbing in PRC citing that it was under adjudication.
- (iv) The duty concession which was availed of has been properly utilized and accounted for. The company is ready to pay duty with interest on any excess imports left unutilised with them after clubbing.

6.0 I have gone through the facts of the case carefully. It is observed that the party failed to fulfil the prescribed export obligation against the duty free imports made by them under this authorisation. It's request for clubbing of various authorisations was denied by RA Vadodara as it was not eligible for clubbing as per the provisions of the relevant Foreign Trade Policy. Requests of the company for granting relaxation to it were also rejected in the Policy Relaxation Committee. It has failed to get its case regularised as per the conditions attached with the duty free imports made by it under the authorisation.

I, therefore, in exercise of the powers vested in me under section 16 of the FT(DR) Act,1992, pass the following order:

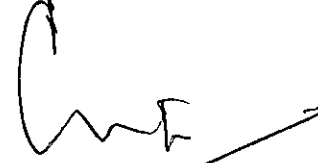


Order

F.No. 18/56/2018-19/ECA-187

Dated: 04. 2019

Order-in-Appeal Number 08/01/144/00015/AM17/A'bad/0237, dated 29.03.2018 is upheld.  
Review appeal is dismissed.



(Alok Vardhan Chaturvedi)  
Director General of Foreign Trade

**Copy To:**

1. Pan Drugs Ltd. 167-168, GIDC Nandesari Industrial Estate, Vadodara-391340 Gujarat.
2. Addl. DGFT, Mumbai with reference to F.No. 08/01/144/00015/AM17/A'bad
- ✓ 3. Addl. DGFT Ahmedabad
- 4 RA Vadodara with reference to file number F.No. 34/01/002/00016/AM-11 with an advice to recover the penalty amount.
- 5 DGFT website.

  
(Dilip Kumar)

Dy. Director General of Foreign Trade