

Government of India  
Ministry of Commerce & Industry  
Directorate General of Foreign Trade  
UdyogBhawan, New Delhi -110011  
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F.No. 01/92/171/09/AM 18 / PC-V/28-30

Date of Order: 09 .05.2019  
Date of Dispatch: 09 .05.2019

Name of the Appellant:

Shreeyam Power & Steel Industries Ltd.,  
Tulsiani Chambers, Nariman Point,  
Mumbai

IEC No.

1199001201

Order appealed against:

Order-in-Original No. 37/21/040/00029/  
AM09/4359 dated 17/19.07.2017 passed  
by the Development Commissioner,  
Kandla, Special Economic Zone

Order-in-Appeal passed by:

Shri Alok Vardhan Chaturvedi, DGFT

### Order-in-Appeal

Shreeyam Power and Steel Industries Limited (formerly known as Ruchi India Power and Steel Industries and Mid India Power and Steel Ltd.), hereinafter referred to as 'the appellant', a DTA unit, has filed an appeal on 24.07.2017 under Section 15 of the Foreign Trade (Development & Regulation) Act 1992, as amended from time to time, against Order-in-Original No. 37/21/040/00029/AM09 dated 17/19.07.2017 passed by the Development Commissioner, Kandla, Special Economic Zone.

2. Vide Notification No. 101 (RE-2013)/2009-2014, dated the 5<sup>th</sup> December 2014, the Central Government has authorized the Director General of Foreign Trade aided by one Addl. DGFT in the Directorate General of Foreign Trade to function as Appellate Authority against the orders passed by the Development Commissioner, Special Economic Zones as Adjudicating Authorities. Hence, the present the appeal is before me.

3.0 Brief facts of the case are that:

3.1 The appellant obtained an Advance Authorisation(AA) No. 3710000855 dated 21.08.2008 for CIF value of Rs. 7,36,30,203.81/- from the office of DC, KASEZ who also acts as RA of DGFT for Kutch area, for import of duty free material as mentioned in the said AA with the condition inter-alia, to export 'Alloy Steel Billets' worth Rs. 75,510,000.00 within a period of 24 months from the date of issue. On request of the appellant, the export



obligation period was further extended for another 12 months in terms of PC No. 80 dated 13.04.2009. Hence, the Export Obligation period expired on 20.08.2011.

3.2 As the appellant did not submit export documents showing fulfilment of the export obligation despite letters from DC office, a Show Cause Notice dated 16.06.2016 under section 14 of FTDR Act, 1992 was issued as to why action should not be taken against it under section- 11(2) and (7) of the FTDR Act, 1992, as amended and under Rule - 7.1 (k) of the Foreign Trade (Regulation) Rules 1993.

3.3 During the personal hearing on 09.08.2016 before the DC, the representative of the appellant stated that the appellant had filed papers for financial reconstruction to BIFR. However, no such documents in regard to approval of BFIR were produced so as to allow extension of EO period, if any required, in terms of Para 4.1.9 A of the FTP 2009-14.

3.4 Hence, the DC proceeded to adjudicate the matter and imposed a penalty of Rs. One crore with the direction to the appellant to pay the custom duty exemption enjoyed by them along with applicable interest vide Order-in-Original dated 17/19.07.2017 issued u/s 11(2) read with section 13 of FTDR Act, 1992, as amended.

4.0 Aggrieved by the adjudication order dated 17/19.07.2017, the appellant has filed the present appeal.

4.1 During the personal hearing held on 31.01.2019 before me, the representative of the Appellant stated that :

- (i) The company was a recognized 'Export House' vide status certification no. 014484 dated 16.07.2007. It actually imported item at Sr. No. 01 for a quantity of 2219.995 MT for which proportionate value of export to be made was 1849.995 MT. However, no export could be made till date.
- (ii) However, due to the economic slowdown during 2012 onwards, the company became sick and filed a reference u/s 15(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 on 17.09.2012 to BIFR. The company was declared sick by BIFR. IDBI Capital Market Services Ltd. (ICMS) was appointed as Operating Agency to prepare the draft Rehabilitation Scheme (DRS). After discussions with all the consortium Bankers and stakeholders, the Operating Agency submitted the DRS to the BIFR. The DRS recommended to extend the EO period under Advance Licences without payment of composition fees. It also recommended to exempt the company from any penal action and levy of penalty, penal interest, simple/compound interest, damages (if any) for non-fulfillment of obligation. However, the BIFR was dissolved on 01.12.2016 by the Government but the Consortium Bankers supported it as per the DRS and the Company is now in a position to manufacture the finished goods in quantity and on regular basis for exports.
- (iii) It has filed a letter dated 14.11.2018 with the PRC to grant extension in the Export Obligation period for 2 years.

4.2 The appellant vide letters dated 19.03.2019 and 02.04.2019 and during personal hearing held on 04.04.2019 further informed that the PRC in its meeting No. 31/AM19 held on 19.02.2019 has granted extension in the Export Obligation Period for a period of 18 months from the date of endorsement in respect of the subject AA. Hence, the O-i-O dated 17/19.7.2017 may be set aside to enable it to take the endorsement of the EOP extension on the AA.

5.0 I have gone through the facts and request of the case; oral & written submission made by the appellant and all other aspects relevant to the case. It is observed that the PRC in its meeting No. 31/AM19 held on 19.02.2019, has allowed EOP extension for a period of 18 months from the date of endorsement in respect of the subject AA. In view of the decision taken by the PRC, it would be justifiable to grant an opportunity to the appellant to fulfill export obligation within the time period granted by the PRC.

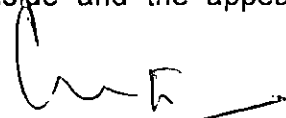
6.0 In view of the above, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992 (as amended in 2010) read with Notification No. 101 (RE-2013)/2009-2014, dated the 5th December 2014, I pass the following order:

**Order**

F.No. 01/92/171/09/AM 18/ PC-VI

Dated: 09.05.2019

Order-in-Original No. 37/21/040/00029/AM09/4359 dated 17/19.07.2017 passed by the Development Commissioner, KASEZ, Gandhidham is set aside and the appeal is allowed.



(Alok Vardhan Chaturvedi)  
Director General of Foreign Trade

**Copy To:**

- (1) Shreeyam Power and Steel Industries Ltd., 621, Tulsiani Chambers, Nariman Point, Mumbai.
- (2) Shreeyam Power and Steel Industries Ltd., Plot no. 332, New GIDC Industrial Estate, Phase II, Village Mithirohar, Gandhidham, Kutch, Gujarat - 370201
- (3) Development Commissioner, SEZ, Kandla.
- (4) DGFT Website.

  
(Shobhit Gupta)

Dy. Director General of Foreign Trade