

Government of India  
Ministry of Commerce and Industry  
Directorate General of Foreign Trade  
Udyog Bhavan, New Delhi

F.No.11/287/2012-13/ECA.I

11431, 11432.  
Date of Order : 3<sup>rd</sup> February, 2014  
Date of dispatch 5/2/2014

Name of the Appellant

M/s STP Ltd.  
Turner Morrison Building, 1<sup>st</sup> Floor  
6, Lyons Range  
Kolkata-700 001.

Order appealed against

Order-in-Original  
No.ALG-G/02/24/040/00021/AM09  
dated 1<sup>st</sup> October, 2012  
passed by Jt.DGFT, Kolkata.

Order-in-Appeal  
passed by

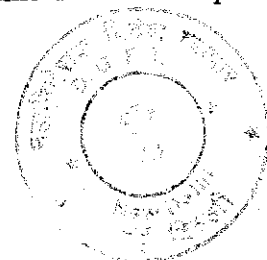
Dr. Lalit B. Singhal  
Appellate Authority &  
Additional Director General of Foreign Trade

**Order-in-Appeal**

M/s STP Ltd., Kolkata, (Appellant) has filed this appeal on 11.10.2012 under Section 15 of Foreign Trade (Development & Regulation) Ac, 1992 against Order-in-Original No. ALG-G/02/24/040/00021/AM09, dated 01.10.2012, passed by Jt.DGFT, Kolkata.

2. M/s STP Ltd had obtained Advance Authorization No.0210112524, dated 15.05.2008, for duty free import of items as allowed in the licence for a CIF value of US\$1,26,537(Rs.51,18,422) with obligation to export for US\$ 3,21,638 (Rs.1,30,10,274) as mentioned in the licence within a stipulated period of 24 months from the date of issuance of the licence. The firm was under obligation to submit export documents to the Licensing Authority showing fulfillment of export obligation, but they failed to do so. Therefore, the Adjudicating Authority issued a notice dated 19.03.2012. Since, the Appellant did not produce the relevant. Since, the Appellant did not produce the relevant export documents showing fulfillment of export obligation, the Adjudicating Authority, in its Order-in-Original, dated 01.10.2012, imposed fiscal penalty of Rs.51,18,422/- on the firm, in addition to the custom duty and interest for excess import made by the firm.

3. Aggrieved by the above Order, Appellant firm preferred the present appeal on the ground that supplies have been completed by way of deemed exports. Appellant was provided opportunity of personal hearing on 05.08.2013, 09.09.2013 but no one appeared in personal hearing. Next personal hearing was provided on 21.10.2013 wherein Mr. K.C. Kamdar, CA, appeared on behalf of the Appellant. He informed that in this case against an Advance Authorization issued to M/s PSL Ltd, Mumbai, an ARO was issued by RA, Mumbai. Against the ARO, the firm made an application for Advance Authorization before RA, Kolkata. He stated that against the ARO, Appellant firm was issued this Advance Authorization and they have completed supplies against this Advance Authorization and completed export obligation by making supplies to M/s PSL Ltd. He stated that after issuance of the DEL order, they have given complete set of documents to RA, Kolkata. In the hearing, it was informed to Mr. Kamdar that against an ARO, no Advance Authorization can be issued and accordingly, this Advance Authorization has been wrongly obtained. An Advance Authorization to a domestic supplier can be issued only against a invalidation letter issued against Advance Authorization issued to an ultimate exporter. Hence, exports effected against this ARO of the ultimate exporter can not be accepted against discharge of export obligation. Mr. Kamdar requested that since they have completed supplies, Appellant would like the case to present before Policy Relaxation Committee (PRC) for regularization of procedural lapse.



4. Appellant represented its case before PRC and PRC in its Meeting No.32/AM14, dated 10.12.2013, decided as under:

- (i) *The ARO shall be treated as invalidation letter.*
- (ii) *Supply of goods made to AA holder shall be taken into account towards discharge of export obligation against AA in question.*
- (iii) *This is subject to confirmation from RA's of supplies as well as recipient of goods that no refund of TED and duty drawback have been availed.*
- (iv) *The applicant shall submit an affidavit cum indemnity bond that neither he nor recipient have obtained any other deemed exports benefit/shall not obtain in future any benefit against the supplies. He shall be responsible for any demurrage/loss to the exchequer and refund the same within 30 days on demand.*


5. I, therefore, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following order:

**Order**

F. No.11/287/2012-13/ECA-I

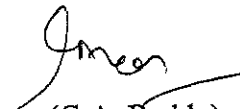
Dated: 3<sup>rd</sup> February, 2014

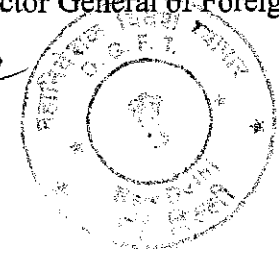
In view of the PRC decision, dated 10.12.2013, the Order-in-Original No. ALG-G/02/24/040/00021/AM09, dated 01.10.2012, passed by Jt.DGFT, Kolkata, is set aside and the case is remanded back to RA, Kolkata for de-novo examination. Appellant is directed to submit all required documents to RA, Kolkata.

  
(Dr. Lalit B. Singhal)  
Addl. Director General of Foreign Trade

M/s STP Ltd.  
Turner Morrison Building, 1<sup>st</sup> Floor  
6, Lyons Range  
Kolkata-700 001.

Copy to: Shri R.L. Meena, Jt.DGFT, Kolkata, for information and necessary action.

  
(G.A. Reddy)  
Dy. Director General of Foreign Trade



*STR/ASW*  
*5/2/14*

Government of India  
Ministry of Commerce and Industry  
Directorate General of Foreign Trade  
Udyog Bhavan, New Delhi

F. No.11/193/2012-13/ECA.I

11/193, 11/193.  
Date of Order : 18<sup>th</sup> February, 2014  
Date of dispatch : 19/2/2014

Name of the Appellant : M/s Yucon Exports Pvt. Ltd.  
4, Fairlie Place,  
1<sup>st</sup> Floor, Room No.120  
Kolkata-700 001.

Order appealed against : Order-in-Original  
No.02/21/076/00405/AM-07  
dated 01.02.2013, passed by Jt.DGFT, Kolkata

Passed by : Dr. L.B. Singhal,  
Appellate Authority &  
Addl. Director General of Foreign Trade

**Order-in- Appeal**

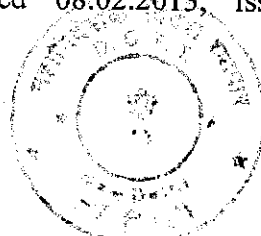
M/s Yucon Exports Pvt. Ltd, Kolkata (Appellant) has filed this appeal on 26<sup>th</sup> February, 2013 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No. 02/21/076/00405/AM-07, dated 01.02.2013, passed by Jt.DGFT, Kolkata.

2. M/s, Yucon Exports Pvt. Ltd., Kolkata, obtained Duty Free Import Authorization (DFIA) No. 0210096317, dated 12.12.2006, for duty free import for CIF Value of Rs.6,77,975 with obligation to export 7200 Nos of Jute Hessian Bags for FOB value of Rs.8,13,570 to be completed within a stipulated period of 24 months. The firm was under obligation to submit prescribed export documents to the Licensing Authority showing fulfillment of export obligation, but they did not do so. Therefore, the Adjudicating Authority issued a show cause notice dated 11.09.2012 under Section 14 of Foreign Trade (Development & Regulation) Act,1992, calling upon them to show as to why fiscal penalty should not be imposed upon them under Section 11 of FT(D&R) Act, 1992 for violation of conditions of the said DFIA. Since the firm failed to submit the prescribed export documents showing fulfillment of export obligation, the Adjudicating Authority in its above said Order imposed a penalty of Rs.6,77,975/- on the firm and its Directors/Partners under Section 13 of Foreign Trade (D& R) Act, 1992, in addition to payment of customs duty saved amount along with interest, under Section 13 of Foreign Trade (D& R) Act, 1992.

3. Aggrieved by the above said Order-in-Original, the Appellant firm preferred the appeal stating that the DFIA No. 0210096317, dated 12.12.2006, issued to the Appellant firm has not been utilized as they have made no import against this Authorization .

4. I have examined the complete facts of the case including written submissions made by the Appellant in the appeal. Appellant has submitted that it has not imported any goods against the said DFIA No.0210096317, dated 12.12.2006. The firm has stated that it has submitted original Non-Utilization Certificate, dated 08.02.2013, issued by O/o

2/2



Commissioner of Customs (Port), Kolkata, in respect of said DFIA, vide their letter dated 09.02.2013 to RA Kolkata. The Appellant firm vide its e-mail dated 13.02.2014 has also submitted a copy of the Non-Utilization Certificate to the Appellate Authority wherein O/o Commissioner of Customs (Port), vide letter No.S60(DEEC) Misc-19/2013 A Gr.7, dated 08.02.2013, has stated that the DFIA Licence bearing No.0210096317, dated 12.12.2006 has not been registered in ICES of Kolkata Customs, Customs House, Kolkata (Port). Further, Appellant firm has submitted that they have made 100% export both in terms of quantity as well as value towards fulfillment of export obligation vide Shipping Bill No.5349912, dated 05.12.2006, Commercial Invoice No.YE/EXP/011/06-07, dated 07.12.2006.

5. I, therefore, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following order:

Order

F.No.11/193/2012-13/ECAE

Dated: 18<sup>th</sup> February, 2014

In view of the facts given in para 4 above, the Order-in-Original No. 02/21/076/00405/AM-07, dated 01.02.2013, passed by Jt.DGFT, Kolkata, is set aside and the case is remanded back to RA, Kolkata for de-novo consideration.

*(Signature)*  
(Dr. L.B. Singhal)

Addl. Director General of Foreign Trade

M/s Yucon Exports Pvt. Ltd.  
4, Fairlie Place,  
1<sup>st</sup> Floor, Room No.120  
Kolkata-700 001.

Copy to: Shri R.L. Meena, Jt.DGFT, Kolkata for information and necessary action.

*(Signature)*  
(Dy. Director General of Foreign Trade)

Dy. Director General of Foreign Trade



*(Signature)*  
19/2/14

o/c

O/C

Government of India  
Ministry of Commerce and Industry  
Department of Commerce  
Directorate General of Foreign Trade  
Udyog Bhawan, New Delhi- 110 001

F.No. 11/400/2012-13/ECA.1/4501, 4502

25/2/14  
Date of dispatch: 26/2/2014

Name of the Appellant : M/s Ghaziabad Precision Products P. Ltd.  
D-32, Bulandshahar Road, Industrial Area,  
Ghaziabad – 201029

Order appealed against : Adjudication Order No. 05/36/21/0216/AM04/EPCG-I/CLA  
Dated 25/3/2013 passed by CLA, New Delhi- 110 002

**ORDER-IN-APPEAL**

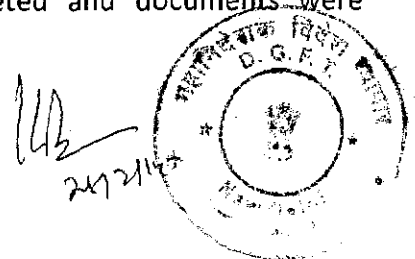
Passed by : Shri K.C Rout,  
Additional Director General of Foreign Trade

Present on behalf of the Appellant : Shri Vinod Rana, Advocate

M/s Ghaziabad Precision Product Pvt. Ltd., New Delhi filed an appeal against the Adjudication Order No. 05/36/21/0216/AM04/EPCG-I/CLA Dated 25/3/2013 passed by CLA, New Delhi in which a fiscal penalty was imposed on M/s Ghaziabad Precision Products P. Ltd. for non-fulfillment of export obligation against EPCG authorization No. 0530147687 dated 11/11/2008 (Original EPCG authorisation No. 0530134276 dated 4/6/2003).

2. M/s Ghaziabad Product Pvt. Ltd. obtained a duplicate EPCG authorisation No. 0530147687 dated 11/11/2008 (Original EPCG authorisation No. 0530134276 dated 4/6/2003) for duty saved amount of Rs. 2,09,800/ for import of capital goods for export of product as per conditions of authorization in question. The appellant was under obligation to submit the prescribed documents to the Regional Authority (CLA, New Delhi) in support of fulfillment of its export obligation within specified period. But the appellant failed to submit the export documents. Hence, adjudication proceedings were initiated under Foreign Trade (Development & Regulation) Act, 1992 and the Adjudicating Authority, vide its order dated 25/3/2013 imposed fiscal penalty on appellant firm and its Director.

3. Aggrieved by the above mentioned Adjudication Order dated 25/3/2013, M/s Ghaziabad Precision Product Pvt. Ltd. filed an appeal on 26/04/13 with the undersigned. In the appeal the firm submitted that 100% export obligation had been completed and documents were submitted before CLA, New Delhi.



4. The appellants were given an opportunity of personal hearing on 20/9/2013. Shri Vinod Rana, Advocate appeared and stated that exports had been completed and documents submitted to CLA, New Delhi and requested for further opportunity of personal hearing to produce confirmation from CLA, New Delhi. Again on 6/11/2013 he appeared to inform that the documents were already submitted to CLA, New Delhi on 22/04/13. On 17/2/2013, Shri Vinod Rana, Advocate appeared before the undersigned and presented his case by saying that the proof has already come from CLA, New Delhi and the case may be finalized accordingly.

4. In the mean time, a letter dated 08/01/2014 from CLA, New Delhi has been received wherein they have informed that appellant has submitted export documents on 22/4/2013 to CLA, New Delhi.

5. I have gone through the facts of the case available on record and CLA's letter No. 05/36/21/0216/AM04/EPCG-I/CLA dated 8/1/2014 informing that appellants have submitted export documents to them. As documents have now been submitted to CLA, New Delhi the case needs review by them.

6. I, therefore, in exercise of the powers vested in me under Section 15 read with Section 13 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following order:

ORDER

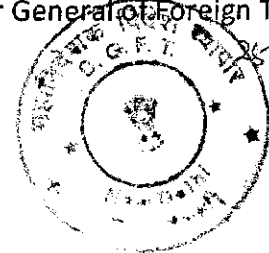
F. No. 11/400/2012-13/ECA.I

The Adjudication Order No. 05/36/21/0216/AM04/EPCG-I/CLA dated 25/3/2013 passed by CLA, New Delhi- 110 002 is set aside and the case is remanded to the CLA, New Delhi for re-examination and finalization.

(K.C. Rout)

Addl. Director General of Foreign Trade

M/s Ghaziabad Precision Product Pvt. Ltd.  
D-32, Bulandshahar Road,  
Industrial Area, Ghaziabad  
U.P 201201



Copy to CLA, New Delhi.

o/c

श्री 14/11  
26/2/14

0/c

Government of India  
Ministry of Commerce and Industry  
Department of Commerce  
Directorate General of Foreign Trade  
Udyog Bhawan, New Delhi- 110 001

F.No. 11/319/2012-13/ECA. *11513/1514*

26 February 2014

*Date of dispatch: 27/2/2014*

Name of the Appellant : M/s Country Trading, A-4C/75, Janak Puri, New Delhi-110058

Order appealed against : Adjudication Order No. 05/21/21/0998/AM03/EPCG-I/CLA dated 6/2/2013 passed by CLA, New Delhi- 110 002

**ORDER-IN-APPEAL**

Passed by : Shri K.C Rout,  
Additional Director General of Foreign Trade

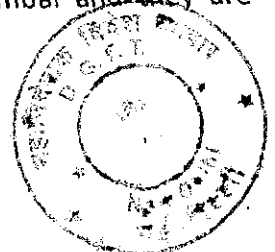
Present on behalf of the Appellant : Shri Dilip Bagga, Proprietor

M/s Country Trading, Haryana filed an appeal against the Adjudication Order No. 05/21/21/0998/AM03/EPCG-I/CLA dated 6/2/2013 passed by CLA, New Delhi wherein a fiscal penalty was imposed on M/s Country Trading for non-fulfillment of export obligation against EPCG authorization No. 0530133753 dated 15/1/2003.

2. M/s Country Trading obtained an EPCG authorisation No. 0530133753 dated 15/1/2003 for import of capital goods for a CIF value of Rs. 5,99,983 subject to the condition that the firm shall export the resultant product as per conditions of authorization. The firm was under obligation to submit the prescribed documents to the CLA, New Delhi, the Regional Authority (hereafter-RA) in support of fulfillment of their export obligation within Export Obligation period. But the firm failed to submit the export documents. Hence, proceedings were initiated under Foreign Trade (Development & Regulation) Act, 1992 and the Adjudicating Authority imposed fiscal penalty on appellant firm and its Director.

3. Aggrieved by the above mentioned Adjudication Order dated 06/2/2013, M/s Country Trading filed an appeal with the undersigned. In the appeal it has been submitted that the firm could not fulfill export obligation due to some unavoidable problem.

4. The appellants were given an opportunity of personal hearing on 05/9/2013. Shri Dilip Bagga, Proprietor of the firm appeared and stated that due to some pressing problem, he could not make any exports and ready to pay Customs duty saved along with interest as per Public Notice No. 22 dated 12/8/2013. He requested two months time. Next personal hearing (PH) was granted on 30/10/2013. On 30/10/2013, Shri Dilip Bagga again appeared and stated that total duty saved along with interest have been deposited with Customs, Mumbai and they are



● waiting for receipt. Next PH to show Receipt (TR-6) was granted on 21/11/2013. On 21/11/2013, Shri Dilip Bagga appeared and produced original TR-6 showing payment of customs duty saved plus interest in terms of Public Notice No. 22 dated 12/8/2013.

5. All these facts are available on record (on file). All the personal hearings were taken by my predecessor Sri V.K, Srivastava (Addl.DGFT) who has superannuated on 31 January, 2014. I have gone through the facts of the case available on record. TR-6 showing payment of customs duty saved plus interest on excess imports in terms of Public Notice No. 22 dated 12/8/2013 has also been produced before my predecessor.

6. Given the above, the case needs re-examination by Regional Authority. Original TR-6 has been returned to Shri Dilip Bagga, Proprietor with directions to produce same before Regional Authority within one month of receipt of Order-in-Appeal.

6. I, therefore, in exercise of the powers vested in me under Section 15 read with Section 13 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following order:

**ORDER**

F. No. 11/319/2012-13/ECA.1

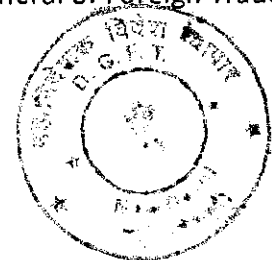
26 February 2014

1. The Adjudication Order No. 05/21/21/0998/AM03/EPCG-I/CLA dated 6/2/2013 passed by CLA, New Delhi is set aside and the case is remanded to the Regional Authority, CLA, New Delhi for re-examination and finalization.
2. Appellant is directed to produce all relevant documents including the original TR-6 before Regional Authority within one month of receipt of Order-in-Appeal.
3. At the time of re-examination of documents, if it is found that there still is a shortfall in the customs duty saved along with interest as paid by the appellant to Customs in terms of Public Notice No. 22 dated 12/8/2013), the same will have to be deposited by appellants within one month of receipt of Demand Notice by Regional Authority.

(K.C. Rout)

Addl. Director General of Foreign Trade

M/s Country Trading,  
A-4C/75, Janak Puri,  
New Delhi- 11058



Copy to: Addl. DGFT, CLA, New Delhi - for necessary action.

5/12/14  
27/2/14

O/C



Government of India  
Ministry of Commerce and Industry  
Directorate General of Foreign Trade

Udyog Bhavan, New Delhi

F.No.11/171/2012-13/ECA-I

Date of Order 14/2/2014

Date of dispatch: 14/2/2014

Name of the Appellant

M/s Coods Agro Pvt. Ltd., Kottayam

P.B. No. 2, Pampady, Kottayam-686502

Order appealed against

Order-in-Original

No.10/80/40/24/AM06 dated 02-08-2012

Passed by the Dy.DGFT, Cochin

Order-In-Appeal

Shri Jaikant Singh

Passed by

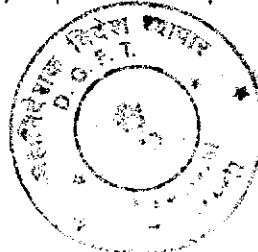
Appellate Authority &

Addl. Director General of Foreign Trade

**Interim Order-in-Appeal**

Official liquidator (in-charge), High Court of Kerala on behalf of M/s Coods Agro Pvt. Ltd., Kottayam has filed this appeal which was received in DGFT Headquarters on 03.10.2012 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992) against Order-in-Original No.10/80/40/24/AM06 dated 02-08-2012 passed by Dy.DGFT, Cochin. Shri J. George Kondody, ex-Director of the Company appeared before me on 6<sup>th</sup> February, 2014 on behalf of the Company.

2. M/s Coods Agro Pvt. Ltd., Kottayam had obtained Advance Authorisation No. 1010207060 dated 30.6.2005 for cif value of Rs. 43,36,640 (US\$ 98,560) for import of Copper Scrap from office of Jt. DGFT, Cochin with an obligation to export copper sulphate for an FOB value of Rs.48,40,000/- (US\$ 110000) within a stipulated period of 24 months as per Hand Book of Procedure. The party had failed to submit proof of fulfilment of export obligation as required under Foreign Trade Policy/Procedure. Therefore, adjudicating authority imposed fiscal penalty of Rs.3035648/- under Section 11(2) read with 11(4) of FT(DR) Act.



3. Shri J. George Kondody, ex-Director of the Company represented the official liquidator in this case as the Company is under liquidation. He informed that the Company had made import to the extent of 29.730 MT against 35.2 MT allowed. Therefore, proportionately EO would come down to 92.906 MT against 110 MT (originally). Party has exported 56 MTs and as such there is an excess import and the party is willing to pay customs duty alongwith interest to close this case. A question had been posed as to how the company which is under liquidation would be able to pay duty and applicable interest for redemption/closure of the Advance Authorisation. To this Shri Kondody replied that the company had assets and the official liquidator would like the case to be closed by making payments.

4. Shri Kondody had brought some original documents but these original documents were returned to the party with an advice to submit the same to RA, Cochin and get their case as per PN No.22 dtd. 12.8.2013 and Policy Circular No.8 dtd.25.10.2013.

5. I, therefore, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following interim order:

**Interim Order**

F. No. 11/171/2012-13/ECA-I

Dated

14/2/2014

The party may submit original documents required as per HBP Vol 1 pertaining to EO fulfilment against the said Advance Authorisation to RA, Cochin alongwith proof of payment of custom duty plus interest on excess import by 31.3.2014. RA Cochin may examine those documents and if satisfied regularise the case as per PN 22 dated 12.8.2013. A report may be sent to this effect within 15 days of regularisation.

(Jaikant Singh)

Addl. Director General of Foreign Trade

- 1) M/s Coods Agro Pvt. Ltd.,  
P.B. No. 2, Pampady, Kottayam-686502
- 2) Official Liquidator, High Court of Kerala,  
Copy to:- RA, Cochin for information and necessary action.

जारी किया  
14/2/14



Government of India  
Ministry of Commerce and Industry  
Directorate General of Foreign Trade  
Udyog Bhavan, New Delhi

F.No.11/407/2011-12/ECA.I

Date of Order : 10<sup>th</sup> February, 2014

Date of dispatch 12/2/2014

Name of the Appellant

M/s Garware Synthetics Ltd.  
Plot No.67, Sation Road  
Kanjur Marg (East)  
Mumbai-400 042.

Order appealed against

Order-in-Original  
No.03/01/002/00762/AM-04  
dated 7<sup>th</sup> October, 2011  
passed by Jt.DGFT, Mumbai

Order-in-Appeal  
passed by

Dr. Lalit B. Singhal  
Appellate Authority &  
Additional Director General of Foreign Trade

**Order-in-Appeal**

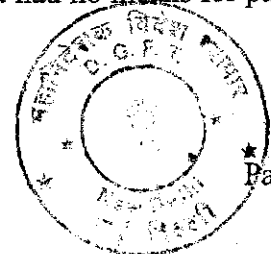
M/s Garware Synthetics Ltd. (Appellant) has filed this appeal on 21.11.2011 under Section 15 of Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original No.03/01/002/00762/AM-04, dated 07.10.2011, passed by Jt.DGFT, Mumbai.

2. M/s Garware Synthetics Ltd. M/s. Garware Synthetics Pvt. Ltd., had obtained Advance License No. 0000300957, dated 02.12.1991, for duty free import of 12,600 kgs of Nylon 6 Moulding Powder for a CIF value of Rs.7,55,040 (USD 27711.68) with obligation to export 12,000 kgs of Nylon Rods for FOB value of Rs.10,29,600 (USD 39588.12). The export obligation period for the same was nine months from the date of issuance of the licence.

3. The firm failed to furnish necessary documents showing fulfillment of export obligation after the expiry of obligation period. Thus, a demand notice, dated 20.09.2001 was issued to the firm asking to submit the requisite documents, followed by refusal order dated 03.02.2003. The firm failed to reply both the letters. Finally, a forfeiture order dated 13.11.2003 was issued to the firm. The firm vide letter, dated 28.11.2003, replied to the above stated forfeiture order stating that their company is under BIFR and, therefore, they require time to submit the original documents. However, no further communication was made by the firm. A show cause notice dated 30.12.2003, was issued to the firm granting an opportunity of personal hearing. The firm replied vide letter, dated 10.03.2004, stating that they would like to club the subject licence with another licence for which they requested for six months time. However, they failed to produce any documentay evidence towards fulfillment of export obligation. Thereafter, The Adjudicating Authority vide above Order imposed a penalty of Rs.43,00,000 on the firm and its Director for non-fulfillment of export obligation.

4. Aggrieved by the above-stated penalty, the firm preferred the present appeal stating that their office was totally immersed in water after heavy rain and flood during the month of July, 2005, after which they lost their records and consequently could not furnish the same to the RA. Further, they requested to accept their appeal without payment of penalty amount as they are sick company and had no means for payment of penalty imposed by Jt.DGFT, Mumbai.

*[Handwritten signature]*



5. Four opportunities of personal hearing were given to the firm on 22.02.2012, 15.03.2012, 20.04.2012 and 14.05.2012. However, the firm failed to provide the requisite documents.

6. I have examined complete facts of the case and I observe as under:

- (i) In this case Advance Authorization has been issued on 02.12.1991. Export obligation was to be completed within 9 months from date of issuance of the licence. Appellant was required to submit export documents immediately thereafter i.e. in 1992. In spite of lapse of 21 years, Appellant has not submitted original documents showing completion of export obligation so far. Appellant did not submit original documents either before the Adjudicating Authority or before Appellate Authority.
- (ii) Appellant was provided personal hearing on four occasions i.e. 22.02.2012, 15.03.2012, 20.04.2012, and 14.05.2012. Appellant appeared in personal hearing only once i.e. on 15.03.2012 and in this personal hearing Appellant sought adjournment for submission of required documents. The request of the adjournment was accepted and next personal hearing was given on 20.04.2012. Even then, Appellant failed to submit any document showing completion of export obligation.
- (iii) Appellant has stated that during the month of July 2005, Mumbai city had heavy rain and flood and this had affected their complete operations and they lost valuable records. This ground is totally not acceptable as the stated flood of 2005 is after 14 years of issuance of the licence. Appellant was required to give documents in 1992. Since Appellant had imported duty free inputs for exports, it was duty bound to submit required documents showing completion of exports in 1992. There is no justification for not submitting these documents till 2005 and taking the plea of heavy flood in 2005.
- (iv) Adjudicating Authority had imposed a penalty of Rs.43,00,000. The Appellant has not submitted proof of depositing penalty amount along with their appeal. In terms of provisions of Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, no such appeal shall be entertained unless the amount of penalty or redemption charges has been deposited by the Appellant

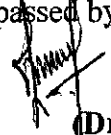
7. I, therefore, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following order:

**Order**

F. No.11/407/2011-12/ECA-I


Dated: 10<sup>th</sup> February, 2014


The Order-in-Original No.03/01/002/00762/AM-04, dated 07.10.2011, passed by Jt.DGFT, Mumbai, is upheld and the appeal is dismissed on the grounds as given in para 6 above.

  
(Dr. Lalit B. Singhal)  
Addl. Director General of Foreign Trade

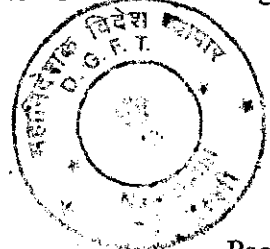
M/s Garware Synthetics Ltd.  
Plot No.67, Sation Road  
Kanjur Marg (East)  
Mumbai-400 042

Copy to: Addl.DGFT, Mumbai, - for information, please.

  
(G.A. Reddy)  
Dy. Director General of Foreign Trade

जारी किया  
  
12/2/14

o/c



**Government of India**  
**Ministry of Commerce and Industry**  
**Directorate General of Foreign Trade**  
**Udyog Bhavan, New Delhi**

F. No. 11/13/2010-11/ECA-I

1470, 1471 -  
Date of Order : 14<sup>th</sup> February, 2014

Date of dispatch : 19/2/2014

Name of the Appellant :

M/s. Gujarat Parachlor Pvt. Ltd.,  
401 & 402, Sarthik Square, Nr. GNFC Tower,  
Opp. Sarkhej Gandhinagar Highway,  
Bodakdev,  
Ahmedabad- 380 054.

Order appealed against :

Order-in-Original No Order-in-original  
No.08/388/AM 07/ECA dated 25<sup>th</sup> February, 2010  
passed by Jt.DGFT, Ahmedabad

Order-in Appeal  
Passed by :

Dr. L.B. Singhal,  
Appellate Authority &  
Addl. Director General of Foreign Trade

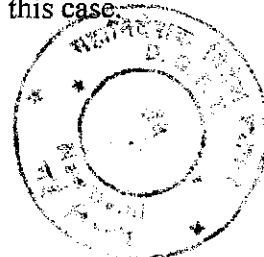
**Order-in Appeal**

This appeal was filed by M/s. Gujarat Parachlor Pvt. Ltd., Ahmedabad (Appellant) on 11<sup>th</sup> May, 2010 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-original No. 08/388/AM 07/ECA, dated 25<sup>th</sup> February, 2010 passed by Jt.DGFT, Ahmedabad.

2. M/s. Gujarat Parachlor Pvt. Ltd., had obtained Advance Authorization No. 08000448 dated 12.01.1998 for CIF value of Rs. 1589817.60/- (US\$40320) for duty free import of inputs with obligation to export 240 MT Chlorinated Paraffine Wax (Chlorine contents 50%) for US\$ 108000 within stipulated export obligation period (EOP). After expiry of the export obligation period, the case was examined by RA, Ahmedabad based on the available Shipping Bills and their BRCs and the RA concluded that the firm had made excess import of 9.17 MT for which the firm is liable to pay the custom duty + interest to the Customs Authority but the firm failed to regularize the excess import by payment of custom duty along with Interest. Therefore, the adjudication process was initiated under Section 13 and Section 11 (2) of the FT (D&R) Act, 1992 and the penalty of Rs. 15,89,817/- was imposed on the firm.

3. Aggrieved by the above said Order In Original, M/s. Gujarat Parachlor Pvt. Ltd., Ahmedabad preferred an appeal stating that they had exported 218 MT CPW directly and 20 MT through third party. All the export documents against the direct export had been submitted to RA. They do not have EP copy of Shipping Bill and BRC of third party exports but they have proof of exports of third party. Hence, export obligation is short by 2 MT only, if their third party exports of 20 MT is considered against the license involved in this case.

2/



4. The opportunity of Personal Hearing was granted to the Appellant on 7.04.2011 but no one appeared. Next PH was given on 27.05.2011 in which Shri Rutvik Purohit, Authorized Representative of the Appellant appeared to present the case. He was advised to regularize the shortfall by payment of custom duty saved amount along with interest. Further PH was granted on 18.07.2011 which was repeatedly postponed on 28.08.2011, 17.10.2011, 24.11.2011, 22.12.2011, 2.02.2012, 12.03.2012, 19.04.2012, 25.05.2012, 7.07.2012 on the request of the Appellant.

5. I have examined complete facts of the case including submissions made by the Appellant at the time of appeal and latest submission vide their e-mail dated 12.07.2013. After examination of the facts of the case I observe as under:

- (i) Appellant was under obligation to export 240 MT Chlorinated Paraffine Wax (CPW). As per Order dated 25.02.2010 by RA, Ahmedabad, it has been stated that Appellant has submitted original shipping bills and BRCs in respect of exports of 218 MT of CPW. Hence, there is a shortfall of 22 MT of CPW.
- (ii) Appellant has stated that out of shortfall of 22 MT of CPW, they have done 20MT of export of CPW through their third party. However, they have not been able to submit original EP copy of the shipping bill and BRC in respect of this export quantity of 20 MT. Appellant has stated that shortfall is only of 2 MT and corresponding to this 2 MT the excess import is of 0.170MT. Hence, they are liable to pay custom duty and interest only on this quantity.
- (iii) However, in its latest e-mail dated 12.07.2013, Appellant has stated that they have now paid custom duty and interest not only for shortfall corresponding to 2MT of CPW but also corresponding to exports of 20MT of CPW. Though they have done exports of 20MT of CPW through their third party, but since they have not submitted the required documents for this quantity, they have paid custom duty and the interest even in respect of excess import corresponding to this quantity of 20MT. Appellant has submitted TR challan No.379 dated 21.05.2012 for Rs.3,440 from Custom House, Kandla towards payment of custom duty and interest for quantity of 0.170MT against Advance Authorization No.08000448. They have also produced another challan No.1520 dated 03.10.2012 from Custom House, Kandla for Rs.1,93,275/- towards duty payment with interest for shortfall of 8.440MT against Advance Authorization No.08000448.
- (iv) The admitted position in Order-in-Original that Appellant has submitted original shipping bills and BRC for export of 218 MT CPW. The Appellant firm vide its e-mail, dated 12.07.2013, has submitted copies of two challans stating that they have paid custom duty and interest for shortfall of 22MT.
- (v) Now, the Appellant firm vide its e-mail dated 17.01.2014, has submitted a letter No.08/388/AM07/ECA/250, dated 20.09.2013, issued by RA, Mumbai. RA, Mumbai has stated that the Company vide letter dated 27.08.2013 submitted

*[Handwritten signature]*



original Challan Nos.(1)379 dated 21.05.2012 for Rs.3440 towards the payment of cutom duty and interest in respect of excess import quantity of 0.170 MT of Heavy Normal Paraffin; and (2) 1520 dated 03.10.2012 for Rs.1,93,275 towards payment of custom duty and interest in respect of excess import quantity of 8.44 MT of Heavy Normal paraffin. Further, RA, Mumbai has stated that accordingly, they had paid custom duty and interest for a total excess quantity imported to the extent of 8.61 MT of Heavy Normal Paraffin. The Company vide their letter dated 27.08.2013 also submitted Affidavit duly notarized about loss of original Advance Licence. On the basis of exports made by them, on pro-rata basis they are eligible to import 91.56 MT. The Company in their letter dated 27.08.2013 stated that they have imported 100.130 MT and hence they are liable to pay duty for excess import of 8.57 MT only whereas they have paid duty and interest to the extent of 8.61 MT.


6. I, therefore, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following order:

Order

F. No.11/13/2010-11/ECA.I

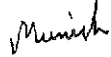
Dated: 14<sup>th</sup> February, 2014

In view of the facts given in para 5 above, the Order-in-Original No.08/388/AM 07/ECA, dated 25<sup>th</sup> February, 2010, passed by Jt.DGFT, Ahmedabad is set aside and the case is reminded back to Jt.DGFT, Ahmedabad, for de-novo consideration .

  
(Dr. L.B. Singhal)  
Addl. Director General of Foreign Trade

M/s. Gujarat Parachlor Pvt. Ltd.,  
401 & 402, Sarthik Square, Nr. GNFC Tower,  
Sarkhej Gandhinagar Highway,  
Bodakdev,  
Ahmedabad- 380 054.

Copy to : Jt.DGFT, Ahmedabad for information and necessary action.

  
(Manish Kishore)  
Dy. Director General of foreign Trade



Government of India  
Ministry of Commerce and Industry  
Directorate General of Foreign Trade  
Udyog Bhavan, New Delhi

F.No.11/385/2009-10/ECA-I/4468,4469.

Date of Order : 17<sup>th</sup> February, 2014

Date of dispatch: 19/2/2014

Name of the Appellant

M/s Wellman Hindustan Ltd.,  
137/138A, Jolly Maker Chambers II, 13<sup>th</sup> Floor,  
Nariman Point  
Mumbai-400021.

Order appealed against

Order-in-Original No.030200200887AM03  
Dated 30.05.2003  
passed by Jt.DGFT, Mumbai.

Order-in-Appeal  
Passed by

Dr. Lalit B. Singhal  
Appellate Authority &  
Addl. Director General of Foreign Trade

**Order-in-Appeal**

M/s Wellman Hindustan Limited, (Appellant) has filed this appeal under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, against Order-in-Original, as detailed at Column 4 of the Annexure of this Order, passed by Jt.DGFT, Mumbai.

2. M/s Wellman Hindustan Ltd. had obtained Advance Licence, as detailed at Column 3 of the Annexure from the O/o Zonal Jt. DGFT, Mumbai, for duty free import of inputs with the obligation to fulfill export obligation as detailed in the Licence within the allowed export obligation period. The firm was required to submit export documents to the licensing Authority showing fulfillment of export obligation, but they did not do so. Therefore, the Adjudicating Authority, Zonal Jt. DGFT, Mumbai, had initiated action by issuing a show cause notice under Section 14 to the firm and its Directors for initiating penal action under Section 11 (2) of the Foreign Trade (Development & Regulation) Act, 1992. Since, the appellant firm failed to submit complete prescribed export documents in original or regularize the excess import by payment of custom duty saved amount along with interest to the Customs Authority, therefore, the case was adjudicated under Section 15 of FT(D&R), Act and penalty was imposed, as detailed at Column 5 of the Annexure.

3. Aggrieved by the above said Order-in-Original, M/s Wellman Hindustan Ltd., Mumbai, preferred this appeal stating that they had exported materials and fulfilled export obligation, though not 100%. Their company became a sick industrial company and the BIFR declared the sick company in terms of Section 3 (1) (o) of the SICA and also wound up the Company vide BIFR order dated 30.10.2000. The Hon'ble High Court of Mumbai vide their order dated 7.01.1998 appointed court receiver to take possession of the properties of the Appellant Company in a mortgage suit filed by the ICICI Bank and the said court receiver seized all the





records. Therefore, they became incapacitated to make available the original records before the Adjudication Officer.

4. Opportunities were granted to the appellant to submit evidence of export. Mr. Lalit Kumar Dangi, Chairman of firm, Mr. Navin Malhotra, Advocate, Mr. Nitendra Kumar, Advocate and Mr. Suraj Kumar, Advocate, and others appeared in the Personal Hearing held on 20.06.2011, 11.07.2011, 12.08.2011, 09.09.2011, 29.09.2011, 27.01.2012, 27.02.2012, 15.03.2012, 07.01.2013, 27.02.2013, 22.07.2013, 09.09.2013, 14.10.2013, 25.11.2013 and 20.01.2014 in respect of this appeal. They have informed that they have completed exports. They stated that they want to regularize the case and close the chapter once for all and wherever there is shortfall in export obligation and excess import had been effected, they are willing to pay custom duty and interest and regularize the case with RA, Mumbai, as required under HBP vol.1. They also informed that they would like to regularize the case under Public Notice No.22, dated 12.08.2013, read with Policy Circular No.8, dated 25.10.2013.

5. DGFT has issued Public Notice No.22, dated 12.08.2013 for regularization of all pending cases. Public Notice No.22, dated 12.08.2013, provides as follows:

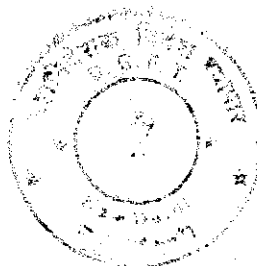
- (a) *All pending cases of the default in meeting Export Obligation (EO) can be regularised by the authorisation holder on payment of applicable customs duty, corresponding to the shortfall in export obligation, along with interest on such customs duty; but the interest component to be so paid shall not exceed the amount of customs duty payable for this default.*
- (b) *In line with the existing policy the customs duty could be paid either in cash or by way of debiting of any valid duty credit scrips issued under Chapter 3 of the Foreign Trade Policy. The interest component however, has to be paid in cash only.*
- (c) *Any authorisation holder choosing to avail this benefit must complete the process of payment on or before 31<sup>st</sup> March 2014.*

6. Consequent to issuance of Public Notice No.22, dated 12.08.2013, DGFT had issued Policy Circular No.8, dated 25.10.2013. This Policy Circular prescribes procedure for regularization of all pending cases under Public Notice No.22, dated 12.08.2013. This Policy Circular prescribes as follows:

*“The following procedure is accordingly prescribed:*

- (i) *An applicant intending to regularize the case has to pay custom duty and interest to the concerned Custom Authority and submit evidence in this regard to the concerned RA.*
- (ii) *Based on the evidence of such payment and other relevant documents, as required under HBP vol.1, concerned RA may close the case and issue a closure letter.*
- (iii) *Para (b) of Public Notice No. 22 (RE-2013)/2009-2014 dated 12.08.13 is applicable to all pending cases of EO default. Hence, even cases which have already been adjudicated (or pending adjudication), either originally or in appeal, can also be regularized under this Public Notice. The procedure for regularization of such cases would be as under:*
  - (a) *In respect of cases which have already been adjudicated (or pending adjudication) and where appeal has not been filed, firms will produce a copy of this closure letter from the concerned RA, to the Adjudicating Authority.*

*JK*



(b) In case an appeal has been filed, then this closure letter will have to be submitted to the Appellate Authority.

On submission of such closure letter Adjudicating Authority/Appellate Authority will decide on closure of such case/appeal and will inform the same to the firm and to the concerned RA".

7. Now, Appellant has produced before me redemption letter/closure letter No.03/93/040/00066/AM94, dated 07.11.2013, in respect of this case issued by RA, Mumbai. RA, Mumbai, vide its e-mail dated 10.02.2014, has confirmed that date of issuance of the Advance Authorization No.0002137905 is 13.07.1993 which has been wrongly indicated as 13.07.2000 in the redemption letter. The redemption letter clearly shows that the case has been closed by RA, Mumbai on account of fulfillment of export obligation/payment of custom duty and interest on excess import in terms of Public Notice No.22, dated 12.08.2013, read with Policy Circular No.8, dated 25.10.2013.

8. I, therefore, in exercise of the powers vested in me under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992, as amended, pass the following order:

**Order**

F. No. 11/385/2009-10/ECA-I

Dated: 17 February, 2014

Adjudicating Authority has passed Order-in-Original in this case on account of non-fulfillment of export obligation/non-payment of custom duty and interest on excess import. DGFT has provided an opportunity to all exporters to regularize all pending cases by payment of custom duty and interest in terms of Public Notice No.22, dated 12.08.2013, read with Policy Circular No.8, dated 25.10.2013. Appellant has availed the opportunity under this Public Notice No.22, dated 12.08.2013, read with Policy Circular No.8, dated 25.10.2013 and the case has been closed by RA, Mumbai. Appellant has produced a copy of closure letter from RA, Mumbai in this case, as required under para 2(iii) of Policy Circular No.8, dated 25.10.2013. Para 2(iii) of Policy Circular No.8, dated 25.10.2013 provides that "on submission of such closure letter Adjudicating Authority/Appellate Authority will decide on closure of such case/appeal and will inform the same to the firm and to the concerned RA". Since this case has already been closed by RA, Mumbai, and closure letter has been submitted to me by the Appellant, the appeal stands closed.

(Dr. Dalit B. Singhal)  
Addl. Director General of Foreign Trade

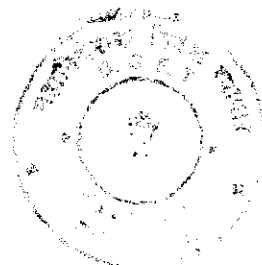
M/s Wellman Hindustan Ltd.,  
137/138A, Jolly Maker Chambers II, 13<sup>th</sup> Floor,  
Nariman Point  
Mumbai-400021

Copy to: Addl.DGFT, Mumbai, - for information, please.

Munish  
MUNISH KUMAR  
Dy. Director General of Foreign Trade

सारी किम्प  
19/2/14

O/C



**ANNEXURE**

**Annexure of Order-in-Appeal relating to F.No. 11/385/2009-10/ECA-I, dated 17.02.2014 regarding the appeal filed by  
M/s Wellman Hindustan Ltd., Mumbai.**

Sl. No.	Appeal File No. at DGFT (HQ)	Licence No. and date	Order-in-Original No. and date	Penalty amount (in Rs.)	Redemption letter No and date
1	2	3	4	5	6
1.	11/385/2009-10/ECA-I	0002137905 dt. 13.07.1993	030200200887AM03 dated 30.05.2003	16,00,000	03/93/040/00066/AM94 dated 07.11.2013 read with e-mail dated 10.02.2014

