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**Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Foreign Trade)  
Room No.1, Udyog Bhawan, New Delhi-110107.**

F.No.11/385/2010-11/ECA.1/4561,4562.

11<sup>th</sup> March, 2014

Date of dispatch: 19/3/2014

**Name of the Appellants :** M/s Cooper Pharma,  
12/12, Shakti Nagar,  
Delhi-110007.

**Orders appealed against :**

1. Order-in-Original  
No. 05/26/40/0068/AM05/DES-I/CLA  
dated 22/10/2010 passed by FTDO,  
CLA, New Delhi-110002.
2. Order-in-Appeal  
No. 11/385/2010-11/ECA-1  
dated 17/09/2012 passed by Addl.DGFT.

**Passed by :** Anup K. Pujari  
Director General of Foreign Trade

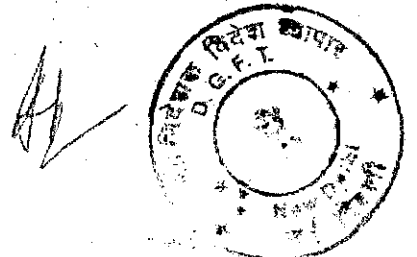
**REVISION ORDER**

This Revision Petition has been filed against Order - in - Original No.05/26/40/0068/AM05/ DES-I/CLA dated 22/10/2010 passed by FTDO, CLA, New Delhi-110002 and Order-in-Appeal No.11/385/2010-11/ECA-1 dated 17/09/2012 passed by Addl. DGFT.

2. The brief facts of the case are that M/s Cooper Pharma obtained an advance authorization No. 0510136610 dated 28/08/2004 for a CIF value of Rs. 3, 28,440/- (US \$ 7140) with an obligation to export the resultant product for FOB value of Rs. 4,60,000/- (US \$ 10000) within specified period. As appellants did not submit prescribed export documents evidencing completion of export obligation and realization of foreign exchange, adjudication process was initiated by Adjudicating Authority. The Adjudicating Authority after granting opportunity of personal hearing in the case, passed Adjudication Order imposing fiscal penalty of Rs. 16,42,200/- on the appellant firm and its Director.

3. Firm filed an appeal before Appellate Authority against the Order-in-Original. Appeal was considered by the Appellate Authority. As appellants failed to produce prescribed documents though ample opportunities of personal hearings were granted, Appellate Authority dismissed appeal wide their Order No. 11/385/2010-11/ECA.1/1708 dated 17/09/2012.

4. Now, appellants have filed a Revision application enclosing a photocopy of letter No. C.No.VIII/12/ACE/GR.VII/Adv.Lic./Bon-703/BG-179/2004 dated 29/10/2012 from the Office of Commissioner of Customs: Air Cargo (Exports) dated 29/10/2012 giving



details of utilization of authorization No.0510136610 dated 27/08/2004 and photocopy of TR-6 dated 22/11/2013 for Rs. 2,65,474/- as proof of payment of customs duty saved against the unutilized imported input under duty free scheme along with interest in terms of provisions of Public Notice No. 22 dated 12/08/2013.

5. I have carefully gone through the Revision application, customs letter dated 29/10/2012 and copy of TR-6 dated 22/11/2013, prima facie evidencing payment of customs duty saved along with interest. As the customs duty saved on duty free imports made along with interest in terms of provisions of Public Notice No. 22 dated 12/08/2013 have been paid (even after appeal was dismissed), case needs re-examination by Regional Authority.

6. I, therefore, in exercise of powers vested in me under Section 16 of FT(D&R) Act, 1992 as amended, pass following order:

F.No.11/385/2010-11/ECA.I

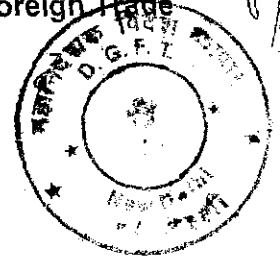
11<sup>th</sup> March, 2014

**ORDER**

1. The Order-in-Original No. 05/26/40/0068/AM05/DES-I/CLA dated 22/10/2010 passed by FTDO, CLA, New Delhi-110002 and Order-in-Appeal No. 11/385/2010-11/ECA-I dated 17/09/2012 passed by Addl.DGFT are set aside.
2. Appellants are directed to produce original TR-6 and letter of customs showing utilization of authorization before Regional Authority within one month of receipt of Revision Order. Regional Authority may make an appropriate order on examination of these documents as expeditiously as possible.
3. At the time of re-examination of case by the Regional Authority, if any additional amount becomes payable [duty + interest], then the applicant may be allowed to take advantage of PN 22 of 12/08/13. Since last date for this PN is 31/03/13, urgent action is needed.

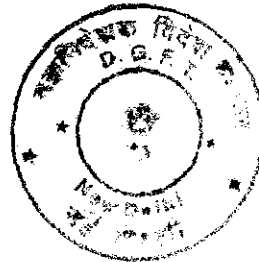
(Anup K. Pujari)

Director General of Foreign Trade



M/s. Cooper Pharma,  
12/12, Shakti Nagar,  
Delhi-110007.

Copy to: Jt. DGFT, CLA, New Delhi for information and necessary action.



JK

जारी किया  
19/3/14

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

F.No.11/421/2012-13/ECA-I

14537, 4538.  
Date of Order 12<sup>th</sup> March, 2014

Date of dispatch: 12/3/2014

Name of the Appellant

M/s Texx One Pvt. Ltd., Chennai  
H.O. Raja Annamalai Building  
New No. 72, Old No. 19,  
Marshalls Road, Egmore  
Chennai-600 008.

Order appealed against

Order-in-Original  
No. 04/24/040/00226/AM 05 dated 12.4.2013  
Passed by Jt. DGFT, Chennai

Order-In-Appeal  
Passed by

Shri Jaikant Singh  
Appellate Authority &  
Addl. Director General of Foreign Trade

**Interim Order-in-Appeal**

M/s Texx One Pvt. Ltd., Chennai has filed this appeal on 20.05.2013 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992 against Order-in-Original No. 04/24/040/00226/AM 05 dated 12.4.2013 passed by Jt. DGFT, Chennai.

2. M/s Texx One Pvt. Ltd., Chennai had obtained Advance Authorisation No. 0410066110 dated 10.01.2005 for cif value of Rs. 13,45,452.00 (US\$ 30,578.46) for import of items duty free from the office of Zonal DGFT, Chennai with an obligation to export the resultant export product as specified in the licence for FOB value of Rs. 17,42,071.50 (US\$ 39,910.00) within 18/24 months from the date of issue of the licence. The party had failed to submit proof of fulfilment of export obligation. Therefore, Order-in-Original dated 12.4.2013 was passed imposing fiscal penalty on the party.

3. Aggrieved by the above said Order-in-Original, M/s Texx One Pvt. Ltd., Chennai preferred the present appeal stating that they have fulfilled Export Obligation through deemed export. Shri S. Murugappan, Advocate appeared on 31.1.2014 before the undersigned for hearing on behalf of the party. This is a case of Advance Authorisation No. 0410066110 dated 10.01.2005. The party was supposed to supply goods to a 100 % EOU. It is observed that neither the Form C.T.3 nor ARE 3 nor the invoice (submitted by the party for Export Obligation discharge) contains Advance Authorisation Number and hence it cannot be presumed that the supplies were made against the said Advance Authorisation. However, the party has an option to regularise the case under PN 22 dated 12.8.2013 read with Policy Circular No. 8 dated 25.10.2013.



4. 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. 11/421/2012-13/ECA-I

Dated 12<sup>th</sup> March, 2014

1. No relief can be granted except that the party may take the benefit of PN dated 12.8.2013. The party may submit original documents pertaining to EO fulfilment against the said Advance Authorisation to RA, Chennai in terms of HBP Vol.1 and proof of payment of custom duty saved alongwith interest for regularisation/closure of their case as per PN 22 dated 12.8.2013 read with Policy Circular No. 8 dated 25.10.2013.

2. RA, Chennai is advised to examine all the documents submitted by the firm and decide on closure of this case in terms of Policy Circular No. 8 dated 25.10.2013. Appellant is directed to submit such closure letter from RA, Chennai, by 15.4.2014.



(Jaikant Singh)

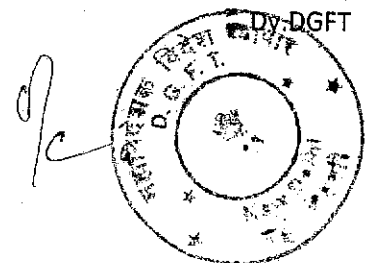
**Addl. Director General of Foreign Trade**

M/s Texx One Pvt. Ltd., Chennai  
H.O. Raja Annamalai Building  
New No. 72, Old No. 19,  
Marshalls Road, Egmore  
Chennai-600 008.

Copy to:- RA, Chennai for information and necessary action.

STRI 7421  
14/3/14

Munish  
(Munish Kumar)  
Dy. DGFT



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

F.No.11/303-353-374/2011-  
12/ECA-I

Date of Order 13/3/14  
Date of dispatch: 14/3/2014

Name of the Appellant

(i) Shri H.P. Nagchowdhury  
(ii) Shri L.S. Sarma  
(iii) Shri Girish M. Dave  
(iv) Shri Mahendra K. Kumbhat  
(Former Directors of M/s Pfimex Pharmaceuticals Limited)

Sethna Building, First Floor,  
Marine Lines 55, Doctor Maharsh i Karve Marg  
Mumbai-400 002

Order appealed against

Order-in-Original  
No. 04(128)/2003-04/ECA/HYD dated 10.1.2011  
Passed by Jt. DGFT, Hyderabad

Order-In-Appeal  
Passed by

Shri Jaikant Singh  
Appellate Authority &  
Addl. Director General of Foreign Trade

**Interim Order-in-Appeal**

The appeal has been filed on 26.9.2011 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992 by former Directors of M/s Pfimex Pharmaceuticals Limited., Hyderabad against Order-in-Original No. 04(128)/2003-04/ECA/HYD dated 10.1.2011 passed by Jt. DGFT, Hyderabad.

2. M/s Pfimex Pharmaceuticals Limited, Hyderabad had obtained Advance Licence No. 3288938 dated 12.1.1994 within the export obligation period of 12 months from date of issue of Licence. After the expiry of export obligation period, since the appellants did not furnish any export documents, adjudicating authority imposed fiscal penalty vide Order No. 04(128)/2003-04/ECA/HYD dated 10.1.2011.

3. Aggrieved by the above order, the four Directors of the Company viz. Shri Girish M. Dave, Shri H.P. Nagchowdhury, Shri L.S. Sarma and Shri Mahendra K. Kumbhat have preferred appeal on 26<sup>th</sup> September, 2011. They were granted various opportunities of Personal Hearing. In Personal Hearing held on 15.1.2014, Shri L.S. Sarma and Shri Girish Dave, Advocate appeared on behalf of the petitioners. During Personal Hearing and in appeal these appellants Directors have contended that

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they are not liable for any offence done by the Company and especially in this particular case they were not Directors at the time when the offence was committed. None of the appellants were Directors of the company at the time when first set of Show Cause Notices were issued. All the appellants were non- whole time Directors and as such unless they are party to the offence committed by the Company they are not liable for the offences of the Company. The appellants were not aware of the Advance Authorisations and obligation attached to it nor did they sign any application for the authorisation.

4. 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. 11/303-353-374/2011-12/ECA-I

Dated 13<sup>th</sup> March, 2014

1. The applicants are hereby directed to get a letter from Registrar of Companies, Chennai or the concerned Registrar of Companies (depending on the jurisdiction / location of the registered office of the Company) stating that the applicants were neither MD nor ED nor whole time Directors of the Company. They may also furnish any other proof which may indicate that this work was not assigned to them and that they were not responsible / liable for fulfilment of export obligation against the said Advance Licence. The information / proof may be provided within three months.

2. Alternatively, applicants have also option to regularise their case as per Public Notice No. 22 dated 12.8.2013 read Policy Circular No. 8 dated 25.10.2013.



(Jaikant Singh)

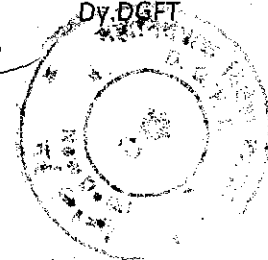
**Addl. Director General of Foreign Trade**

- (i) Shri H.P. Nagchowdhury
- (ii) Shri L.S. Sarma
- (iii) Shri Girish M. Dave
- (iv) Shri Mahendra K. Kumbhat

Sethna Building, First Floor  
Marine Lines, 55, Doctor Maharshi Karve Marg  
Mumbai-400 002

Copy to:- RA, Hyderabad for information and necessary action.

सारी किम  
14/3/14

Munish  
(Munish Kumar)  
Dy. DGFT  


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

F.No.11/306-320-379-381/2011-  
12/ECA-I

*MSub, MSU7.*  
Date of Order 13/3/14  
Date of dispatch: 14/3/2014

Name of the Appellant,

- (i) Shri H.P. Nagchowdhury
- (ii) Shri L.S. Sarma
- (iii) Shri Girish M. Dave
- (iv) Shri Mahendra K. Kumbhat

(Former Directors of M/s Pfimex Pharmaceuticals Limited)

Sethna Building, First Floor,  
Marine Lines 55, Doctor Maharshi Karve Marg  
Mumbai-400 002

Order appealed against

Order-in-Original  
No. 5(17)1999-2000/ECA/HYD dated 28.7.2011  
Passed by Jt. DGFT, Hyderabad

Order-In-Appeal  
Passed by

Shri Jaikant Singh  
Appellate Authority &  
Addl. Director General of Foreign Trade

**Interim Order-in-Appeal**

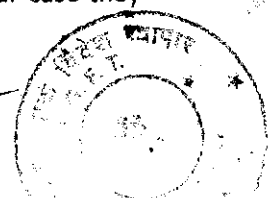
The appeal has been filed on 26.9.2011 under Section 15 of the Foreign Trade (Development & Regulation) Act, 1992 by former Directors of M/s Pfimex Pharmaceuticals Limited., Hyderabad against Order-in-Original No. 5(17)1999-2000/ECA/HYD dated 28.7.2011 passed by Jt. DGFT, Hyderabad.

2. M/s Pfimex Pharmaceuticals Limited, Hyderabad had obtained Advance Licence No. 3290547 dated 22.7.1994 within the export obligation period of 12 months from date of issue of Licence. After the expiry of export obligation period, since the appellants did not furnish any export documents, adjudicating authority imposed fiscal penalty vide Order No. 5(17)1999-2000/ECA/HYD dated 28.7.2011.

3. Aggrieved by the above order, the four Directors of the Company viz. Shri Girish M. Dave, Shri H.P. Nagchowdhury, Shri L.S. Sarma and Shri Mahendra K. Kumbhat have preferred appeal on 26<sup>th</sup> September, 2011. They were granted various opportunities of Personal Hearing. In Personal Hearing held on 15.1.2014, Shri L.S. Sarma and Shri Girish Dave, Advocate appeared on behalf of the petitioners. During Personal Hearing and in appeal these appellants Directors have contended that they are not liable for any offence done by the Company and especially in this particular case they

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*[Signature]*





were not Directors at the time when the offence was committed. None of the appellants were Directors of the company at the time when first set of Show Cause Notices were issued. All the appellants were non- whole time Directors and as such unless they are party to the offence committed by the Company they are not liable for the offences of the Company. The appellants were not aware of the Advance Authorisations and obligation attached to it nor did they sign any application for the authorisation.

4. 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. 11/306-320-379-381/2011-12/ECA-I

Dated 13<sup>th</sup> March, 2014

1. The applicants are hereby directed to get a letter from Registrar of Companies, Chennai or the concerned Registrar of Companies (*depending on the jurisdiction / location of the registered office of the Company*) stating that the applicants were neither MD nor ED nor whole time Directors of the Company. They may also furnish any other proof which may indicate that this work was not assigned to them and that they were not responsible/ liable for fulfilment of export obligation against the said Advance Licence. The information/proof may be provided within three months.

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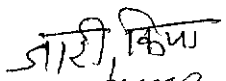
  
(Jaikant Singh)

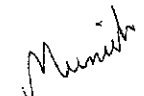
Addl. Director General of Foreign Trade

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Copy to:- RA, Hyderabad for information and necessary action.

  
14/3/14

  
(Munish Kumar)  
Dy. DGFT  
