

<p>प्रधान आयुक्त का कार्यालय सीमा शुल्क ,अहमदाबाद सीमाशुल्क भवन,पहली मंजिल ,पुराने हाईकोर्ट के सामने ,नवरंगपुरा , अहमदाबाद – 380009</p>	 सत्यमेव जयते	<p>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOM HOUSE, FIRST FLOOR, OPP. OLD HIGH COURT, NAVRANGPURA, AHMEDABAD-380009</p>
दूरभाष :(079) 2754 4630, E-mail: cus-ahmd-adj@gov.in , फैक्स :(079) 2754 2343		

DIN: 20250971MN0000912802

PREAMBLE

A	फ़ाइल संख्या/ File No.	:	F. No. CUS/EPCG/MISC/364/2023-ICD-SRT-CUS-COMMRTE-AHMEDABAD
B	कारण बताओ नोटिस संख्या-तारीख /Show Cause Notice No. and Date	:	CUS/EPCG/MISC/364/2023-ICD-SRT-CUS-COMMRTE-AHMEDABAD dated 25.04.2023
C	मूल आदेश संख्या/ Order-In-Original No.	:	127/ADC/SR/O&A/2025-26
D	आदेश तिथि/ Date of Order-In-Original	:	15.09.2025
E	जारी करनेकी तारीख/ Date of Issue	:	15.09.2025
F	द्वारापारित/ Passed By	:	Shravan Ram, Additional Commissioner, Customs Ahmedabad
G	आयातक का नाम औरपता / Name and Address of Importer / Passenger	:	M/s. Krishna Fashion, 1019, Indrajeet Society, B/h. Navratna Avenue, Opp. Sardar Mall, Nikol Gam Road, Ahmedabad-382350 Shri Jigneshbhai Maganbhai Bhuva, Proprietor of M/s. Krishna Fashion, 38, Sarvamangal Society, Opp. Trimuti Complex, India Colony Road, Bapunagar, Ahmedabad-380024
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क(अपील), चौथी मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

BRIEF FACTS OF THE CASE:

M/s. Krishna Fashion, 1019, Indrajeet Soc., B/H. Navrana Avenue, Opp. Sardar Mall, Nikol Gam Rd, Ahmedabad-382350 (hereinafter referred as “the said importer” for the sake of brevity), holding Import Export Code No. 0814026761 had imported 03 sets of capital goods viz. Computerized Embroidery Machine under EPCG Licence No. 0830007155 dated 27.04.2015 by saving duty of **Rs. 5,77,038/-** (Actual Duty Utilized of Rs. **5,68,928/-**) and had cleared the same vide below mentioned Bill of Entry at zero duty while availing the benefit of

exemption available under Notification No. 16/2015-Cus dated 01.04.2015. The details of import are as under:

S. N.	B/E No. & Date	Number of machinery cleared	Duty Saved/ available as per EPCG Licence	Total Duty Foregone/Debited at the time of clearance	BG Amount (Rs.)
1	9297917 dtd. 20.05.2015	2	5,77,038/-	4,29,328/-	95,000/-
2	9329932 dtd. 23.05.2015	1		1,39,600/-	
	TOTAL	03 sets		5,68,928/-	

2. As per Notification No. 16/2015-Cus dated 01.04.2015 as amended time to time, the said importer was required to fulfill the export obligation on FOB basis equivalent to six times of the duty saved on the goods imported as may be specified on the licence or authorization. The relevant portion of the said notification is produced herein below for reference:

Notification No. 16/ 2015 - Customs

New Delhi, the 1 st April, 2015

G.S.R. 252 (E) -In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts goods specified in the Table 1 annexed hereto, from,-

- (i) the whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the said Customs Tariff Act), and*
- (ii) the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act, when specifically claimed by the importer.*

2. The exemption under this notification shall be subject to the following conditions, namely:-
(1) that the goods imported are covered by a valid authorisation issued under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at zero customs duty;

(2) that the authorisation is registered at the port of import specified in the said authorisation and the goods, which are specified in the Table 1 annexed hereto, are imported within validity of the said authorisation and the said authorisation is produced for debit by the proper officer of customs at the time of clearance:

Provided that the goods imported should not fall under clause (f) of paragraph 5.01 of Foreign Trade Policy:

Provided further that the catalyst for one subsequent charge shall be allowed, under the authorisation in which plant, machinery or equipment and catalyst for initial charge have been imported, except in cases where the Regional Authority issues a separate authorisation for catalyst for one subsequent charge after the plant, machinery or equipment and catalyst for initial charge have already been imported;

(3) that the importer is not issued, in the year of issuance of zero duty EPCG authorisation, the duty credit scrips under the erstwhile Status Holder Incentive Scrip (SHIS) scheme. In the case of applicant who is Common Service Provider (herein after referred as CSP), the CSP or any of its specific users should not be issued, in the year of issuance of the zero duty EPCG authorisation, the duty credit scrips under SHIS. This condition shall not apply where already availed SHIS benefit that is unutilised is surrendered or where benefits availed under SHIS that is utilised is refunded, with applicable interest, before issue of the zero duty EPCG authorisation. SHIS scrips which are surrendered or benefit refunded or not issued in a particular year for the reason the authorisation has been issued in that year shall not be issued in future years also;

(4) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is complete;

(5) that the importer executes a bond in such form and for such sum and with such surety or security as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs binding himself to comply with all the conditions of this notification as well as to fulfill export obligation on **Free on Board (FOB) basis equivalent to six times the duty saved on the goods imported** as may be specified on the authorisation, or for such higher sum as may be fixed or endorsed by the Regional Authority in terms of Para 5.16 of the Handbook of Procedures, within a period of six years from the date of issue of Authorisation, in the following proportions, namely :-

S.N.	Period from the date of issue of Authorization	Proportion of total export obligation
(1)	(2)	(3)
1	Block of 1 st to 4 th year	Minimum 50%
2	Block of 5 th to 6 th year	Balance

.....

.....

(6) that if the importer does not claim exemption from the additional duty leviable under section 3 of the Customs Tariff Act, 1975, the additional duty so paid by him shall not be taken for computation of the net duty saved for the purpose of fixation of export obligation provided the Cenvat credit of additional duty paid has not been taken;

(7) that the importer, including a CSP, produces within 30 days from the expiry of each block from the date of issue of authorisation or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs may allow, evidence to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs showing the extent of export obligation fulfilled, and where the export obligation of any particular block is not fulfilled in terms of the condition (5), the importer shall within three months from the expiry of the said block pay duties of customs equal to an amount which bears the same proportion to the duties leviable on the goods, but for the exemption contained herein, which the unfulfilled portion of the export obligation bears to the total export obligation, together with interest at the rate of fifteen percent per annum from the date of clearance of the goods;

It is thus evident from the above notification that the said importer was required to execute a bond in such form and for such sum and with such surety or security as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs binding himself to fulfill export obligation on FOB basis equivalent to six times the duty saved on the goods imported as may be specified on the licence or authorization, or for such higher sum as may be fixed or endorsed by the licencing Authority or Regional Authority, within a period of six years from the date of issuance of licence or authorization i.e. complete minimum 50% export obligation within first block of 1st to 4th years and remaining balance in second block of 5th to 6th years.

3. Accordingly, the said importer had executed Bond dated 20.05.2015 for Rs.16,00,000/- backed by Bank Guarantee No. 0294BGFD000316 dated 05.05.2015 for Rs 95,000/- issued by the ICICI Bank Ltd, Ahmedabad for EPCG License No. 0830007155 dated 27.04.2015. They had also undertaken to fulfill all the terms and conditions specified in the License and the said Notification.

4. The said machinery i.e. 03 sets of Computerized Embroidery Machine imported under the above said EPCG License were installed at the factory/business premises i.e. **M/s. Krishna Fashion, 1019, 2nd Floor, Indrajeet Soc, B/h. Navratana Avenue, Opp. Sardar Mall, Nikol Road, T.B. Nagar, Ahamedabad-382350**, as per the Installation Certificate dated 14.10.2015

issued by Chartered Engineer Dr. P. J. Gandhi, Surat, certifying the receipt of the goods imported and its installation.

5. The aforesaid EPCG License No. 0830007155 dated 27.04.2015 was issued to the said importer and the Bond dated 20.05.2015 was executed accordingly. The said importer was required to fulfill the export obligation within a period of 6 years from the date of EPCG Licence as per the condition laid down in the Notification and EPCG Licence itself and submit the Export Obligation Discharged Certificate issued by the DGFT Authority to the department.

6. Letter F.No. ICD-Sachin/Misc./01/2022-23 dated 13.01.2023 was issued to the said importer to either furnish the EODC issued by DGFT or any extension granted by DGFT for fulfillment of Export Obligation, but no reply received.

Thus, it appears, from the above that the said importer has failed to fulfill the export obligation as specified in the Licence and has not complied with the mandatory conditions of the Customs Notification No. 16/2015-Cus dated 01.04.2015, EPCG Licence and conditions of the Bond dated 20.05.2015.

7. As per the provisions of Section 143 of the Customs Act, 1962, the aforesaid capital goods were allowed clearance by the proper officer on execution of bond by the said importer wherein the said importer has bound himself to discharge liability within a specified period in certain manner, which he has failed to do, by not fulfilling the export obligation. Therefore, the department is entitled to recover the duty less paid by raising a demand and appropriating the Bank Guarantee furnished by the said importer against this demand. The said section is produced herein below for reference:

SECTION 143. Power to allow import or export on execution of bonds in certain cases. –

(1) Where this Act or any other law requires anything to be done before a person can import or export any goods or clear any goods from the control of officers of customs and the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied that having regard to the circumstances of the case, such thing cannot be done before such import, export or clearance without detriment to that person, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, notwithstanding anything contained in this Act or such other law, grant leave for such import, export or clearance on the person executing a bond in such amount, with such surety or security and subject to such conditions as the Assistant Commissioner of Customs or Deputy Commissioner of Customs approves, for the doing of that thing within such time after the import, export or clearance as may be specified in the bond.

(2) If the thing is done within the time specified in the bond, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall cancel the bond as discharged in full and shall, on demand, deliver it, so cancelled, to the person who has executed or who is entitled to receive it; and in such a case that person shall not be liable to any penalty provided in this Act or, as the case may be, in such other law for the contravention of the provisions thereof relating to the doing of that thing.

(3) If the thing is not done within the time specified in the bond, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall, without prejudice to any other action that may be taken under this Act or any other law for the time being in force, be entitled to proceed upon the bond in accordance with law.

8. Since, the said importer appears to failed to fulfill the conditions laid down under Notification No. 16/2015-Cus dated 01.04.2015 in as much as they failed to export goods manufactured from 03 sets of Computerized Embroidery Machine imported under EPCG Licence No.

0830007155 dated 27.04.2015 which was equivalent to six times the duty saved on the goods imported and also neither produced EODC issued by DGFT nor could produce any extension granted by DGFT for fulfillment of Export Obligation. Hence, they appears liable to pay duty of **Rs. 5,68,928/-** in respect of the said imported goods along with interest at the applicable rate, in terms of conditions of the said Notification read with condition of Bond executed by the said importer read with Section 143 of the Customs Act, 1962.

8.1 It appears that the imported capital goods have not been used for intended purpose for which the exemption from payment of duty was claimed and therefore, the aforesaid Capital goods appears liable for confiscation under Section 111(o) of the Customs Act, 1962 and thus the said importer appears to have rendered itself liable for penal action under the provisions of Section 112(a) and Section 117 of the Customs Act, 1962.

8.2 Since, the said importer could not fulfill the conditions laid down under Notification No. 16/2015-Cus dated 01.04.2015, the Bank Guarantee No. 0294BGFD000316 dated 05.05.2015 for Rs 95,000/- issued by the ICICI Bank Ltd, Ahmedabad in favor of the Deputy/Asstt. Commissioner of Customs, ICD-Sachin, Surat against the EPCG License No. 0830007155 dated 27.04.2015 appears liable to be appropriated against the proposed demand.

8.3 As per para (7) of Customs Notification No. 16/2015-Cus dated 01.04.2015, the importer was required to produce, within 30 days from the expiry of each block from the date of issue of authorization or within such extended period, evidence to the extent of export obligation fulfilled by them, and where the export obligation of any particular block was not fulfilled in terms of the condition (5) of the said notification, the importer were required to pay duties of customs equal to an amount which for the unfulfilled portion of the export obligation along with applicable interest from the date of the clearance of the goods within three months from the expiry of the said block. The said importer have also given bond to this effect. The letter dated 13.01.2023 was written to the importer to intimate the extent of export obligation fulfilled by them but the same was not replied by them. Thus, the fact that they had neither completed their Export obligation nor paid the duty on import as per law & procedure is on record. Thus, it appears that the said importer has neither fulfilled their Export obligation nor paid the customs duty along with interest for non-fulfillment of EO. These facts were not disclosed to the department, thereby suppressing the facts with a clear intent to evade the payment of duty.

9. In view of the above, a Show Cause Notice bearing F.No. CUS/EPCG/MISC/364/2023-ICD-SRT-CUS-COMMRTE-AHMEDABAD dated 25.04.2023 was issued to M/s. Krishna Fashion, 1019, Indrajeet Soc., B/h. Navratna Avenue, Opp. Sardar Mall, Nikol Gam Road, Ahmedabad-382350 by the Additional Commissioner of Customs, In charge of ICD, Sachin, Surat, as to why:

- (i) The benefit of zero duty for EPCG Scheme under Notification No. 16/2015-Cus dated 01.04.2015 on the subject imported Computerized Embroidery Machines in the name of M/s. Krishna Fashion, should not be denied.
- (ii) Customs Duty totally amounting to **Rs. 5,68,928/- (Rupees Five Lakh Sixty Eight Thousand Nine Hundred Twenty Eight Only)** being the Duty forgone at the time of import under EPCG Licence, should not be demanded and recovered from them in

terms of Notification No. 16/2015-Cus dated 01.04.2015 as amended, read with the Conditions of Bond executed and furnished by them in term of Section 143 of the Customs Act, 1962 by enforcing the terms of the said Bond and as to why the Bank Guarantee No. 0294BGFD000316 dated 05.05.2015 for Rs 95,000/- issued by the ICICI Bank Ltd, Ahmedabad backed against the Bond, should not be appropriated and adjusted towards the Duty liability as mentioned above.

- (iii) Interest at the applicable rate should not be recovered from them on the Customs Duty as mentioned at (ii) above in term of Notification No 16/2015-Cus dated 01.04.2015 as amended from time to time read with Conditions of the Bond executed in term of Section 143 of the Customs Act, 1962.
- (iv) The imported Capital Goods should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962 read with conditions of Bond executed, in terms of Section 143 of the Customs Act, 1962 read with Notification No. 16/2015-Cus dated 01.04.2015 as amended from time to time.
- (v) Penalty should not be imposed on the Importer under Section 112(a) of the Customs Act, 1962 for the acts of omission & commission mentioned above.
- (vi) Penalty should not be imposed on the Importer under Section 117 of the Customs Act, 1962 for the acts of omission & commission mentioned above.
- (vii) Bond executed by them at the time of import should not be enforced in terms of Section 143(3) of the Customs Act, 1962 and the Bank Guarantee thereof should not be encashed for recovery of the Customs Duty as mentioned above and interest thereupon.

10. The case was adjudicated by the then adjudicating authority vide O-I-O No. 35/AB/ADC/ICD-SACHIN/SRT/2023-24 dated 08.12.2023 wherein the adjudicating authority passed order as under: –

- (i) Disallowed the benefit of zero duty for EPCG Scheme under Notification No. 16/2015-Cus dated 01.04.2015 on the subject Machines imported in the name of M/s. Krishna Fashion.
- (ii) Confirmed the demand of Customs duty amounting **Rs. 5,68,928/- (Rupees Five Lakh Sixty Eight Thousand Nine Hundred Twenty Eight only)** being the duty foregone at the time of import of Capital Goods under said EPCG Licence in terms of Notification No. 16/2015-Cus dated 01.04.2015 as amended, read with the Conditions of Bond executed and order the same to be recovered from M/s. Krishna Fashion, 1019, Indrajeet Society, B/h. Navratna avenue, Opp. Sardar Mall, Nikol Gam Road, Ahmedabad-382350, in terms of Section 143 of the Customs Act, 1962 by enforcing the terms of the above mentioned Bond.

- (iii) Ordered to appropriate the amount of Rs. 95,000/- by encashment of the Bank Guarantee No. 0294BGFD000316 dated 05.05.2015 for Rs. 95,000/- issued by the ICICI Bank Ltd, Ahmedabad submitted by the Noticee. **The same are required to be encashed and as the same has already been encashed and deposited in Government Exchequer vide TR-6 Challan No. 29/23-24 dated 22.05.2023. The amount may be adjusted against the duty liability confirmed at Sr. No (ii) above.**
- (iv) Ordered for confiscation of impugned capital goods under *reference imported by M/s. Krishna Fashion, 1019, Indrajeet Society, B/h. Navratna avenue, Opp. Sardar Mall, Nikol Gam Road, Ahmedabad-382350, liable to confiscation* in terms of the provisions of section 111(o) of the Customs Act, 1962 read with conditions of Bond executed in terms of section 143 of the Customs Act, 1962 and read with Customs Notification No. 16/2015 dated 01.04.2015 as amended. Further, allowed the Noticee an option to redeem the said goods on payment of redemption fine of Rs.6,07,427/-. (Rupees Six Lakh Seven Thousand Four Hundred Twenty Seven only), in terms of the provisions of Section 125(1) of the Customs Act, 1962.
- (v) Ordered to recover interest at the applicable rate on the Customs duty confirmed at (ii) above in terms of Notification No. 16/2015-Cus dated 01.04.2015 as amended read with conditions of Bond executed and furnished by them in terms of Section 143 of the Customs Act, 1962.
- (vi) Imposed penalty of Rs. 56,892/- (Rupees Fifty Six Thousand Eight Hundred Ninety Two only) on M/s. Krishna Fashion, in terms of Section 112(a)(ii) of the Customs Act, 1962.
- (vii) Imposed penalty of Rs.1,00,000/- (Rupees One lakh only) on M/s. Krishna Fashion, in terms of Section 117 of the Customs Act, 1962.

11. Being aggrieved with the Order-in-Original No. 35/AB/ADC/ICD-SACHIN/SRT/2023-24 dated 08.12.2023 issued by the Additional Commissioner of Customs, Surat, the noticee filed an appeal before the Commissioner of Customs (Appeals), Ahmedabad. The Commissioner of Customs (Appeals), Ahmedabad, vide Order-in-Appeal No. AHD-CUSTM-000-APP-356-24-25 dated 26.03.2025, allowed the appeal by way of remand to the adjudicating authority for passing fresh order after taking the submissions made by the appellant in the present appeal on record.

11.1. The appellate authority observed that the Advocate of the Appellant in their appeal memorandum has submitted a copy of EODC Certificate dated 06.02.2024 issued by DGFT, Ahmedabad towards the fulfillment of the export obligation in respect

of the EPCG License No. 0830007155 dated 27.04.2015. However, these facts have been brought before appellate authority for the first time and the adjudicating authority has no occasion to consider the same. Hence, the veracity of the EODC in respect of the EPCG license No. 0830007155 dated 27.04.2015 needs verification from the original case records.

11.2. The appellate authority allowed the appeal of the noticee by way of remand to the adjudicating authority for passing fresh orders after taking the submissions made by the appellant in the present appeal on record and after examining the EODC in respect of EPCG License No. 0830007155 dated 27.04.2015. Accordingly, as directed by the Appellate authority, the subject SCN has been taken up for fresh adjudication.

DEFENCE SUBMISSION AND PERSONAL HEARING:

12. In accordance with Section 122A, the Adjudicating Authority is required to provide an opportunity of personal hearing to the party, if so requested. Accordingly, vide letter dated 15.07.2025, a personal hearing was scheduled for the Noticee on 23.07.2025. However, neither the Noticee nor their authorized representative appeared for the hearing. Subsequently, the Noticee, vide letter dated 28.07.2025, submitted a copy of the Redemption Letter F.No. 08EEEEPC03425AM24 dated 06.02.2024 issued by the DGFT, Ahmedabad in respect of EPCG Authorization No. 0830007155 dated 27.04.2015, indicating fulfillment of export obligation and requested that they didn't required any P.H and the proceedings initiated under the Show Cause Notice be dropped.

Since, the adjudication proceedings cannot be delayed any further and therefore, I proceed to decide the case on its merits based on the material facts and available records.

DISCUSSIONS AND FINDINGS:

13. I have carefully gone through the Show cause notice, records, submissions and facts in the present case. The issues for consideration before me are as follows:

- (i) Whether the Noticee has fulfilled the export obligation as prescribed under the Zero Duty EPCG Scheme in terms of Notification No. 16/2015-Customs dated 01.04.2015, as amended.
- (ii) Whether the Capital Goods under consideration are liable to confiscation.
- (iii) Whether the Noticee is liable for penalties as invoked in the SCN.

14. Now I proceed to decide whether the noticee has fulfilled the export obligation prescribed under zero duty EPCG scheme in terms of Notification No. 16/2015-Customs dated 01.04.2015, as amended.


14.1 I find that the present recovery proceedings were initiated due to the non-submission of proof of fulfillment of export obligation and the non-submission of the Export Obligation Discharge Certificate (EODC) in respect of EPCG Authorization No. 0830007155 dated 27.04.2015. The Noticee had undertaken to fulfill the prescribed export obligation at the time of import of capital goods under the said authorization, availing exemption from customs duty at zero rate. The capital goods were cleared at zero duty on the basis of a Bond furnished by the Noticee, committing compliance with the conditions stipulated under Notification No. 16/2015-Cus. dated 01.04.2025, the Foreign Trade Policy 2009-14 and the corresponding Handbook of Procedures, within a period of six years from the date of issue of the authorization. Subsequently, the Noticee, vide letter dated 28.07.2025, submitted a Redemption Letter dated 06.02.2024 bearing File No. 08EEEEPC03425AM24, in respect of EODC/Redemption against EPCG Authorization No. 0830007155 dated 27.04.2015. I further observe that neither the EODC application submitted by the Noticee to the DGFT nor the Redemption Letter dated 06.02.2024 issued by the DGFT, Ahmedabad, was available on record at the time of issuance of the impugned Show Cause Notice.

14.2 I further find that the Redemption Letter dated 06.02.2024, issued by DGFT, Ahmedabad, states the following: -

“I write to inform you that on the basis of document submitted towards discharge of export obligation by you, it is observed that the Export Obligation stipulated in the License has been met in full in proportion to duty amount utilized by the you. Consequently, Export Obligation has been discharged against the said Authorization in terms of Para 5.10 of Hand Book of procedure.”

The relevant image of the subject Redemption Letter is placed below for ready reference:

UDINEPCG00471014AM24



सत्यमेव जयते

Government of India / भारत सरकार
 Ministry of Commerce and Industry / वाणिज्य और उद्योग मंत्रालय
 Department of Commerce / वाणिज्य विभाग
 Directorate General of Foreign Trade / विदेश व्यापार महानिदेशालय
 Office of the Additional Director General of Foreign Trade, Ahmedabad / अवर महानिदेशक, विदेश व्यापार का कार्यालय, अहमदाबाद
 3rd Floor, HUDCO Bhavan, Ishvar Bhuvan Road, Navrangpura, AHMADABAD, GUJARAT, 380009 / तीसरी मंजिल, हुडको भवन, ईश्वर भवन रोड, नवरंगपुरा, अहमदाबाद, गुजरात, 380009
 Email Office : ahmedabad-dgft@nic.in , Phone Office : 07925506297

File No: 08EEEEPC03425AM24

Date : (Refer Date of Digital Signature)

REDEMPTION LETTER

To ,

KRISHNA FASHION
 1019, INDRAJEET SOC, B/H: NAVRATNA
 RD, AHMEDABAD, GUJARAT, INDIA.
 382350

SUBJECT: EODC/REDEMPTION against EPCG Authorization No. 0830007155

Dated 27/04/2015

I write to inform you that on the basis of document submitted towards discharge of export obligation by you, it is observed that the Export Obligation stipulated in the License has been met in full in proportion to duty amount utilized by you. Consequently, Export Obligation has been discharged against the said Authorization in terms of Para 5.10 of Hand Book of procedure.

Issued from File Number 08EEEEPC03425AM24

Dated 06/02/2024

Copy To :
 1. COPY FORWARDED TO THE ASSISTANT COMMISSIONER OF CUSTOMS, EPCG CELL,
 2. Commissioner customs, 130 SURAT DIAMOND PARK, GIDC, SACHIN, SURAT-394230

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

Document has been digitally signed by Ashwin Golapkar, Assistant DGFT, RA AHMEDABAD on 06-Feb-2024.

Signature Not Verified

Digitally Signed
 Name: GOLAPKAR, ASHWIN
 RAJAN (Assistant DGFT)
 Date: 06-Feb-2024 16:42:02
 Reason: ashwin.golapkar@gov.in

माध्यम से व्यक्तिगत सुनवाई के लिए लिंक ऊपर बताए अनुसार आपकी पुष्टि के बाद ही साझा किया जाएगा।
 / You are requested to intimate your confirmation/ submission for the personal hearing at-least 24 hours before the schedule PH date and time on cusahmd-adj@gov.in and cusoanda@gmail.com. The

From the above said Redemption Letter, it is observed that the noticee has fulfilled the export obligation against the aforementioned EPCG Authorization in accordance with Para 5.10 of the Handbook of Procedures. Further, to verify the veracity of the submitted Redemption Letter, the status of the EPCG Authorization was cross-checked on the official DGFT website and was found to be reflected as "Closed." Accordingly, I find that the demand of **Customs duty amounting to Rs. 5,68,928/- (Rupees Five Lakh Sixty Eight Thousand Nine Hundred Twenty Eight only)** from M/s. Krishna Fashion, 1019, Indrajeet Society, B/h. Navratna avenue, Opp. Sardar Mall, Nikol Gam Road, Ahmedabad-382350 is liable to be dropped, as the DGFT has issued a Redemption Letter under File No. 08EEEEPC03425AM24 dated 06.02.2024, confirming the discharge of export obligation in respect of the said EPCG Authorization.

15. Now I proceed to decide whether the noticee is liable for confiscation of Capital Goods and penalties as proposed in the Show Cause Notice.

15.1 I find that the initiation of the present recovery proceedings was based on the non-submission of proof of fulfillment of export obligation and the non-submission of the Export Obligation Discharge Certificate (EODC) in respect of EPCG Authorization No. 0830007155 dated 27.04.2015, under which the noticee had availed the benefit of zero rate of duty at the time of import. Subsequently, the noticee has submitted the EODC/Redemption Letter dated 06.02.2024 in respect of the said EPCG Authorization. I find that the noticee has duly complied with the conditions stipulated under Customs Notification No. 16/2015-Cus dated 01.04.2015, as well as the terms and conditions of the Bond executed by them, by fulfilling the export obligation as prescribed under the EPCG Scheme. Accordingly, I hold that the capital goods imported under the said authorization are not liable for confiscation, and therefore, no penalty is imposable on the noticee. In view of the above, I find that the demand proposed against the noticee in the Show Cause Notice F. No. CUS/EPCG/MISC/364/2023-ICD-SRT-CUS-COMMRTE-AHMEDABAD dated 25.04.2023 is not sustainable and accordingly is to be dropped.

15.2. The Show Cause Notice also proposes the imposition of penalty on M/s. Krishna Fashion under Section 112(a) and Section 117 of the Customs Act, 1962. However, as discussed in the foregoing paragraphs, since the imported goods are not liable for confiscation, the proposed penalties are not sustainable. Further, I observe that the only allegation in the present case pertains to the non-fulfillment of export obligation under EPCG Authorization, for which the noticee has submitted the EODC/Redemption Letter dated 06.02.2024 issued by DGFT, Ahmedabad. Accordingly, I hold that no penalty is imposable on the noticee under Section 112(a) or Section 117 of the Customs Act, 1962.

16. In view of above discussion and findings, I pass the following order:

::ORDER::

- (i) I allow the benefit of zero duty for EPCG Scheme under Notification No. 16/2015-Cus dated 01.04.2015 on the subject Machines imported in the name of M/s. Krishna Fashion.
- (ii) I drop the demand of Customs Duty totally amounting to **Rs. 5,68,928/- (Rupees Five Lakh Sixty Eight Thousand Nine Hundred Twenty Eight Only)** being the Duty forgone at the time of import under EPCG Licence.
- (iii) Since the demand of duty itself is dropped as (ii) above, there is no question of interest and accordingly I drop the demand of interest raised in the SCN.
- (iv) I do not hold impugned capital goods imported by M/s. Krishna Fashion, 1019, Indrajeet Society, B/h. Navratna Avenue, Opp. Sardar Mall, Nikol Gam Road, Ahmedabad-382350, Liable for confiscation under Section 111 (0) of the Customs Act, 1962 and consequently no Redemption Fine under Section 125 (1) is imposable.

(v) I do not impose any penalty upon noticee, in terms of Section 112(a) & 117 of the Customs Act, 1962.

(vi) I Drop the demand of enforcement of Bond executed by them at the time of import as raised in the SCN.

The Show Cause Notice bearing F. No. CUS/EPCG/MISC/364/2023-ICD-SRT-CUS-COMMRTE-AHMEDABAD dated 25.04.2023 is disposed off in above terms.

(Shravan Ram)
Additional Commissioner
Customs, Ahmedabad

DIN: **20250971MN0000912802**

F. No. CUS/EPCG/MISC/364/2023-ICD-SRT-CUS-COMMRTE-AHMEDABAD Dated:

By Speed Post A.D./E-mail /Hand Delivery/Through Notice Board

To,
M/s. Krishna Fashion,
1019, Indrajeet Society,
B/h. Navratna avenue,
Opp. Sardar Mall, Nikol Gam Road,
Ahmedabad-382350

Shri Jigneshbhai Maganbhai bhuva,
Proprietor of M/s. Krishna Fashion,
38, Sarvamangal Society, Opp. Trimuti Complex,
India Colony Road, Bapunagar,
Ahmedabad-380024

Copy to:-

1. The Principal Commissioner, Customs, Ahmedabad.
2. The Deputy Commissioner of Customs, ICD-Sachin, Surat.
3. The System In-Charge, Customs HQ, Ahmedabad for uploading on the official website i.e. <http://www.ahmedabadcustoms.gov.in>
4. The Joint Director General, DGFT, 6th Floor, Resham Bhavan Lal Darwaja, Surat-395003 for information and necessary action.
5. The Joint Director General, DGFT, 3rd Floor, Hudco Bhavan, Ishwar Bhuvan Road, Navrangpura, Ahmedabad, Gujarat-380009 for information and necessary action.
6. Guard File/Office copy.
7. Notice Board