



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमाशुल्क भवन”, पहली मंजिल, पुराने हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009
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DIN: 20260471MN000000FD6B

PREAMBLE

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|------|--|---|--|
| A | फ़ाइल संख्या/ File No. | : | CUS/EPCG/MISC/391/2024-ICD-SRTCUS-COMMRTE-AHMEDABAD |
| B | कारण बताओ नोटिस संख्या एवं तारीख / Show Cause Notice No. and Date | : | F. No. VIII/6-26/ICD-Sachin/2014-15 (E-office F. No. CUS/EPCG/MISC/391/2024ICD-SRT-CUS-COMMRTE-AHMEDABAD) dated 27.03.2024 |
| C | मूल आदेश संख्या/ Order-In-Original No. | : | 07/ADC/SR/O&A/HQ/2025-26 |
| D | आदेश तिथि/ Date of Order-In-Original | : | 27.04.2026 |
| E | जारी करने की तारीख/ Date of Issue | : | 27.04.2026 |
| F | द्वारा पारित/ Passed By | : | Shravan Ram, Additional Commissioner, Customs, Ahmedabad |
| G | आयातक का नाम और पता / Name and Address of Importer / Passenger | : | M/s. Radha Textile Mills, 16/17, Sai Krupa Ind. Estate, B/h Bhatia Circle, Nr. Sosyo Circle, Bamroli Road, Surat-395210 Shri Kirankumar Chugh, Proprietor of M/s. Radha Textile Mills, 903, Amar Swapna Aptt., Nr. Adarsh Soc, Gokulam Dairy, Athwalines, Surat-395007 |
| (1) | यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हे यह जारी किया जाता है। | | |
| (2) | कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के ६० दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), ४वि मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है। | | |
| (3) | अपील के साथ केवल पांच (५.00) रुपये पे न्यायलय 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 साथकेवल पांच (५.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए। | | |
| (4) | इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७.५% अधिकतम १० करोड़ शुल्क हम 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, १९६२ के धरा १२९ के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा। | | |

BRIEF FACTS OF THE CASE:

M/s. Radha Textile Mills, 16/17, Sai Krupa Ind. Estate, B/h Bhatia Circle, Nr. Sosyo Circle, Bamroli Road, Surat-395210 (hereinafter referred as “the said importer” for the sake of brevity), holding Import Export Code No. 5211017081 had imported 1 Set of capital goods viz. Computerized Embroidery Machine under EPCG Licence No. 5230013809 dated 01.04.2014 by saving duty of **Rs.1,70,391/-** (Actual Duty Utilized of **Rs. 1,66,162/-**) and had cleared the same vide below mentioned Bill of Entry at zero duty while availing the benefit of exemption available under Notification No. 22/2013-Cus dated 18.04.2013. The details of import are as under:

| S. N. | B/E No. & Date | Qty machinery cleared | Duty Saved/ available as per EPCG Licence | Total Duty Foregone/ Debited at the time of clearance | BG Amount (Rs.) |
|-------|----------------------------|-----------------------|---|---|-----------------|
| 1 | 5173906 dtd. 11.04.2014 | 1 | 170391 | 166162 | 30000 |
| Total | | 1 | | 166162 | |

2. As per Notification No. 22/2013-Cus dated 18.04.2013 as amended, 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. 22 / 2013-CUSTOMS*New Delhi, the 18th April, 2013*

G.S.R. 248 (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), and

(ii) (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 eighteen months from the date of issue 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 benefit of import of capital goods at concessional duty under this notification for creation of modern infrastructure shall be extended only to such retailers who have a minimum area of 1000 square metres:

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 Status Holder Incentive Scrip (SHIS) scheme under para 3.16 of the Foreign Trade Policy. 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 authorisation for annual requirement shall indicate export product to be exported under the authorisation. The importer shall submit a Nexus Certificate from an independent Chartered Engineer (CEC) in the format specified in Appendix 32A of HBP (vol. I) notified under the Foreign Trade Policy, certifying nexus of imported capital goods with the export product, to the Customs authorities at the time of clearance of imported capital goods. A copy of the CEC shall be submitted to the concerned Regional Authority alongwith copy of the bill of entry, within thirty days from the date of import of the Capital Goods;

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

*(6) 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 5.10 of the Handbook of Procedures Vol I, issued under para 2.4 of the Foreign Trade Policy, **within a period of six years from the date of issue of Authorisation**, in the following proportions, namely :-*

| <i>S. N.</i> | <i>Period from the date of issue of Authorization</i> | <i>Proportion of total export obligation</i> |
|--------------|---|--|
| <i>(1)</i> | <i>(2)</i> | <i>(3)</i> |
| <i>1</i> | <i>Block of 1st to 4th year</i> | <i>50%</i> |
| <i>2</i> | <i>Block of 5th to 6th year</i> | <i>50%</i> |

(7) 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;

(8) 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 (6), 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 15% 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 50% export obligation within first block of 1st to 4th years and remaining 50 % in second block of 5th to 6th years.**

3. Accordingly, the said importer had executed Bond dated 11.04.2014 for Rs. 5,00,000/- backed by Bank Guarantee No. 2703IFIBG140003 Dated 05.04.2014 For Rs. 30,000 issued by the Bank of India, Surat, for EPCG License No. 5230013809 dated 01.04.2014. 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. 1 Set of Computerized Embroidery Machine imported under the above said EPCG License were installed at the factory/business premises i.e. M/s. Radha Textile Mills, 16/17, Sai Krupa Ind. Estate, B/h Bhatia Circle, Nr. Sosyo Circle, Bamroli Road, Surat-395210 as per the Installation Certificate dated 28.05.2014 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. 5230013809 dated 01.04.2014 was issued to the said importer and the Bond dated 11.04.2014 was executed. Accordingly, the said importer was required to fulfill the export obligation within a period of six 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/26/2014-15 dated 07.03.2022 was issued to the said importer to either furnish the EODC issued by DGFT, Surat or any extension granted by DGFT, Surat for fulfillment of Export Obligation, **but no reply received.**

6.1 As no reply was received from the said importer, a letter F. No. ICD-Sachin/DGFT/07/2020-21 dated 21.10.2022 was issued to the Foreign Trade Development officer, DGFT, Surat requesting them to intimate this office, whether the said importer has been issued EODC against EPCG License No. 5230013809 dated 01.04.2014 or any documents showing the fulfillment of the export obligation submitted by the aforesaid importer. **The Assistant Director, Directorate General of Foreign Trade, Surat vide letter F. No. EPCG/Mis/2020-21 dated 28.10.2022 intimated that the said importer had not submitted any documents to them against fulfillment of export obligation.**

6.2 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.22/2013-Cus dated 18.04.2013, EPCG Licence and conditions of the Bond dated 11.04.2014.

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 fail to fulfill the conditions laid down under Notification No. 22/2013-Cus dated 18.04.2013 in as much as they failed to export goods manufactured from 1 Set of Computerized Embroidery Machine imported under EPCG Licence No. 5230013809 dated 01.04.2014 which was equivalent to six times the duty saved on the goods imported and also neither produced EODC issued by DGFT, Surat nor could produce any extension granted by DGFT, Surat for fulfillment of Export Obligation. Hence, they appear liable to pay duty of **Rs.1,66,162/-** 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.22/2013-Cus dated 18.04.2013, the Bank Guarantee No. 2703IFIBG140003 Dated 05.04.2014 For Rs. 30,000 issued by the Bank of India, Surat in favor of the Deputy/Asstt. Commissioner of Customs, ICD-Sachin, Surat against the EPCG License No. 5230013809 dated 01.04.2014 appears required to be appropriated against the proposed demand.

8.3 As per para (8) of Customs Notification No. 22/2013-Cus dated 18.04.2013, 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, the importer were required to pay duties of customs equal to an amount which for the unfulfilled portion of the export obligation along with interest within three months from the expiry of the said block. The said importer has also given bond to this effect. The letter dated 07.03.2022 was written to the importer to intimate the extent of export obligation fulfilled by them but no reply received. Thus, the fact that they had neither completed their Export obligation nor paid the duty on import as per law & procedure is on record. The DGFT also informed that the importer has not submitted any documents regarding fulfillment of Export obligation. 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 or DGFT, 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. VIII/6-26/ICD-Sachin/201415 (E-office F. No. CUS/EPCG/MISC/391/2024-ICD-SRT-CUS-COMMRTE-AHMEDABAD) dated 27.03.2024 was issued by the Additional/Joint Commissioner of Customs, Customs House, Hazira Port Pvt. Ltd., Surat to **M/s. Radha Textile Mills, 16/17, Sai Krupa Ind. Estate, B/h Bhatia Circle, Nr. Sosyo Circle, Bamroli Road, Surat-395210**, as to why:

- (i) The benefit of Zero Duty for EPCG Scheme under Notification No. 22/2013-Cus dated 18.04.2013 on the subject imported Computerized Embroidery Machine in the name of **M/s. Radha Textile Mills**, should not be denied.
- (ii) Customs Duty totally amounting to **Rs.1,66,162/- (Rupees One Lakh Sixty-Six Thousand One Hundred Sixty-Two 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.22/2013-Cus dated 18.04.2013 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. 2703IFIBG140003 Dated 05.04.2014 For Rs. 30,000/- issued by the Bank of India, Surat 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. 22/2013-Cus dated 18.04.2013 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.22/2013-Cus dated 18.04.2013 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 Show Cause Notice was adjudicated by the then Adjudicating Authority vide Order-in-Original No. 85/AB/ADC/ICD-SACHIN/SRT/2024-25 dated 28.06.2024, wherein the Adjudicating Authority passed the following order: –

- (i) Disallowed the benefit of zero rate of duty for EPCG Scheme under Notification No. 22/2013-Cus dated 18.04.2013 on the subject Machines imported in the name of

M/s. Radha Textile Mills, 16/17, Sai Krupa Ind. Estate, B/h Bhatia Circle, Nr. Sosyo Circle, Bamroli Road, Surat-395210.

- (ii) confirmed the demand of customs duty amounting **Rs. 1,66,162/- (Rupees One Lakh Sixty-Six Thousand One Hundred Sixty-Two only)** being the Duty forgone at the time of import of Capital Goods under EPCG Licence, in terms of Notification No. Notification No. 22/2013-Cus dated 18.04.2013 as amended, read with the Conditions of Bond executed and ordered the same to be recovered from M/s. Radha Textile Mills, 16/17, Sai Krupa Ind. Estate, B/h Bhatia Circle, Nr. Sosyo Circle, Bamroli Road, Surat-395210, 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.30,000/-** by encashment of the Bank Guarantee No.2703IFIBG140003 Dated 05.04.2014 For **Rs.30,000/-** issued by the Bank of Indian, Surat submitted by the Noticee. The same is required to be encashed and the deposited in Government exchequer. The amount may be adjusted against the duty liability confirmed at Sr. No (ii) above.
- (iv) ordered to confiscate the subject Goods imported by M/s. Radha Textile Mills, 16/17, Sai Krupa Ind. Estate, B/h Bhatia Circle, Nr. Sosyo Circle, Bamroli Road, Surat395210, 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. 22/2013-Cus dated 18.04.2013 as amended. Allowed the Noticee an option to redeem the said goods on payment of redemption fine of Rs. 2,01,617/- (Rupees Two Lakh One Thousand Six Hundred Seventeen only), as discussed in para 20, in terms of the provisions of Section 125(1) of the Customs Act, 1962.
- (v) Ordered for recovery of interest at the applicable rate on the Customs duty confirmed at (ii) above in terms of Notification No. 22/2013-Cus dated 18.04.2013 as amended read with conditions of Bond executed and furnished by them in terms of Section 143 of the Customs Act, 1962.
- (viii) Imposed penalty of **Rs.16,616/- (Rupees Sixteen Thousand Six Hundred Sixteen only)** on M/s. Radha Textile Mills, 16/17, Sai Krupa Ind. Estate, B/h Bhatia Circle, Nr. Sosyo Circle, Bamroli Road, Surat-395210, in terms of Section 112(a) of the Customs Act, 1962.
- (ix) Imposed penalty of **Rs.1,00,000/- (Rupees One Lakh only)** on M/s. Radha Textile Mills, 16/17, Sai Krupa Ind. Estate, B/h Bhatia Circle, Nr. Sosyo Circle, Bamroli Road, Surat-395210, in terms of Section 117 of the Customs Act, 1962.

11. Being aggrieved with the Order-in-Original No. 85/AB/ADC/ICD-SACHIN/SRT/202425 dated 28.06.2024 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-CUSTM000-APP-697-25-26 dated 16.03.2026, has been pleased to allow the appeal by way of remand, directing the adjudicating authority to pass a fresh, reasoned order after duly taking into consideration the submissions made by the appellant in the present appeal and the material available on record.

11.1 The Appellate Authority observed that the advocate of the Noticee submitted copy of EODC/ Redemption letter dated 13.08.2024 issued by DGFT, Surat against the EPCG license No. 5230013809 dated 01.04.2014.

11.2 The Appellate Authority further observed that the submissions now made by the appellant were being presented for the first time before the Appellate Authority and had

not been raised before the Adjudicating Authority. Consequently, the Appellate Authority allowed the appeal of the noticee by way of remand to the Adjudicating Authority for passing a fresh order after duly considering the submissions made by the appellant in the present appeal and after examining the EODC in respect of the EPCG License No. 5230013809 dated 01.04.2014. The Adjudicating Authority was directed to examine all available facts, documents, and submissions, and to issue a speaking order afresh, in accordance with the principles of natural justice and relevant legal provisions.

In compliance with the directions of the Appellate Authority, the case has been taken up for fresh adjudication.

DEFENSE SUBMISSION AND PERSONAL HEARING:

12. As per the submissions made by the Noticee before the Commissioner (Appeals), the DGFT Surat has issued EODC/Redemption letter dated 13.08.2024 vide F. No. 52EEEPC05030AM24 against EPCG Licence No. 5230013809 dated 01.04.2014.

12.1 As per the direction of the Commissioner of Customs (Appeals), Ahmedabad the case has been taken up for adjudication. Accordingly, 1st Personal Hearing was fixed on 27.03.2026. In response to P.H letter, the Noticee vide letter dated 25.03.2026 submitted that they have received EODC from DGFT, Surat against this EPCG authorization and they also submitted a copy of the same. They further requested that they do not want Personal Hearing and requested that the case may be decided on the merits.

DISCUSSIONS AND FINDINGS:

13. I have carefully gone through the Show cause notice, records, submissions and facts in the present case.

14. I find that in the present case, a Show Cause Notice bearing F. No. VIII/6-26/ICD-Sachin/2014-15 (E-office F. No. CUS/EPCG/MISC/391/2024-ICD-SRT-CUS-COMMRTE-AHMEDABAD) dated 27.03.2024 was issued to the Noticee/Importer, holding EPCG License No. 5230013809 dated 01.04.2014, by the Additional Commissioner of Customs, Surat, for non-fulfillment of export obligations as prescribed under Notification No. Notification No. 22/2013-Cus dated 18.04.2013 and for non-submission of the Export Obligation Discharge Certificate (EODC) issued by the DGFT authorities. As per Notification No. 22/2013-Cus dated 18.04.2013, the importer was required to fulfill the export obligation on an FOB basis equivalent to six times the duty saved on the imported goods within six years from the date of authorization, as specified in the License. The case was adjudicated by the then adjudicating authority vide OIO No. 85/AB/ADC/ICD-SACHIN/SRT/2024-25 dated 28.06.2024 wherein he confirmed the demand. Being aggrieved, the noticee preferred an appeal before Commissioner of Customs (Appeals), Ahmedabad. The Commissioner of Customs (Appeals), Ahmedabad, vide Order-in-Appeal No. AHD-CUSTOM-000-APP-697-2526 dated 16.03.2026 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 and pass fresh order after examining the EODC in respect of the EPCG License No. 5230013809 dated 01.04.2014. In view of Commissioner of Customs (Appeals), Ahmedabad direction, the case has been taken up for fresh adjudication. Now, the issues for consideration before me are as follows:

- (i) *Whether the benefit of zero rate of duty for EPCG Scheme under Notification No. 22/2013-Cus dated 18.04.2013 is admissible to the Noticee in absence of nonfulfillment of the export obligation prescribed therein, as alleged in the Show cause notice.*
- (ii) *Whether the noticee is liable for confiscation of Capital Goods and penalties as proposed in the SCN.*

15. Now I proceed to decide whether the benefit of zero rate of duty for EPCG Scheme under the said Notification No. 22/2013-Cus dated 18.04.2013 is admissible to the Noticee.

15.1 I find that present recovery proceeding was initiated against noticee for non-submission of proof of fulfillment of export obligation and non-submission of Export obligation discharge certificate (EODC) in respect of EPCG License No. 5230013809 dated 01.04.2014, against which zero rate of duty during import was availed by the noticee. As per Notification No. 22/2013-Cus dated 18.04.2013 the importer was required to fulfill the export obligation on FOB basis equivalent to six times the duty saved on the goods imported within six years from the date of authorization, as may be specified on the License or authorization.

15.2 I find that Commissioner of Customs (Appeals), Ahmedabad while remanding the case back has observed that- “the advocate of the appellant submitted a copy of the EODC /Redemption letter dated 13.08.2024 issued by the DGFT against the EPCG Licence No. 5230013809 dated 01.04.2014. It is also observed that these facts have been brought before the appellate authority for the first time and the adjudicating authority had no occasion to consider the same. In view of above, Appellate Authority remanded the appeal back to adjudicating authority for passing fresh order after considering the submissions made by the appellant in the present appeal on record”.

15.3 In view of above, personal hearing was granted to the noticee scheduled on 27.03.2026. Noticee vide letter dated 25.03.2026 has submitted the copy of EODC /Redemption letter dated 13.08.2024 issued from F. No. 52EEPC05030AM24 in respect of the impugned EPCG authorization No. 5230013809 dated 01.04.2014. They further requested to decide that case on merits and they do not want any personal hearing. I find that neither the application for issue of EODC to DGFT by the noticee nor the EODC/Redemption Letter dated 13.08.2024 issued by DGFT, Surat was available at the time of issuance of the impugned Show cause notice.

15.4 I find that noticee vide letter dated 25.03.2026 submitted that DGFT, Surat has issued EODC dated 13.08.2024 in the case. Vide the said EODC/ Redemption letter dated 13.08.2024 issued from F. No. 52EEPC05030AM24, DGFT has communicated to the noticee as per Image-1 below

UDINEPCG00351334AM25



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 Joint Director General of Foreign Trade, Surat / संयुक्त महानिदेशक, विदेश व्यापार का कार्यालय, सूरत
6th Floor, Resham Bhavan, Lal Darwaja, SURAT, GUJARAT, 395003 / छठी मंजिल, रेशम भवन, लाल दरवाजा, सूरत,
सूरत, गुजरात, 395003
Email Office : surat-dgft@nic.in , Phone Office : 0261-2423381

File No: 52EEPC05030AM24

Date : (Refer Date of Digital Signature)

REDEMPTION LETTER

To ,

RADHA TEXTILE MILLS
B-1339, KOHINOOR TEXTILE MARKET
SURAT/GUJARAT
395002

SUBJECT: EODC/REDEMPTION against EPCG Authorization No. 5230013809

Dated 01/04/2014

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 52EEPC05030AM24

Dated 12/08/2024

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)

Note: If digitally signed, the date of digital signature may be taken as date of document.

This document has been digitally signed by PRAMOD MUKUNDAN NAMBIAR, FTDO, RA SURAT on 13-Aug-2024.

Signature Not Verified
Digitally signed by
Name: PRAMOD MUKUNDAN
NAMBIAR (FTDO, RA SURAT)
Date: 13-Aug-2024 16:04:19
Reason: PRAMOD NAMBIAR@GOV.IN
Location: RA SURAT

15.5 I have carefully considered the facts of the case, the submissions made by the noticee, and the records available on file. I find that the Directorate General of Foreign Trade has issued the Export Obligation Discharge Certificate (EODC)/Redemption Letter dated 13.08.2024 in respect of the subject EPCG authorization, as discussed hereinabove. The said EODC/Redemption Letter is a conclusive and binding document issued by the competent authority certifying fulfillment of the stipulated export obligation under the EPCG Scheme. In view of the issuance of the aforesaid EODC/Redemption Letter by the DGFT, I am of the considered opinion that the noticee has duly discharged and fulfilled the export obligation as prescribed and as mandated under Notification No. 22/2013-Cus dated 18.04.2013. Once such fulfillment stands certified by the DGFT, the benefit of concessional/zero rate of duty under the EPCG Scheme cannot be denied, in the absence of any contrary evidence on record. Accordingly, the noticee is held to be rightly entitled to the benefit of zero duty in terms of the said notification. In light of the above findings, I hold that the demand of customs duty initiated against the noticee vide Show Cause Notice F. No. VIII/6-26/ICD-Sachin/2014-15 (E-office F. No. CUS/EPCG/MISC/391/2024-ICD-SRT-CUS-COMMRTE-AHMEDABAD) dated 27.03.2024 is devoid of merit and is not sustainable in law. Consequently, the said demand is hereby set aside. Any consequential relief, if admissible, shall follow in accordance with law.

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

16.1 I find that the Directorate General of Foreign Trade has issued the Export Obligation Discharge Certificate (EODC)/Redemption Letter dated 13.08.2024 in respect of the impugned EPCG Authorization No. 5230013809 dated 01.04.2014. The said certificate, having been issued by the competent authority, conclusively evidences that the noticee has fulfilled the export obligation prescribed under the EPCG Scheme. In view of the aforesaid EODC/Redemption Letter, I hold that the noticee has duly complied with and fulfilled all the conditions stipulated under Notification No. 22/2013-Cus dated 18.04.2013, as well as the terms and conditions of the Bond executed by them at the time of import of the capital goods. The fulfillment of export obligation in terms of the said EPCG Authorization stands duly established on record. Consequently, I find that the impugned capital goods are not liable for confiscation under Section 111(o) of the Customs Act, 1962, as there is no violation of the conditions of the notification or the bond. In the absence of any such contravention, no penalty is imposable upon the noticee under Section 112(a) or Section 117 of the Customs Act, 1962. In light of the above findings, I hold that the demand initiated against the noticee vide Show Cause Notice F. No. VIII/6-26/ICD-Sachin/2014-15 (E-office F. No. CUS/EPCG/MISC/391/2024-ICD-SRT-CUS-COMMRTE-AHMEDABAD) dated 27.03.2024 is not sustainable in law and is liable to be dropped. Accordingly, the proceedings initiated under the said Show Cause Notice are hereby dropped.

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

ORDER

I drop the proceedings initiated against the noticee vide subject Show Cause Notice F. No. VIII/6-26/ICD-Sachin/2014-15 (E-office F. No. CUS/EPCG/MISC/391/2024-ICD-SRTCUS-COMMRTE-AHMEDABAD) dated 27.03.2024.

18. The Show Cause Notice F. No. VIII/6-26/ICD-Sachin/2014-15 (E-office F. No. CUS/EPCG/MISC/391/2024-ICD-SRT-CUS-COMMRTE-AHMEDABAD) dated 27.03.2024 is disposed of in above terms.

DIN:20260471MN000000FD6B

(Shravan Ram)
Additional Commissioner
Customs, Ahmedabad

F. No. CUS/EPCG/MISC/391/2024-ICD-SRT-CUS-COMMRTE-AHMEDABAD

Date:2704.2026

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

To

1. **M/s. Radha Textile Mills,
16/17, Sai Krupa Ind. Estate,
B/h Bhatia Circle, Nr. Sosyo Circle,
Bamroli Road, Surat-395210**
2. **Shri Kirankumar Chugh,
Proprietor of M/s. Radha Textile Mills,
903, Amar Swapna Aptt., Nr. Adarsh Soc,
Gokulam Dairy, Athwalines,
Surat-395007**

Copy to: -

1. The Principal Commissioner, Customs, Ahmedabad. (RRA Section)
 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. Guard File/Office copy.
 6. Notice Board
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