



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

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

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PREAMBLE

A	फ़ाइल संख्या/ File No.	:	GEN/ADJ/ADC/537/2026-ICD-SRT-CUSCOMMRTE-AHMEDABAD
B	कारण बताओ नोटिस संख्या एवं तारीख / Show Cause Notice No. and Date	:	VIII/10-21/O&A/ADC/Sairam/2020 dated 14.07.2020
C	मूल आदेश संख्या/ Order-In-Original No.	:	09/ADC/SR/O&A/HQ/2026-27
D	आदेश तिथि/ Date of Order-In-Original	:	29.04.2026
E	जारी करने की तारीख/ Date of Issue	:	29.04.2026
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. Shree Sai Ram Textiles, B/59-60, Trikam Nagar Soc. Lambe Hanuman Road, Surat, Gujarat – 395006 Shri Hirenbhai Kantibhai Kheni, Partner of M/s. Shree Sai Ram Textiles, 501, 5th Floor, International Business Centre (IBC), Dumas Road, Surat-395007
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हें 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 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), 8वि मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) 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 (5.00) 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. Shree Sai Ram Textiles, B/59-60, Trikam Nagar Soc. Lambe Hanuman Road, Surat, Gujarat-395006 (hereinafter referred as “the said importer” for the sake of brevity), holding Import Export Code No. 5209026892 had imported **10 Sets of capital goods viz. Computerized Embroidery Machine** under EPCG License No. 5230007211 dated 06.07.2010 by saving duty of **Rs.10,37,920/- (Actual Duty Utilized of Rs. 10,25,569/-)** and had cleared the same vide below mentioned Bill of Entry at a **concessional rate of duty @ 3%** while availing the benefit of exemption available under Notification No. 103/2009-Cus dated 11.09.2009. The details of import are as under:

Sr. No	B/E No. & Date	Number of machineries cleared	Duty Saved available as per EPCG Licence	Total Duty Foregone/ Debited at the time of clearance	Bank Guarantee Amount
1	348/10-11 Dt.22.07.2010	02	10,37,920/-	1,55,415/-	Rs.1,70,000/-
2	349/10-11 Dt.22.07.2010	01		1,29,597/-	
3	421/10-11 Dt.04.08.2010	02		2,09,073/-	
4	438/10-11 Dt.06.08.2010	02		2,26,712/-	
5	460/10-11 Dt.11.08.2010	02		2,26,402/-	
6	462/10-11 Dt.11.08.2010	01		78,370/-	
Total		10	10,37,920/-	Rs. 10,25,569/-	Rs.1,70,000/-

2. The importer executed Bond dated 22.07.2010 for Rs. 27,00,000/- along with Bank Guarantee No. 0052210IFG000022 dated 19.07.2010 amounting to Rs. 1,70,000/- issued by the Allahabad Bank, 864, Alakananda Apartments, Athugar Street, Nanpura, Surat for EPCG License No. 5230007211 dated 06.07.2010. They had also given an undertaking to fulfill the conditions of the bond, EPCG License and the relevant Customs Notification at the time of registration of the EPCG License No. 5230007211 dated 06.07.2010 at ICD-Sachin, Surat.

3. The **10 sets of Computerized Embroidery Machines** were to be installed at TPS-4, Sy.No.372, F.P-54B, Plot No.29,30, Savani Ind. Society, Varachha Road, Surat, Gujarat-395006 and as the importer was not registered with the Central Excise Department, they produced a copy of Installation Certificate dated 12.10.2010 issued by a Chartered Engineer Dr. P.J. Gandhi, Surat who certified the receipt on 31.07.2010,14.08.2010,31.07.2010,10.08.2010 and 14.08.2010 and complete installation of 10 sets of Computerized Embroidery Machine on 03.08.2010, 17.08.2010, 03.08.2010, 13.08.2010 and 17.08.2010 respectively.

4. As per Notification No. 103/2009-Cus dated 11.09.2009 the importer was required to fulfill the export obligation on FOB basis equivalent to 8 times 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. 103 /2009-CUSTOMS

New Delhi, the 11 September, 2009.

G.S.R. 669 (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 annexed hereto, from,-

(i) so much of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as is in excess of the amount calculated at the rate of three percent advalorem, 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 authorization issued under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at the rate of three percent duty and the said authorization is produced for debit by the proper officer of customs at the time of clearance :

Provided that for import of spare parts specified at Sr.No.4 of the said Table, the validity period of the authorization shall be deemed to be the period permitted for fulfillment of the export obligation in full :

Provided further that the import of motor cars, sports utility vehicles or all-purpose vehicles shall be allowed only to hotels, travel agents, tour operators or tour transport operators and companies owning or operating golf resorts, subject to the condition that,-

(i) the total foreign exchange earnings from hotel, travel and tourism and golf tourism sectors in current and preceding three licensing years is rupees one crore fifty lakhs or more;

(ii) the duty saved amount on all EPCG authorizations issued in a licensing year for import of motor cars, sports utility vehicles or all-purpose vehicles shall not exceed 50% of average foreign exchange earnings from hotel, travel and tourism and golf tourism sectors in preceding three licensing years; and

(iii) the vehicles imported shall be so registered that the vehicle is used for tourist purpose only and a copy of the registration certificate shall be submitted to the concerned Customs authorities as a confirmation of import of vehicle within six months from the date of import:

Provided also 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.

(2) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is completed.

(3) 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 FOB basis equivalent to Eight times the duty saved on the goods imported as may be specified on the authorization, or for such higher sum as may be fixed or endorsed by the Licensing Authority or 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 eight years from the date of issue of Authorization, 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 1st to 6th year	50%
2	Block of 7th to 8th year	50%

4.1 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 eight 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 eight years from the date of issuance of licence or authorization i.e. **complete 50% export obligation within first block of 1st to 6th years and remaining 50% in second block of 7th to 8th years.**

5. The aforesaid EPCG License No. 5230007211 dated 06/07/2010 was issued to the importer for a period of 8 years (further extended to 9 years) valid upto 05/07/2019 and the bond dated 22/07/2010 was executed for a period of 10 years. Accordingly, the Importer was required to fulfill the export obligation within a period of 9 years from the date of EPCG Licence as per the condition laid down in the Notification and EPCG Licence itself. The importer was also required to submit the installation certificate within 06 months from the date of import

and produce proof of fulfillment of export obligation within the period as prescribed in the said notification.

Since, the EPCG Licence was issued to the Importer on 06/07/2010, as per the condition of the said Notification, they were required to fulfill the export obligation by 05/07/2019 and submit the Export Obligation Discharged Certificate issued by the DGFT Authority to the department.

6. On completion of block 1-6 years a letter dated 17.11.2017 was issued to the said importer to requesting them to submit evidences regarding export to the extent of 50% of the total export obligation. **The said letter was returned undelivered with remarks "left" by the Postal Authority.**

Further, letters dated 07.02.2020 and 21.02.2020 were 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, which were also returned undelivered.

6.1 Letters dated 29.01.2020 and 26.05.2020 were issued to the Foreign Trade Development officer, DGFT, Surat to provide;

- a. the present status of the Licence.
- b. whether the importer had approached their office for granting further extension for fulfillment of export obligation.
- c. whether the importer had submitted the export documents for EODC.

6.1.1 The DGFT was requested to provide the status of EODC in respect of the subject EPCG license holder.

6.2 The Joint Director General of Foreign Trade, Surat vide their **letter dated 28.05.2020 mentioned that the importer had not submitted any documents to them for fulfillment of export obligation.**

6.3 Thus, it is evident from the above that the importer had failed to fulfill the export obligation as specified in the Licence and did not comply with the mandatory condition of the Customs Notification No.103/2009 dated 11.09.2009, EPCG Licence and conditions of the bond dated 22.07.2010.

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. In view of the above, the importer has failed to fulfill the conditions laid down under Notification No. 103 /2009-Cus dated 11-09-2009 in as much as they have failed to export goods manufactured from 10 sets of Computerized Embroidery Machine imported under EPCG Licence No. 5230007211 dated 06.07.2010 which was equivalent to eight times the duty saved on the goods imported and also did not produce EODC issued by DGFT, Surat or any extension granted by DGFT, Surat for fulfillment of Export Obligation. They are therefore liable to pay duty of **Rs.10,25,569/- (Rupees Ten Lakh Twenty-Five Thousand Five Hundred Sixty-Nine only)** 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 importer read with Section 143 of the Customs Act, 1962.

8.1 The importer had submitted Bank Guarantee No. 0052210IFG000022 dated 19.07.2010 amounting to Rs.1,70,000/- issued by the Allahabad Bank, 864, Alakananda Apartments, Athugar Street, Nanpura, Surat, for EPCG License No. 5230007211 dated 06/07/2010 which has been encashed for Rs.1,70,000/- and deposited in Government Account vide TR-6 challan no. 82/19-20 dated 18/03/2020.

8.2 It also appears that the imported capital goods were not used for intended purpose for which the exemption from payment of duty was claimed and therefore, the aforesaid Capital goods are liable for confiscation under Section 111(o) of the Customs Act, 1962. It therefore appears that importer has rendered themselves liable for penal action separately under Section 112 (a) and 117 of the Customs Act, 1962.

9. It also appears that Shri Hirenbai Kantibhai Kheni, Partner of M/s Shree Sai Ram Textiles, B/59-60, Trikam Nagar Soc. Lambe Hanuman Road, Surat, Gujarat - 395006 has intentionally taken the undue benefits of EPCG Scheme and evaded payment of Customs duty amounting to **Rs.10,25,569/-** in respect of the above computerized embroidery machines by reason of fraud, mis-statement and suppression of facts, thereby, they have knowingly committed acts which rendered the said goods in question liable for confiscation under Section 111(o) of the Customs Act, 1962 and they have committed an offence of the nature as described under Section 112(a) of the Customs Act, 1962 and thus they have rendered themselves liable to penalty under Section 112(a) of Customs Act, 1962.

10. In view of the above, **M/s. Shree Sai Ram Textiles, B/59-60, Trikam Nagar Soc. Lambe Hanuman Road, Surat, Gujarat – 395006** was issued a Show Cause Notice bearing F. No. VIII/10-21/O&A/ADC/Sairam/2020 dated 14.07.2020 by the Joint Commissioner of Customs, Surat requiring them to show cause as to why:

(i) Customs duty total amounting to **Rs.10,25,569/- (Rupees Ten Lakhs Twenty five Thousand Five Hundred Sixty Nine only)** being the duty foregone at the time of import under EPCG Licence, should not be demanded and recovered from them in terms of Notification No 103/2009 dated 11.09.2009 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. Further, the Bank Guarantee No. 0052210IFG000022 dated

19.07.2010 amounting to Rs.1,70,000/- issued by the Allahabad Bank, 864, Alakananda Apartments, Athugar Street, Nanpura, Surat furnished in the name of importer, M/s Shree Sai Ram Textiles, B/59-60, Trikam Nagar Soc. Lambe Hanuman Road, Surat, Gujarat - 395006, which has been encashed for Rs. 1,70,000/- and deposited in Government Account vide TR-6 challan no. 82/19-20 dated 18.03.2020, should not be appropriated and adjusted towards the duty liability as mentioned above.

(ii) 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 Customs Notification No. 103/2009-Cus dated 11.09.2009 as amended from time to time.

(iii) The benefit of concessional rate of duty @ 3% for EPCG Scheme under Notification No. 103/2009 dated 11.09.2009 on the imported Computerized Embroidery Machine imported in the name of M/s Shree Sai Ram Textiles, should not be denied.

(iv) Interest at the applicable rate should not be recovered from them on the said Customs duty as mentioned at (i) above in term of Customs Notification No 103/2009-Cus dated 11.09.2009 as amended from time to time read with Conditions of Bond executed in term of Section 143 of Customs Act,1962.

(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.

11. Shri Hirenbhai Kantibhai Kheni, Partner of M/s Shree Sai Ram Textiles, B/59-60, Trikam Nagar Soc. Lambe Hanuman Road, Surat, Gujarat- 395006 was issued the said SCN also to called upon to show cause to the Joint Commissioner of Customs, having his office at Customs House, Althan Bhimrad Road, Althan, Surat, Gujarat-395007, as to why:

(i) Penalty should not be imposed upon him under Section 112 (a) of the Customs Act, 1962 for the acts of omission & commission mentioned above.

12. The Show Cause Notice was adjudicated by the then Adjudicating Authority vide Order-in-Original No. 06/BPS/ADC-SRT/2021-22 dated 09.06.2021, wherein the Adjudicating Authority passed the following order: –

(i) uphold the demand of customs duty amounting to **Rs.10,25,569/- (Rupees Ten Lakhs Twenty five Thousand Five Hundred Sixty Nine only)** being the duty forgone at the time of import under EPCG Licence, and order to recovered from them in terms of Notification No. 103/2009-Cus dated 11.09.2009 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. Also ordered to appropriate Bank Guarantee No. 0052210IFG000022 dated 19.07.2010 amounting to Rs. 1,70,000/- issued by the Allahabad Bank, 864, Alakananda Apartments, Athugar Street, Nanpura, Surat for the EPCG License No. 5230007211 dated 06.07.2010 furnished in the name of M/s. Shree Sai Ram Textiles, B/59-60, Trikam Nagar Soc. Lambe Hanuman Road, Surat, Gujarat– 395006 which has been encashed and deposited in Government account vide TR-6 Challan No. 82/201920 dated 18.03.2020 and order to adjusted against the duty liability as mentioned above.

(ii) hold the subject Capital Goods under reference imported by M/s. Shree Sai Ram Textiles, B/59-60, Trikam Nagar Soc. Lambe Hanuman Road, Surat, Gujarat – 395006, liable to confiscation in terms of the provisions of section 111(o) of the Customs Act, 1962 read with

Notification No. 103/2009-Cus dated 11.09.2009 as amended from time to time. However, as the goods are not available for confiscation, imposed redemption fine of **Rs.5,00,000/-** under Section 125 of the Customs Act, 1962.

(iii) disallowed/denied the benefit of concessional rate of duty @ 3% for EPCG Scheme under Notification No. 103/2009-Cus dated 11.09.2009 on the imported Computerized Embroidery Machine imported in the name of M/s. Shree Sai Ram Textiles.

(iv) Ordered for recovery of interest at the applicable rate on the Customs duty confirmed at Sr. No. (i) above in terms of Notification No. 103/2009-Cus dated 11.09.2009 as amended from time to time read with conditions of Bond executed in terms of Section 143 of the Customs Act, 1962.

(v) Imposed penalty of **Rs.2,00,000/-** upon M/s. Shree Sai Ram Textiles in terms of Section 112(a) of the Customs Act, 1962.

(vi) Imposed penalty of **Rs.1,00,000/-** upon M/s. Shree Sai Ram Textiles, in terms of Section 117 of the Customs Act, 1962.

(vii) Imposed penalty of **Rs.1,00,000/-** upon Shri Hirenbhai Kantibhai Kheni, Partner of M/s Shree Sai Ram Textiles, B/59-60, Trikam Nagar Soc. Lambe Hanuman Road, Surat, Gujarat - 395006 in terms of Section 112(a) of the Customs Act, 1962.

13. Being aggrieved with the Order-in-Original No. 06/ BPS/ ADC-SRT /2021-22 dated 09.06.2021 issued by the Additional Commissioner of Customs, Surat, the noticee filed an appeal with the Commissioner of Customs (Appeals), Ahmedabad. The Commissioner of Customs (Appeals), Ahmedabad, vide Order-in-Appeal No. AHD-CUSTOM000-APP-694 & 695-25-26 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.

13.1 The Appellate Authority observed that the appellant submitted copy of EODC/ Bond Waiver letter issued from F. No. 52/21/021/00324/AM11 dated 04.08.2022 issued by DGFT, Surat against the EPCG license No. 5230007211 dated 06.07.2010.

13.2 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. 5230007211 dated 06.07.2010. 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 accordingly been taken up for fresh adjudication.

DEFENSE SUBMISSION AND PERSONAL HEARING:

14. As per the submissions made by the Noticee before the Commissioner (Appeals), they had applied for issuance of the Export Obligation Discharge Certificate (EODC). Subsequently, the DGFT Surat issued EODC/Bond Waiver letter dated 04.08.2022 vide F. No. 52/21/021/00324/AM11 against EPCG Licence No. 5230007211 dated 06.07.2010.

14.1 As per the direction of the Commissioner of Customs (Appeals), Ahmedabad the case has been taken up for adjudication and Personal Hearing was offered to the noticee on 27.03.2026. In response, the Noticee vide email dated 26.03.2026 submitted that they do not wish to avail the opportunity of personal hearing in the matter because the Commissioner of Customs (Appeals), Ahmedabad, vide Order-in-Appeal No. AHD-CUSTM-000-APP-694 & 695-25-26 dated 16.03.2026, passed in their favor. They have also submitted a copy of the EODC/Bond Waiver letter dated 04.08.2022 issued by DGFT, Surat.

DISCUSSIONS AND FINDINGS:

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

16. I find that in the present case, a Show Cause Notice bearing F. No. VIII/10-21/O&A/ADC/Sairam/2020 dated 14.07.2020 was issued to the Noticee/Importer, holding EPCG License No. 5230007211 dated 06.07.2010, by the Joint Commissioner of Customs, Surat, for nonfulfillment of export obligations as prescribed under Notification No. 103/2009-Cus dated 11.09.2009 and for non-submission of the Export Obligation Discharge Certificate (EODC) issued by the DGFT authorities.

As per Notification No. 103/2009-Cus dated 11.09.2009, the importer was required to fulfill the export obligation, on an FOB basis, equivalent to eight times the duty saved on the imported goods, within a period of eight years from the date of issuance of the authorization, as stipulated therein. The case was earlier adjudicated by the competent adjudicating authority vide Order-in-Original No. 06/BPS/ADC-SRT/2021-22 dated 09.06.2021, wherein the demand was confirmed. Being aggrieved by the said Order-in-Original, the noticee preferred an appeal before the Commissioner of Customs (Appeals), Ahmedabad. The Commissioner of Customs (Appeals), Ahmedabad, vide Order-in-Appeal No. AHD-CUSTM000-APP-694 & 695-25-26 dated 16.03.2026, was pleased to allow the appeal by way of remand, directing the adjudicating authority to pass a fresh order after duly taking into consideration the submissions made by the appellant and the material available on record.

In compliance with the aforesaid directions of the appellate authority, the present case has been taken up for de novo adjudication. Accordingly, the following issues arise for consideration:

(i) Whether the benefit of concessional rate of duty @ 3% for EPCG Scheme under Notification No. 103/2009-Cus dated 11.09.2009 is admissible to the Noticee in absence of non-fulfillment 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 imposition of penalties as proposed in the SCN.

17. Now I proceed to decide whether the benefit of concessional rate of duty @ 3% for EPCG Scheme under Notification No. 103/2009-Cus dated 11.09.2009 is admissible to the Noticee.

17.1 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. 5230007211 dated 06.07.2010, against which the benefit of concessional rate of duty @ 3% during import was availed by the noticee. As per Notification No. 103/2009-Cus dated 11.09.2009 the importer was required to fulfill the export obligation on FOB basis equivalent to eight times the duty saved on the goods imported within eight years from the date of authorization, as may be specified on the License or authorization.

17.2 I find that Commissioner of Customs (Appeals), Ahmedabad while remanding the case back has observed that- "the appellant submitted copy of EODC/ Bond Waiver letter issued from F. No. 52/21/021/00324/AM11 dated 04.08.2022 issued by DGFT, Surat against the EPCG license No. 5230007211 dated 06.07.2010. 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 remitting the appeal to adjudicating authority for passing fresh order after considering the submissions made by the appellant in the present appeal on record".

17.3 In view of above, personal hearing was granted to the noticee on 27.03.2026. Noticee vide email dated 26.03.2026 has submitted the copy of EODC/Bond Waiver letter dated 04.08.2022 issued from F. No. 52/21/021/00324/AM11 i.r.o the impugned EPCG authorization No. 5230007211 dated 06.07.2010. He further requested to drop the SCN and waiver of personal hearing. I find that neither the application for issue of EODC to DGFT by the noticee nor the EODC/ Bond Waiver Letter dated 04.08.2022 issued by DGFT, Surat was available at the time of issuance of the impugned Show cause notice.

17.4 I find that noticee vide email dated 26.03.2026 submitted that DGFT, Surat has issued EODC/Bond Waiver letter dated 04.08.2022 in the case. Vide the said EODC/ Bond Waiver letter dated 04.08.2022 issued from F. No. 52/21/021/00324/AM11, DGFT has communicated to the noticee as per Image-1 below:

PAGE 1 OF 1

Government of India
Ministry of Commerce and Industry
Office of Jt. Director General of Foreign Trade
6th Floor, Resham Bhavan, Lal Darwaja Surat GUJRAT -395003

FILE NO. : 52/21/021/00324/AM11/ DATED : 05.07.2010

EODC/BOND WAIVER LETTER

TO,
M/s SHREE SAI RAM TEXTILES
B/59-60, TRIKAM NAGAR SOC., LAMBE
HANUMAN ROAD,
SURAT/GUJARAT-395006


2034

SUBJECT: EODC/REDEMPTION against EPCG Authorisation No. 5230007211 Dated 06.07.2010

With reference to your letter Dated : 06.07.2010 on the above mentioned subject, 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 Licence has been met in full in proportion to duty amount utilized by you. Consequently, Export Obligation has been discharged against the said Authorisation in terms of Para 5.13 of H.B. of procedure.

Place:Surat
Date:04.08.2022

(DINESH N CHAWDA)
Foreign Trade Development Officer



Issued from File Number 52/21/165/00934/AM21/ dated 06.07.2010

Copy To :
1. Copy forwarded to Commissioner of Customs, EEC Cell,
2. Commissioner customs, (INSAC6) Sachin(Surat)

Place:Surat
Date:04.08.2022

(DINESH N CHAWDA)
Foreign Trade Development Officer

17.5 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)/Bond Waiver letter dated 04.08.2022 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/ Bond Waiver 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. 103/2009-Cus dated 11.09.2009. 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 concessional rate of duty @ 3% 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/10-21/O&A/ADC/Sairam/2020 dated 14.07.2020 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.

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

18.1 I find that the Directorate General of Foreign Trade has issued the Export Obligation Discharge Certificate (EODC)/Bond Waiver letter dated 04.08.2022 in respect of the impugned EPCG Authorization No. 5230007211 dated 06.07.2010. 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/ Bond Waiver letter, I hold that the noticee has duly complied with and fulfilled all the conditions stipulated under Notification No. 103/2009-Cus dated 11.09.2009, 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/10-21/O&A/ADC/Sairam/2020 dated 14.07.2020 is not sustainable in law and is liable to be dropped. Accordingly, the proceedings initiated under the said Show Cause Notice are hereby dropped.

19. 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/10-21/O&A/ADC/Sairam/2020 dated 14.07.2020.

20. The Show Cause Notices F. No. VIII/10-21/O&A/ADC/Sairam/2020 dated 14.07.2020 is disposed of in above terms.

(Shravan Ram)
Additional Commissioner
Customs, Ahmedabad

DIN: 20260471MN000000B943

F. No. GEN/ADJ/ADC/537/2026-ICD-SRT-CUS-COMMRTE-AHMEDABAD Dated:29.04.2026
By Speed Post A.D./E-mail /Hand Delivery/Through Notice Board

To,

1. **M/s. Shree Sai Ram Textiles,
B/59-60, Trikam Nagar Soc.
Lambe Hanuman Road,
Surat, Gujarat – 395006**
2. **Shri Hirenbhai Kantibhai Kheni,
Partner of M/s. Shree Sai Ram Textiles,
501, 5th Floor, International Business Centre (IBC),
Dumas Road, Surat-395007**

Copy to :-

1. The Principal Commissioner, Customs, Ahmedabad. (Kindly Attention to 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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