

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 13061 of 2015 (G)

PETITIONER:

**KHADER YOUSEFF, AGED 54 YEARS,
S/O.D.K.KHADER, UDAYA SOUND,
PULLEYPADY, COCHIN - 682 018.**

**BY ADVS.SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR
SRI.K.JAGADEESH**

RESPONDENT(S):

- 1. UNION OF INDIA, REPRESENTED BY ITS
DIRECTOR GENERAL OF FOREIGN TRADE,
MINISTRY OF COMMERCE AND INDUSTRY,
DIRECTORATE GENERAL OF FOREIGN TRADE,
UDYOG BHAVAN, NEW DELHI - 100 011.**
- 2. EXIM FACILITATION COMMITTEE, REPRESENTED BY
DIRECTOR GENERAL OF FOREIGN TRADE,
MINISTRY OF COMMERCE AND INDUSTRY,
DIRECTORATE GENERAL OF FOREIGN TRADE,
UDYOG BHAVAN, NEW DELHI - 100 011.**
- 3. THE DIRECTOR, DEPARTMENT OF HEAVY INDUSTRY,
GOVERNMENT OF INDIA, ROOM NO.176,
UDYOG BHAVAN, NEW DELHI - 110 011.**

**BY SRI.N.NAGARESH, A S G
BY SRI.T.VVINU, CGC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P-1: TRUE PHOTOSTAT COPY OF THE ORDER UO.NO.7/4/2009/TSW(B)/95,
DATED 13.4.2015 ISSUED BY THE 1ST RESPONDENT.
- EXT.P-2: TRUE PHOTOSTAT COPY OF THE GOVERNMENT OF INDIA BY
COMMUNICATION NO.01/53/162/443/AM 13/U-3/IC, DATED
4TH SEPTEMBER, 2012.
- EXT.P-3: TRUE PHOTOSTAT COPY OF THE COMMUNICATION SENT BY THE
3RD RESPONDENT, DATED 15.1.2013 ALONG WITH THE COVERING
LETTER OF THE 1ST RESPONDENT DATED 17.1.2014.
- EXT.P-4: TRUE PHOTOSTAT COPY OF THE JUDGEMENT IN WPC NO.11332 OF
2014, DATED 26.11.2014.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

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W.P.(C) No.13061 of 2015 - G

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Dated this the 14th day of July, 2015

J U D G M E N T

The petitioner has imported a used Diesel Generator Set (500 KVA) without authorisation as provided under the Foreign Trade Policy. The petitioner approached the Exim Facilitation Committee, the 2nd respondent herein for an authorisation, which was declined as per Ext.P1. The Exim Facilitation Committee has issued Ext.P1 on the following lines.

With reference to your application dated 12.11.2014 on the subject mentioned above, I am directed to inform you that your request has been considered by Exim Facilitation Committee in its meeting held on 19.03.2015 and the Committee decided to reject the case as D/o Heavy Industry vide U.O No. 7/4/2009/TSW(B)/95 dated 19.02.2015 does not support the firm's request.

2. The learned Central Government Counsel relies on the statement filed herein and submits that in fact there is a policy taken, not to permit import of used diesel generators and

the fact that the earlier import was allowed even without a prior authorisation, cannot result in the petitioner having any vested right for such import. However, none of the details of the policy are disclosed in Ext.P1. It is also submitted by the petitioner that the Exim Facilitation Committee has proceeded on the promise that the Department of Heavy Industry does not support the firm's request. The 3rd respondent represents the Department of Heavy Industry.

3. In such circumstance, Ext.P1 shall stand set aside only for the petitioner's objections to be heard by the 3rd respondent. The objection shall be filed by the petitioner before the 3rd respondent within a period of two weeks from the date of receipt of the certified copy of this judgment and the petitioner shall be afforded an opportunity for hearing and recommendation sent to the Exim Facilitation Committee. The Exim Facilitation committee in such circumstance shall decide on the recommendation of the 3rd respondent. The 3rd

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respondent shall also ensure that the matter is disposed of in an expeditious manner. It is made clear that this Court has not observed anything on the merits of the matter.

The writ petition is disposed of.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A to Judge.