

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.20989 of 2015

Agrocrops Exim Limited,
rep.by L.Saravanan,
Chief Executive Officer (CEO)
Old No.45, New NO.93,
Armenian Street, SM Plaza
#1, 1st Floor, Chennai - 600 001.

... Petitioner

Vs.

1. Union of India,
represented by the Secretary to the Government,
Ministry of Commerce and Industry,
Department of Commerce,
Director General of Foreign Trade,
Udyog Bhawan, H-Wing, Gate No.02,
Maulana Azad Road,
New Delhi - 110 011

2. Additional Director General of Foreign Trade,
The Government of India,
Ministry of Commerce and Industry,
4th Floor, Shastri Bhawan Annexe,
26, Haddows Road, Chennai - 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus to direct the 2nd respondent to consider the petitioner's representation dated 10.06.2015 requesting for reconsideration of the petitioner's claims for FPS benefits during the period 2013 to 2014 and pass appropriate orders in accordance with law.

For Petitioner : Mr.K.Harishankar

For Respondents : Mr.S.Arockiam,
SCGSC for RR.1 and 2

ORDER

With the consent of the learned counsel appearing for the petitioner and the learned Senior Central Government Standing Counsel appearing for the respondents, the writ petition is taken up for disposal at the admission stage itself.

2. The petitioner claims that it is engaged in the business of exporting agricultural commodities to various countries including Singapore, Thailand, New Zealand, Indonesia, Turkey and Ukraine and Certificate of Import Export Code (IEC) No.0408006943 was issued on 23.05.2008 by the respondent to the petitioner. The petitioner would further state that the foreign Trade procedures are formulated by the 1st respondent and notified in the Official Gazette and as per Chapter 3 of the procedures provided for promotional measures, exporters of all notified products are entitled to a duty credit of 2% of the FOB value over and above the duty drawback under the Customs Act. The 1st respondent made an amendment vide public notice No.3 (RE2012)/2019-14 dated 05.06.2012, Appendix 37D of the FPS, in and by which red chilly was added to the list of notified products under ItC (HS Code) 09042010 and that Code was to be used in both the shipping bills and the application for claiming benefits under the focus product scheme, (in short, 'FPS'). It is the specific case of the petitioner that at the time of filing the shipping bill on 24.1.2013, a different code viz., 09042219 was assigned in the drop down menu for export of red chilly. Therefore, the petitioner has used the said Code which was made available in the online form. The 2nd respondent, has rejected the application filed by the petitioner stating that the Code in the shipping bills is different from the notified Code. The 1st respondent has subsequently issued notification P.N.No.52 dated 25.02.2014, wherein certain amendments were made, under which the Code for red chilly was changed to 09042110 and 09042219 and the said notification came into force with effect from September 2014. During the period January 2013 to September 2014, the petitioner was constrained to use different codes in the shipping bills and applications for claiming FPS benefit due to internal changes made by the respective departments in their pre-filled online forms. The petitioner in this regard has submitted a representation dated 10.6.2015 to the 2nd respondent stating among other things that they exported only red chillies and there were not aware of the technical glitch faced during the course of filing the shipping bills for claiming the benefits and the same was brought to their knowledge only at the time of submission of their applications for FPS benefit for the period January 2013 to February 2014 and they are also facing financial crisis on account of rejection of their legitimate claims and prays for consideration of their claims.

3. The grievance of the petitioner is that though the said representation was received and acknowledged by the 2nd respondent, no orders have been passed, against which, the petitioner has come forward with the present writ petition.

4. Heard the submissions of the learned counsel for the petitioner and Mr.S.Arockiam, learned Senior Central Government Standing Counsel appearing for the respondents, who submitted that no acknowledgment is available as to the submission and receipt of the said representation dated 10.6.2015 and prays for appropriate orders.

5. This Court, taking into consideration of the limited scope of the prayer sought for by the petitioner, without going into the merits of the same, permits the petitioner to submit one more representation to the 2nd respondent by enclosing the copy of the order passed in this writ petition along with the copy of his earlier representation dated 10.6.2015 within a period of two weeks from the date of receipt of a copy of this order and the 2nd respondent, on receipt of the same, is directed to consider the same and pass orders in accordance with law within a further period of four weeks thereafter and communicate the decision taken, to the petitioner.

The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary to the Government,
Union of India
Ministry of Commerce and Industry,
Department of Commerce,
Director General of Foreign Trade,
Udyog Bhawan, H-Wing, Gate No.02,
Maulana Azad Road,
New Delhi - 110 011
2. Additional Director General of Foreign Trade,
The Government of India,
Ministry of Commerce and Industry,
4th Floor, Shastri Bhawan Annexe,
26, Haddows Road, Chennai - 600 006.

1 cc to Mr.S. Arokiam, Advocate, Sr. 35504
2 ccs to Mr.K. Harishankar, Advocate, sr. 35489

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SR (CO)
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