

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 6270 of 2015 (O & M)

Date of decision: 03.08.2015

M/s. Bhandari Export Industries Ltd.

....Petitioner(s)

Versus

Union of India and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR,
ACTING CHIEF JUSTICE**

HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Jagmohan Bansal, Advocate,
for the petitioner.

Mr. I.P.S. Doabia, Sr. Standing Counsel,
for the respondents.

S.J. VAZIFDAR, A.C.J. (Oral)

1. The petitioner has challenged the order dated 06.12.2014 passed by respondent no. 2-Director General of Foreign Trade rejecting its application for an extension of six months to comply with his export obligation. The Government of India has announced an Advance Authorization Scheme. Under the scheme, the petitioner was issued a license dated 29.03.2011, which entitled him to import without payment of duty subject to its meeting export obligations. The license was valid for a period of 3 years. The petitioner admittedly did not comply with export obligation within the validity of the license. The petitioner has given various reasons for its inability to have done so.

2. We do not intend examining the correctness or the validity of these contentions. That is for the respondents to decide upon the matter

being remanded for a fresh consideration. Suffice it to indicate that one of the reasons was that the petitioner was facing stiff competition from certain other countries on the one hand and on the other, the petitioner had filed a reference under the Sick Industrial Companies (Special Provisions) Act, 1985 on 25.01.2004. A new management took over in the year 2011 while the reference was pending. Mr. Bansal stated that ultimately, the AAIFR returned the reference as the company recorded a positive net worth.

3. In these circumstances, on 23.06.2014, the petitioner made an application for extension of six months to enable it to comply with its export obligation.

4. By the impugned order dated 06.12.2014, the application was rejected. The only basis of rejection is as follows:-

“The Committee noted that the firm has made 100% imports but no exports have been effected within the original export obligation period against the above referred Advance Authorizations. As such, there is no merit in the case for consideration. The Committee, therefore, did not accede to the request. The applicant is hereby directed to get their case regularized in terms of Para 4.28 of HBP.”

5. The order does not consider the application for extension. It merely records that the petitioner had not effected any exports during the period of the license. That is obvious. It is for that reason that the application for extension was made. The respondents concerned must consider the grounds on which the application is being sought. Several reasons have been now given in the affidavit in reply. They must, however, find place in the order.

Mr. Jagmohan Bansal states that if the period is extended, the

petitioner would furnish the details of the export orders within one month of the extension and within a further period of 5 months thereafter, the petitioner would positively comply with its export obligations. These are also aspects for the respondents concerned to decide.

7. In the circumstances, the writ petition is disposed of with the following order:-

The impugned order is quashed and set aside. Respondent no. 2 will consider the application of the petitioner for extension afresh after affording the petitioner an opportunity of being heard. The petitioner shall be entitled to file additional information with respondent no. 2 latest by 14.08.2015.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

03.08.2015
shivani

(G.S. SANDHAWALIA)
JUDGE

