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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8031/2015 & C. M. APPL. 16465/2015**

Date of Judgment : 10.09.2015

IFB INDUSTRIES LTD.

..... Petitioner

Through : Mr. S. Ganesh, Senior Advocate with
Ms. Maneesha Dhir, Mrs. Jayashree,
Mrs. Geeta Sharma and Mr. Aseem
Swaroop, Advocates.

versus

UNION OF INDIA & ANR.

..... Respondent

Through : Mr. Vikram Jetly, CGSC with
Mr. Arun Kumar and Mr. Jay Karan
Singh, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

1. Challenge in this writ petition is to the order dated 09.06.2015 passed by Policy Relaxation Committee.
2. Learned counsel appearing for the petitioner submits that the petitioner vide order dated 14.07.2004 was declared as a sick industrial company and IDBI was appointed as the Operating Agency who prepared the rehabilitation scheme. The scheme was sanctioned on 14.01.2009. Para 12.4(b) of the Scheme provided for "To consider grant of extension of Export Obligation for a further period of 5 years to be adjusted against current exports under clause 4.1.9A of Foreign Trade Policy 2004-09 against liability of Rs.532 lakhs." The petitioner on

26.06.2009 approached the Chairman of Policy Relaxation Committee, Director General Foreign Trade, New Delhi for bringing to its notice the order dated 14.01.2009 passed by the BIFR. On 23.09.2009, the BIFR disposed of the miscellaneous applications filed by the petitioner directing the DGFT to consider grant of extension of export obligation for a further period of five years to be adjusted against current export as per the list containing particulars of 22 licences.

3. It is the case of the petitioner that during the extended period, exports were carried out to the total tune of Rs. 13,14,27,465/- and Rs. 38,03,291/- in quantitative terms. The grievance of the petitioner is that further extension sought with respect to 8 licences, has been rejected while similarly placed persons have been granted relaxation. It is also submitted that the Committee has failed to accede to the request of the petitioner to club the licences and request for correction of wrong reference number was rejected and consequently the credit for export was not given. Mr. Ganesh also contends that before passing the order of rejection no personal hearing was granted to the petitioners.
4. We are also informed that after the passing of the order, a communication has been addressed to the petitioner granting an opportunity for personal hearing.
5. We had passed over the matter once to enable Mr. Jetly, learned counsel for respondent no. 1 to take appropriate instructions. Mr. Jetly submits, on instructions, that although the request of the petitioner for personal hearing was acceded to but no representation was made as per the prescribed procedure laid out in Para 2.59 of Foreign Trade Policy and no application was filed under Appendix 2K as per PH in ANF2E.

6. In view of the subsequent development i.e. request of the petitioner having been accepted to grant a hearing, we dispose of this writ petition on the following terms :
- (i) The petitioner will make a representation to the respondent in terms of Appendix 2K as per PH in ANF2E within 2 weeks.
 - (ii) The petitioner would be entitled to raise all grounds as raised in the writ petition or such other grounds which may be available to the petitioner.
 - (iii) The respondent will grant a personal hearing to the petitioner and or their representative within a period of four weeks thereafter.
 - (iv) The petitioner would be entitled to produce such supporting documents within the same period.
 - (v) After the hearing, the respondents will pass a speaking order within a period of four weeks thereafter.
7. The impugned order dated 09.06.2015 is quashed.
8. Order dasti.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 10, 2015

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