IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.36770 of 2015

M/s.Leaap International Pvt. Ltd.,
represented by its Director,
S.K.murthy,
Plot No.1497, J Block,
16th Main Road, Anna Nagar,
Chennai-600 040. .. Petitioner

Vs.

1.The Zonal Joint Director General of Foreign Trade,
Shastri Bhawan Annexe,
26, Haddows Road,
Nungambakkam,
Chennai-600 006.
2.The Foreign Trade Development Officer,
Shastri Bhawan Annexe,
26, Haddows Road,
Nungambakkam, Chennai-600 006. .. Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus, to direct the respondents to approve the claim dated 12.2.2014 filed by the petitioner under the "Served from India Scheme" for the year 2012-13.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.Su.Srinivasan, ASG

ORDER

Heard.

2 This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondents to approve the claim filed by the petitioner, dated 12.2.2014, under the "Served from India Scheme", for the year 2012-13.

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3 It has been stated that the petitioner is a Company incorporated under the Companies Act, 1956. It is engaged in the business of total logistics service provider, which includes activities related to Multi model Transport Operator, Freight forwarding, Customs clearance, etc. The petitioner is registered with the Service Tax Department and it has been regularly remitting the service tax for the services rendered in India, which are taxable in terms of the Finance Act, 1994. The petitioner is also registered with the Service Export Promotion Council, as a service provider, under the heading "Supporting Services for Maritime Transport", specified in Appendix 41 of the Handbook of Procedures.

4 It has been further stated that the Ministry of Commerce, Government of India had notified the Foreign Trade Policy, 2009-14, in accordance with the powers conferred under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992. Paragraph 3.12 of the Foreign Trade Policy provides for the "Served from India Scheme". The objective of the said scheme is to accelerate the growth in the export of services, so as to create a powerful and unique "Served from India" brand, which would be instantly recognized and respected the world over. Paragraph 3.12.2 of the Foreign Trade Policy stipulates the service providers, who are eligible to avail the benefit of the said scheme. As per paragraph 3.12.2 of the Foreign Trade Policy, Indian service providers of the services, listed in Appendix 41 of the Handbook of Procedures, who have foreign exchange earnings of at least Rs.10 lakhs in the current financial year, are eligible for duty credit scrip.

5 It has been further stated that in terms of the "Served from India Scheme", notified under the Foreign Trade Policy, the petitioner had submitted an application, dated 12.2.2014, for the services rendered, during the period 2012-13. The said application filed by the petitioner had been rejected, initially, vide letter, dated 17.4.2014, issued by the second respondent, quoting Paragraph 3.6.1(b) of the Handbook of Procedures. Paragraph 3.6.1(b) of the Handbook of Procedures states that the payment, for services received from EEFC account, is not entitled to be taken into consideration for the calculation of the entitlement, under the "Served from India Scheme". While so, the petitioner had submitted a representation to the Directorate General of Foreign Trade (DGFT), New Delhi. The office of the DGFT, New Delhi, vide letter, dated 31.3.2015, had advised the petitioner to bring the documents, submitted before it, to the notice of the second respondent, for reconsideration. Accordingly, the petitioner had made a representation to the respondents, on 13.4.2015, along with the certificates, dated 30.1.2014 and 27.1.2014, issued by the HSBC

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Bank and Andhra Bank, respectively, stating that the remittances received were not from EEFC accounts, and the copies of certifications of foreign inward remittances. It has been stated that the first respondent is the competent authority to consider the application submitted by the petitioner. In such circumstances, the petitioner seeks a direction from this Court to direct the first respondent to consider the application made by the petitioner, dated 12.2.2014, for the grant of duty credit scrip, under the "Served from India Scheme", for the year 2012-13, and to pass appropriate orders thereon, taking into account the clarification issued by the DGFT, New Delhi, dated 31.3.2015.

6 The learned counsel appearing on behalf of the respondents had no objection for this Court issuing a direction, as prayed for by the petitioner herein.

7 In such circumstances, this Court finds it appropriate to direct the first respondent to consider the application of the petitioner, dated 12.2.2014, for the grant of duty credit scrip, under the "Served from India Scheme", for the year 2012-13, taking into consideration the clarification issued by the DGFT, New Delhi, dated 31.3.2015, and pass appropriate orders thereon, after giving an opportunity of hearing to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. The petitioner shall furnish a copy of the application, dated 12.2.2014, to the first respondent, along with a copy of this order. However, it is made clear that this Court has not expressed any opinion on the merits of the matter, by passing this order.

8 The writ petition is disposed of, with the above directions. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Zonal Joint Director General of Foreign Trade,
Shastri Bhawan Annexe,
26, Haddows Road,
Nungambakkam,
Chennai-600 006.

2.The Foreign Trade Development Officer,
Shastri Bhawan Annexe,
26, Haddows Road,
Nungambakkam, Chennai-600 006.

1 cc to Mr.Hari Radhakrishnan, Advocate, sr.39440
1 cc to Mr.Su.Srinivasan, ASGI, sr.39137

W.P.No.36770 of 2015

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