$~2

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

\+ W.P.(C) 4220/2015

M/S KEI INDUSTIRES LTD. ..... Petitioner

Through Mr.P.C.Patnaik, Advocate.

versus

UNION OF INDIA & ORS ..... Respondents

Through Mr.Sanjeev Narula, CGSC with Mr.Ajay Kalra, Advocate for UOI.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

<u>O R D E R</u>

% **22.03.2016**

<u>C.M.No.6019/2016</u>

Present application has been filed for correction of typographical error in the order dated 19th January, 2016.

Keeping in view the averments in the application, the order dated 19th January, 2016 shall now read as under:-

1. Learned counsel for both the parties state that the controversy raised in the present petition is squarely covered by a judgment of a Coordinate Bench of this Court passed in M/S Delton Cables Limited Vs. Union of India & Ors, W.P.(C) No.6438/2013 decided on 3rd December, 2015. The operative portion of the said judgment is reproduced hereinbelow:-

> *"8. A similar question came up for consideration before Hon'ble Division Bench of this Court in LPA No.192/2015 and LPA No.196/2015 titled as 'Union of India & Ors. vs. Alstom India Ltd.' decided on 28.07.2015. In the said case, writ petition bearing W.P.(C) No.1331/2015 was filed by M/s. Alstom India*

Ltd. claiming refund of TED which was rejected by the Director General of Foreign Trade, Ministry of Commerce and Industry. The said petition was disposed of by learned Single Judge on 11.02.2015. Thereafter, an appeal being LPA No.192/2015 was preferred. The Hon'ble Division Bench after considering the relevant provisions of the Act and the policy directed DGFT to consider the application of the writ petitioner for refund in terms of the provisions of the FTP, 2009-2014 and pass an appropriate order in accordance with law.

9. Learned counsel for both the parties have agreed that a similar direction may be issued in the present case.

10. In view of the above, the petition is disposed of with the direction that respondent No.3, DGFT will consider the application of the petitioner for refund in terms of the provisions of the FTP, 2004- 2009 and pass an appropriate order in accordance with law uninfluenced by the impugned order dated 12.02.2013. The respondent No.3 will also consider the order passed on 29.05.2012 in the case of M/s. Gamon India Ltd. and order dated 10.07.2012 in the case of M/s. Voltamp Transformers Ltd. The respondent No.3 shall afford an opportunity of hearing to the petitioner and pass an appropriate order expeditiously and preferably within a period of eight weeks from today in accordance with law.

11. The petition stands disposed of accordingly. No order as to costs."

2. Consequently, the present writ petition is disposed of with the direction to respondent no.3 – Director General of Foreign Trade (DGFT) to consider the application of the writ petitioner for refund in terms of provisions of Foreign Trade

Policy (FTP) 2009-2014 and pass an appropriate order in accordance with law uninfluenced by the impugned order dated ***2nd May, 2012 and 22nd October, 2012****.*

3. Respondent no.3 is directed to consider the orders passed on 29th May, 2012 in the case of M/S Gammon India Limited and on 10th July, 2012 in the case of M/s Vlotamp Transformers Limited. Respondent no.3 would also afford an opportunity of hearing to the petitioner and pass an appropriate order expeditiously and preferably within a period of eight weeks, in accordance with law.

4. The writ petition stands disposed of accordingly.

No order as to costs.

Accordingly, the application stands disposed of.

MANMOHAN, J

MARCH 22, 2016
KA