

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.16049 of 2017

ORDER:

Heard the learned counsel for the petitioner and Sri B. Narayana Reddy, the learned Assistant Solicitor General, for the respondents.

2. The petitioner is a Limited Company, incorporated under the Companies Act, 1956 and engaged in the manufacture of sugar. The petitioner is having its sugar mill at Bobbili, Vijayanagaram District in the State of Andhra Pradesh. It has been importing raw sugar (under duty free scheme) from Brazil and re-exporting the processed white sugar thereon, providing/earning additional foreign exchange to the Government Exchequer since 2003. The petitioner had got sanctioned almost 10 advance licences so far and imported close to half a million metric tons of raw sugar. The raw sugar imported under 'duty free' advance licence scheme carries along with it an export obligation in the form of processed white sugar providing value addition to the import. Since the sugar yielding is not sufficient in India, the Government took a decision to import half a million metric tons of raw sugar immediately to ease the prices of domestic white sugar. Accordingly, the Government issued notification dated 05.04.2017, followed by another notification dated 13.04.2017 inviting applications from member sugar mills in the country to apply to the 2nd respondent basing on their capacities and capabilities to enable them to consider and allot suitable quantities of raw sugar for import and process and sell the resultant white sugar in domestic market. The petitioner submitted an application on 24.04.2017 for allocation of a quantity of 90,000 metric tons of raw sugar and the said application is pending.

3. However, it appears that on the earlier occasion in the year 2005 in respect of import of raw sugar, there was a short fall of 7.160 metric ton, as a result of it, the petitioner was put under Denied Entity List (DEL). The petitioner was put under that status in respect of advance licence bearing No.0910024108. The said status is coming in the way of petitioner importing raw sugar duty free pursuant to the new policy adopted by the Government vide notifications dated 05.04.2017 and 13.04.2017. This writ petition is filed challenging the inaction of the 1st respondent in not revoking the DEL status and for consideration of the application of the petitioner dated 24.04.2017 submitted to the 3rd respondent for grant of licences. Unless the DEL status is revoked, the application of the petitioner cannot be considered.

4. Since the main relief sought for by the petitioner is for revocation of DEL status, for which the petitioner has already submitted a representation, it is open to the Authorities to consider the said representation dated 01.09.2016.

5. But now the learned counsel for the respondents submits that the petitioner has to pay the customs duty against the demand notices issued to it way back in January 2014. It is also stated that the petitioner has sold white sugar in the domestic market without fulfilling the export obligation. In these circumstances only, the name of the petitioner was not removed from the DEL status.

6. Since the order was not passed by the 1st respondent, the writ petition is disposed of directing the 1st respondent to consider the representation of the petitioner dated 01.09.2016 with respect to removal of DEL status and pass appropriate orders in accordance with law, within a period of two weeks from the date of receipt of a copy of

the order. If the decision is taken by the 1st respondent favourably, sufficient time for submission of the application by the petitioner for allocation of quantities pursuant to the notifications dated 05.04.2017 and 13.04.2017, can be considered by the competent authority. No order as to costs. Pending miscellaneous petitions, if any, shall stand dismissed in consequence.

Date: 28.04.2017
BSS

A. RAMALINGESWARA RAO, J



103

HON' BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.16049 of 2017



Date: 28.04.2017

BSS