

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3680 OF 2018

M/s.Sudarshan Jeans Pvt. Ltd.

..... Petitioner

VERSUS

Union of India & Anr.

..... Respondents

Mr.Akash Kotecha, a/w. Mr.Balasaheb Deshmukh for the Petitioner.

Dr.G.R.Sharma, a/w. Mr.D.P.Singh for the Respondent no.1.

Ms.Heena Desai, i/b. Singhi & CO. for the Respondent no.2.

CORAM : R.D. DHANUKA, J.

DATE : 8th AUGUST, 2018

P.C.

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 1st September, 2017 passed by the respondent no.1 informing the petitioner that the request of the petitioner on 8th August,2017 for condonation of delay in obtaining an UID number is rejected by the condonation committee, learned Deputy Director, Ministry of Textile.

2. A loan was sanctioned in favour of the petitioner on 31st July, 2013 for a sum of Rs.3400 Lakhs. The respondent had appointed various nodal agencies who only were authorized to make an application for UID number to the respondent no.1 under clause (V)(1) (ii). Such request for UID could be entertained only upto one year from the date of sanction of the term loan, except for application

permitted in para (iii) therein. The said application was to be made in the prescribed form mentioned in clause V(1)(v) of the resolution passed by the Minister of Textile on 4th October,2013.

3. It is the case of the petitioner that an application was accordingly made by the Bank of Baroda which was one of the nodal agencies appointed by the respondent no.1 for UID number on behalf of the petitioner on 6th October,2014.

4. It is the case of the petitioner that the application was required to be made by the nodal agencies and not by the petitioner. Learned counsel appearing for the petitioner invited my attention to the information obtained by the petitioner under the provisions of Right to Information Act on 7th July, 2017 in support of his submission that the condonation committee had agreed that the application should have been submitted to the Joint Textile Commissioner within three months after the expiry of the permissible time limit i.e. one year from the date of the sanction of term loan as per the Government resolution dated 4th October,2013.

5. A perusal of the letter addressed by the respondent no.2 bank indicates that it is the case of the respondent no.2 that the application under the prescribed format was made by the respondent no.2 for UID number on 6th October,2014.

6. It is submitted by the learned counsel that though the application was filed belatedly by the respondent no.2 for UID number, the

application was within the grace period of three months sanctioned by the authority and thus the application for condonation of delay could not have been rejected by the authority.

7. The next submission of the learned counsel is that the application for condonation of delay is rejected by the Textile Commissioner without giving any opportunity of being heard and without recording any reasons.

8. A perusal of the affidavit in reply filed by the respondent no.1 indicates that it is the case of the respondent no.1 that the application filed by the respondent no.2 was not in a prescribed format and thus it could not be considered that the application for UID number was filed on 4th October, 2014 or 6th October, 2014. It is the case of the respondent no.1 that admittedly the application for condonation of delay was filed on 14th January, 2014 which was beyond the period of three months.

9. In my view, the Textile Commissioner while rejecting the application of the petitioner for condonation of delay ought to have given an opportunity to the petitioner of being heard and ought to have passed a reasoned order and more particularly on the issue as to whether the application filed by the respondent no.2 for UID number on behalf of the petitioner was if not within a period of 12 months from the date of sanctioning loan, was atleast filed within the grace period of three months after expiry of the 12 month of sanction of loan. The impugned order only records that the condonation committee,

Chairman of Textile Commissioner has rejected the application of the petitioner for condonation of delay. In my view, a conclusive finding ought to have been recorded as to when the application for UID Number was filed by the respondent no.2 and whether the same was within the original period of 12 months or if not within the grace period of three months thereafter.

10. I, therefore, pass the following order :-

(a) Impugned order dated 1st September,2017 passed by the Textile Commissioner communicated to the petitioner vide letter dated 1st September,2017 is quashed and set aside.

(b) The application for condonation of delay is restored to file.

(c) The Condonation committee shall consider the application for condonation of delay filed by the respondent no.2 afresh and shall give an opportunity of being heard to the petitioner.

(d) The Condonation committee shall decide the matter afresh without being influenced by the observations made and the conclusion drawn in the communication dated 1st September,2017.

(e) The condonation committee shall render a finding as to when the application for UID number was filed by the respondent no.2 on behalf of the petitioner and whether the same was within the period of 12 months from the date of sanction loan and if not, whether the same was within the grace period referred in the communication dated 7th July, 2017 or not.

(f) The condonation committee of the respondent no.1 shall dispose of the said application within 45 days from today. The petitioner shall appear before the committee and shall not seek any unnecessary adjournment.

(g) The condonation committee shall give 7 days clear notice to the petitioner for remaining present before them.

11. Writ petition is disposed of in the aforesaid terms. No order as to costs.

12. The parties to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]