

Jayant  
Vishwanath  
Salunke

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Jayant Vishwanath  
Salunke  
Date: 2018.08.21  
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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 8094 OF 2018**

**Axiom Cordages Ltd.                    }     Petitioner**  
**versus**  
**Union of India and Ors.                }     Respondents**

Dr. Sujay Kantawala i/b. Mr. Brijesh  
Pathak with Mr. Kartik Vig for the  
petitioners.

Mr. Pradeep S. Jetly for the respondents.

**CORAM :- S. C. DHARMADHIKARI &  
              SMT. BHARATI H. DANGRE, JJ.**

**DATE     :- AUGUST 16, 2018**

**P.C. :-**

1. The petitioner is aggrieved and dissatisfied with what he feels is an arbitrary and illegal command issued by respondent nos. 3 and 4 to the distinct authority, namely, the Development Commissioner-respondent no. 2. That authority is functional pursuant to the law, namely, the Foreign Trade (Development and Regulation) Act, 1992. The Special Economic Act, 2005 is another law, under which the powers and functions are exercised and discharged by the second respondent. The petitioner is aggrieved and dissatisfied with the communication at page 108 of the paper book, whereunder, it was informed as follows:-

“GOVT. OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
OFFICE OF DEVELOPMENT COMMISSIONER  
SEEPZ SPECIAL ECONOMIC ZONE  
ANDHERI(E), MUMBAI-400 096.  
Tel: 022-28294763/24/06, Fax: 022-28291754  
E-mail: [dceepz-mah@nic.in](mailto:dceepz-mah@nic.in)  
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No. SEEPZ-SEZ/EOU/03/MEIS/2015-16/21687

Dated: 31.10.2017

**M/s. Axiom Cardages Ltd.,**  
Gat No. 114B & 120 C, Mahagaon Road,  
Betegaon Village, Boisar (East),  
Tal. - Palghar,  
Dist. Thane - 401 501.

Sub: Application for scrip under MEIS Scheme-reg.

Sirs,

Kindly refer to your letter dated 25.09.2017 on the subject cited above.

In this connection we write to inform you that the Office of Principal Commissioner of Customs (Preventive) Nava Sheva Preventive Unit, Rummaging & Intelligence 11<sup>th</sup> Floor, Annexe Building, New Custom House, Ballard Estate, Mumbai-400001 has informed that investigation against the unit product is under progress. Therefore, no MEIS benefit at this stage may be granted to you.

In view of the above, your request for grant of MEIS benefit cannot be considered at this stage.

Yours faithfully,

((**Praful Umare**)  
Asstt. Development Commissioner  
SEEPZ-SEZ”

2. Then, the petitioner says that this is based on the communication from the Assistant Commissioner of Central GST

and Central Excise, Division-IV, Palghar Commissionerate. There is no independent application of mind for this second respondent has been forwarding to the petitioner the letters from the Customs. The petitioner says that there is no linkage with what is alleged to be a wrongful and illegal act and subject matter of an investigation and thereafter, the show cause by the Customs. The petitioner says that a one sided communication from a distinct authority has resulted in the petitioner's benefits, as an exporter under a distinct scheme, namely, Merchandise Exports From India Scheme (MEIS), being taken away.

3. The petitioner has made representations in the month of November and December, 2017, copies of which are at Exhibits 'J' and 'K' to the petition. The petitioner says that a specific order should be passed after hearing the petitioner so that the petitioner can challenge it by urging that there is no mandate to withhold, suspend or cancel the benefits merely because of an investigation or a pending show cause notice. The jurisdictional Central GST and Central Excise Officers cannot issue a command of the nature relied upon by this authority, according to the petitioner to withhold the benefits.

4. We, therefore, direct the second respondent to consider this petition and its annexures as a representation of the petitioner.

Let him pass a speaking order on that, after hearing the petitioner, as expeditiously as possible and in any event, within a period of four weeks from the date of receipt of a copy of this order.

5. We dispose of the writ petition with the aforesaid directions and by clarifying that all contentions are kept open.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)