

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 2471 OF 2017

Electromech Material Handling System
(India) Pvt. Ltd.

.. Petitioner

v/s.

The Union of India & Ors.

..Respondents

Ms. Padmavati Patil a/w Mr. T. Chandran Nair I/b Manasi Patil for the
petitioner

Mr. R.S. Apte, Senior Counsel a/w Pranil Sonawane, Ms. Alefiya
Mandviwala for the respondents

**CORAM : M.S. SANKLECHA &
RIYAZ I. CHAGLA, J.J.**

DATED : 4th OCTOBER, 2018.

P.C.

1. By consent of the parties, the petition is taken up for final disposal at the stage of admission.

2. This petition under Article 226 of the Constitution of India seeks to set aside the minutes of a meeting / orders dated 29th August, 2016 and 6th July, 2017 of the Policy Relaxation Committee in the office of the Director General of Foreign Trade – respondent no.3.

3. The impugned minutes of meeting / orders dated 29th August, 2016 and 6th July, 2017 passed under paragraph 2.5 of the Foreign Trade Policy 2009-14 refusing to relax export obligations in respect of the supplies made to SEZ in the absence of the assessed copy of bill of

export. Consequently, the Export Obligations Discharge Certificates have not been issued to enable the petitioner to redeem the Advance Authorizations dated 21.01.2008, 09.04.2008, 09.05.2008 and 03.02.2009.

4. It is an undisputed position before us that the issue arising herein stands concluded against the respondents and in favour of the petitioner by the decisions of this Court in ***Larsen and Tubro Ltd. (2018) 360 E.L.T. 289*** and ***Rochem Separation Systems India Pvt. Ltd. Vs. Union of India & Ors.*** (Writ Petition No.10999 of 2018, dated 27th September, 2018). In both the aforesaid decisions, this Court has taken a view that failure to produce a copy of the assessed bill of export in respect of the supplies made to SEZ, would not necessarily result in holding that there was a failure to discharge export obligation where one is able to establish supplies made to SEZ by production of copies of ARE-1.

5. In the facts of this case, both the minutes of the meeting / orders dated 29th August, 2016 and the review order thereon dated 6th July, 2017 rejected the petitioner's application for relaxation only on account of failure to produce copy of bill of export of their supplies to SEZ. However, in the present facts, as in the earlier two cases party has been able to establish that supplies have been made to SEZ units i.e. M/s. Pipavav Shipyard Ltd. Ramapura, Gujarat and M/s. Hansen Drives Ltd. Coimbatore, Tamil Nadu.

6. Mr. Apte, learned Senior Counsel along with Sonawane, learned Counsel appearing for respondent no.3 is not able to point out any

distinguishing features in this case to that existing in *Larsen and Tubro Ltd.* and *Rochem Separation Systems India Pvt. Ltd.* (supra).

7. In the aforesaid circumstances, there is no reason to take a different view in this petition from that taken in the earlier two petitions referred to hereinabove. Therefore, for the reasons indicated in our orders in *Larsen and Tubro Ltd.* and *Rochem Separation Systems India Pvt. Ltd.* (supra), the impugned minutes of meeting / orders dated 29th August, 2016 and 6th July, 2017 are set aside. The respondent no.3 is directed to issue the Export Obligation Discharge Certificate and respondent no.4 to redeem the Advance Authorizations dated 21.01.2008, 09.04.2008, 09.05.2008 and 03.02.2009.

8. Petition is disposed of in the above terms.

(RIYAZ I. CHAGLA, J.)

(M.S. SANKLECHA, J.)