In the High Court of Judicature at Madras

Dated : 11.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.726 of 2018

M/s.Schwing Stetter India (P) Ltd. ...Petitioner
Kancheepuram, Tamil Nadu-602 117

Vs

1.The Director General of Foreign Trade, O/o the Director General of Foreign Trade, H-Wing, Gate No.2, Udyong Bhavan, New Delhi-11.

2.The Joint Director General of Foreign Trade, H-Wing, Gate No.2, Udyong Bhavan, New Delhi-11.

3.The Additional Director General of Foreign Trade, Shastri Bhawan Annexe, 4th & 5th Floor, 26, Haddows Road, Nungambakkam, Chennai-6.

4.The Assistant Director General of Foreign Trade, Shastri Bhawan Annexe, 4th & 5th Floor, 26, Haddows Road, Nungambakkam, Chennai-6. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to give a hearing and pass order in the representation filed by the petitioner by taking into account the clarification offered in their letter dated 13.2.2014.

For Petitioner : Mr.J.Shankarraman
For Respondents : Mr.T.V.Krishnamachari, CGSC

ORDER

Mr.T.V.Krishnamachari, learned Central Government Standing Counsel accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal and more so, when the relief sought for in this writ petition appears to be innocuous.

2. The petitioner seeks a direction to the first respondent to give a hearing and pass orders on their representation dated 13.2.2014. By the said representation, the petitioner requested for refund of terminal excise duty against the supplies made to M/s.Backbone Enterprises Limited, Rajkot, Gujarat, holders of EPCG authorization dated 20.3.2009.

3. The matter has been placed before the Policy Relaxation Committee under the control of the first respondent and the petitioner made a representation on 22.1.2015 to the Policy Relaxation Committee to intervene and direct the Regional Authority to take into consideration the revised purchase order, the EPCG authorization, the invalidation letter issued by the Joint Director General of Foreign Trade, Ahmedabad and to grant terminal excise duty refund to the tune of Rs.5,85,040/-.

4. This representation has been received by the office of the first respondent on 29.1.2015. Subsequently, the petitioner has been addressing the first respondent as well as the Policy Relaxation Committee on various dates such as 01.4.2015, 23.6.2016, 24.6.2016, 22.8.2016, 03.10.2016, 24.11.2016, 24.5.2017 and 11.10.2017. However, the petitioner has not been favoured with any reply nor the representation has been considered by the Committee. Hence, the petitioner is before this Court.

5. The petitioner's request for considering the terminal excise duty refund claim is maintainable before the Policy Relaxation Committee under the control of the first respondent. Therefore, the concerned Authority should take a decision in the matter at the earliest or the petitioner should have been at least intimated as to why the matter has been pending since 2015 onwards. Thus, considering the long pendency of the matter before the concerned Authority, this Court is inclined to issue appropriate directions.

6. Accordingly, the writ petition is disposed of by directing the first respondent to consider the petitioner's request for terminal excise duty refund, which has been made before the Policy Relaxation Committee on 22.1.2015 followed by several reminders and pass orders on merits and in accordance with law after affording an opportunity of personal hearing to the authorized representative of the petitioner as expeditiously as possible, preferably within a

period of three months from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Director General of Foreign Trade, O/o the Director General of Foreign Trade, H-Wing, Gate No.2, Udyong Bhavan, New Delhi-11.

+1 CC to Mr.T.V.Krishnamachari, Advocate SR.No.2336

+1 CC to Mr.J.Shankarraman, Advocate SR.No.2888

CO-NM
ths : 03.02.2018

WP.No.726 of 2018