

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2018

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. No.7245 of 2003

M/s.Zoro Garments (P) Ltd.,
Rep.by its Managing Director
C3, Industrial Estate
Ambattur, Chennai - 58.

... Petitioner

Vs.

1.The Chairman
Second Appellate Committee
Ministry of Textile
Udyog Bhavan, New Delhi.

2.The Textile Commissioner
New CGO Complex
No.48, New Marine Lines, Mumbai.

3.The Director
Apparel Export Promotion Council
Karumuthu Centre, Third Floor
No.498, Anna Salai, Chennai - 32.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the order of the First Respondent herein passed in his order No.14/993/02/Exports-III/352, dated 3.12.2002 of forfeiture of the recalculated sum of Rs.6,20,448/- based on the quota entitlement policy in so far as it relates to forfeiture of legal undertaking under the policy and in so far as it authorises levy of penalty for utilization of export commitments due to various genuine reasons without being a law passed under Article 265 of the Constitution of India and in contravention of Article 109, 110 and 266 of the Constitution of India.

For Petitioner : Mr.S.Sarath Chandran for M/s. La Law

For Respondents: Mr.C.V.Ramachandramurthy
Central Govt. Counsel [For R1&R2]
Mr.M.A.Abdul Wahab [For R3]

O R D E R

Heard Mr.S.Sarath Chandran, learned Counsel for the Petitioner and Mr.C.V.Ramachandra Murthy, learned Senior Counsel for the First and Second Respondents, Mr.M.A.Abdul Wahab for Third Respondent.

2. The Petitioner has filed this Writ Petition for a declaration that order No.14/993/02/Exports-III/352, dated 3.12.2002 passed by the First Respondent for forfeiture of the recalculated sum of Rs.6,20,448/- based on the quota entitlement policy in so far as it relates to forfeiture of legal undertaking under the policy and in so far as it authorises levy of penalty for utilization of export commitments due to various genuine reasons without being a law passed under Article 265 of the Constitution of India and in contravention of Article 109, 110 and 266 of the Constitution of India.

3. Mr.C.V.Ramachandra Murthy, learned Counsel appearing for the First and Second Respondents submits that in respect of similarly placed persons, the Division Bench of this Court by judgment dated 19.06.2000 in W.A. No.3 to 22 of 1999 has upheld such forfeiture. The relevant passage in that decision reads as follows:-

"23..... Now, according to us, this is not a punishment at all. This is a simple transaction which is of a commercial nature. The Appellants had, with their open-eyes, entered into this commercial transaction. They very well knew as to what would be the effect of their not honouring the commitments. If, for not honouring the commitments, the authorities took certain action, which they had the powers and jurisdiction to take, then we see no harsh treatment. The plea is clearly unacceptable and not entertainable. It is rejected."

It is further informed that the said decision has been followed in the following subsequent judgments of this Court:-

S.No .	Date of Order	Case No.
1.	07.10.2002	W.P.No.37838 of 2002
2.	10.04.2003	W.P.No.37135 and 37160 of 2002
3.	23.04.2003	W.P.No.43571 and 456 of 2002

S.No .	Date of Order	Case No.
4.	25.04.2003	W.P.No.1545 of 2002
5.	29.04.2003	W.P.No.6791 and 6795 of 2003 W.P.No.46550 of 2002
6.	15.09.2003	W.P.No.18212 of 2003
7.	18.09.2003	W.P.No.35989 of 2002
8.	22.09.2003	W.P.No.16825 to 16927 of 2001
9.	26.09.2003	W.P.No.6546 of 2003
10.	26.09.2003	W.P.No.7544 of 2003
11.	17.10.2003	W.P.No.18253 of 2003
12.	23.10.2003	W.P.No.7993 of 2003
13.	23.10.2003	W.P.No.18255 of 2003
14.	18.11.2003	W.P.No.15893 of 2003
15.	01.12.2003	W.P.No.21962 of 2003
16.	20.04.2004	W.P.No.30249 of 2004
17.	21.06.2004	W.P.No.33733 of 2003
18.	20.06.2004	W.P.No.30032 of 2003
19.	06.07.2004	W.P.No.36784 of 2003
20.	07.07.2004	W.P.No.31036 of 2003

4. Learned Counsel for the Petitioner does not dispute the aforesaid contention.

5. In view of the same, the Petitioner cannot be granted the relief claimed and this Writ Petition is dismissed. No Costs.

may

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

To

1.The Chairman
Second Appellate Committee
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Udyog Bhavan, New Delhi.

2.The Textile Commissioner
New CGO Complex
No.48, New Marine Lines, Mumbai.

3.The Director
Apparel Export Promotion council
Karumuthu Centre, Third Floor1
No.498, Anna Salai, Chennai - 32.

+lcc to MR.M.A.Abdul Wahab, Advocate SR.NO.46268

EV(CO)
sm:3.10.2018

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