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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment pronounced on: 19.02.2018

+ W.P.(C) 1176/2017

LEE PHARMA LTD. Petitioner

Through : Mr. Rupesh Kumar and
Mr. Pravesh Bahuguna,
Adv.

versus

UNION OF INDIA & ORS Respondents

Through : Mr. Sanjeev Narula, CGSC
with Mr. Abhishek Ghai,
Adv.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SHAKDHER

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RAJIV SHAKDHER, J. (ORAL)

1. This writ petition seeks to challenge the order dated 14.09.2016 passed by the Deputy Director General of Foreign Trade and the decision dated 31.5.2016 rendered by the Policy Relaxation Committee (hereafter referred to as 'PRC').

2. Perusal of the order dated 14.9.2016 would show that it was based on an application dated 18.7.2016 addressed to the Chairperson of the Appellate Committee, Government of India, Ministry of Commerce & Industry, Department of Commerce, Directorate General of Foreign Trade (Appellate Committee).

3. Even according to counsel for the petitioner, application dated 18.7.2016 was wrongly addressed to the Appellate

Committee. According to learned counsel it should have been addressed to the Appellate Authority under Section 15 of the Foreign Trade (Development and Regulation) Act, 1992 (hereafter referred to as '1992 Act'). Therefore, in principle, no fault can be found with the order dated 14.9.2016, whereby the Deputy Director General of Foreign Trade has noted that there is no Appellate Committee in existence.

4. I may also indicate that in this very order, reference is also made to the other decision, which is being impugned i.e., the decision of PRC dated 31.5.2016.

4.1 Counsel for the petitioner says that he will prefer an appeal under Section 15 of the 1992 Act to the Appellate Authority qua the decision dated 11.2.2016 rendered by the Assistant Development Commissioner.

5. The decision, rendered by the Assistant Development Commissioner, in sum, denies the drawback claimed by the petitioner for the period from April - June 2011 to October - December 2012 on the ground that the claim was made beyond the period of limitation as prescribed in para 9.3 of the Handbook of Procedure.

6. The petitioner, as is indicated above, also took recourse to a parallel route to have its grievance redressed by approaching the PRC. This approach, led to the other impugned decision being passed i.e., order dated 31.5.2016 by the PRC. The PRC rejected the petitioner's request for condonation of delay. The petitioner had sought condonation of delay on the ground that it was unaware

of the fact that it could have availed duty drawback benefits.

7. It is not disputed that the petitioner had set up Export Oriented Undertaking (EOU) Unit as far back as in 2007. The petitioner, however, has, as it appears, restricted its claim for duty drawback for the period commencing from April 2011.

8. Given these circumstances, counsel for the petitioner says he would like to withdraw this writ petition and take his chance with the Appellate Authority constituted under Section 15 of the 1992 Act.

9. Since, the appeal which the petitioner intends to file is beyond the period of 45 days prescribed under Section 15 of the 1992 Act, the Appellate Authority will condone the delay qua the period spent by the petitioner, in this court as well as the period spent before the PRC.

10. As is obvious, this court has not expressed any opinion on the merits of the petitioner's case.

11. The petition is disposed of with liberty as prayed for.

RAJIV SHAKDHER, J

FEBRUARY 19, 2018

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