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

\+ **W.P.(C) 4193/2017 and C.M. No.18356/2017**

CORNING TECHNOLOGIES INDIA PVT. LTD. ..... Petitioner

Through: Mr Tarun Gulati, Mr Nikhil Gupta, Mr Sparsh Bhargava and Mr Vinayak Mathur, Advocates.

versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr Kirtiman Singh, CGSC for UOI with Mr Prateek Dhanda, Mr Waize Ali Noor, Ms Shruti Dutt and Mr Vikramaditya Singh, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% **11.09.2018**

1. The petitioner has filed the present petition, *inter alia,* impugning a clarification dated 23.09.2014 and the order dated 09.02.2017 issued by respondent no.3 (Joint Director of Foreign Trade).

2. The controversy involved in the present petition relates to the entitlement of the petitioner to the benefits of the Incremental Export Incentivisation Scheme (IEIS) on an annual basis in terms of Paragraph 3.14.5 of the Foreign Trade Policy, 2009-14. The petitioner claims that in terms of paragraph 3.14.5(c), the petitioner would be entitled to benefits of IEIS. However, if the value of the same is above ₹1 crore, the same would be subject to greater scrutiny by the Regional Authority. The respondent disputes the same. According to the respondent, the benefit of IEIS is

limited to a scrip value not exceeding ₹1 crore.

3. By the impugned order dated 23.09.2014, respondent no.3 had directed as under:

"*Benefit of Incremental Export Incentivisation Scheme for the year 2013-14 will be limited to a scrip of a value not exceeding ₹1 crore per IEC RA(Regional Authorities) should recover excess claim over ₹1 crore, if sanctioned by them.*"

4. By the email dated 09.02.2017 – sent in response to the petitioner's request for issuance of a scrip for a value of ₹5,48,66,396/- for the year 2013-14 – respondent no.3 had reiterated the above stand.

5. The above controversy is squarely covered in favour of the petitioner by a decision of a Division Bench of this Court in ***M/s Welldone Exim Pvt. Ltd. (Formerly known as M/s G.D. Mangalam Exim Pvt. Ltd.) v. Directorate General of Foreign Trade & Anr.: W.P.(C) 5082/2017*** and other connected matters, decided on 12.04.2018.

6. The said petitions were disposed of with the following directions:-

> "12. In view of the aforesaid discussion, the present writ petitions are allowed with a direction to the Regional Authority to examine the case of the petitioner for grant of export incentive and pass a reasoned and speaking order. The application would not be rejected on the ground that total amount being claimed exceeded Rs.1 crore during the financial year 2013- 14. However, the greater scrutiny in terms of clause (ii) of paragraph 3.14.5(c) read with paragraph 3.8.3 (e) (ii) would be undertaken. The aforesaid exercise would be completed within 10 weeks from the date copy of this order is

served on the respondent. There would be no order as to costs."

7. In view of the above, the Regional Authority is also directed to examine the case of the petitioner for grant of export incentive and pass a speaking order. The petitioner's application would not be rejected on the ground that its claim for benefit under IEIS exceeds ₹1 crore for the financial year 2013-2014. However, the said claim would bear a greater scrutiny in terms of Clause 2 of Paragraph 3.14.5(c) read with Paragraph 3.8.3(e) as introduced by the public notice dated 25.09.2013.

8. The petition is disposed of in the above terms. The pending application is also disposed of.

VIBHU BAKHRU, J

SEPTEMBER 11, 2018
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