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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 30.08.2018

W.P.(C) 12220/2016

VEDANTA LIMITED

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Manish Garg, Advocate

For the Respondents : Mr. Rajat Gava, Advocate for Mr. Sanjeev Narula, CGSC for UOI

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. The writ petition has been received on transfer.
2. With the consent of learned counsel appearing on behalf of the parties, the same is taken up for final hearing and disposed of with the following order.
3. It is the case of the petitioner that, owing to global downturn and recession, exports from India were substantially hit in the financial year 2012-13.

4. In order to incentivize and achieve incremental exports, the Central Government introduced a scheme called the Incremental Exports Incentivization Scheme (hereinafter referred to as the 'subject scheme') vide notification No.27(RE-12)/2009-2014 dated 28.12.2012, by inserting paragraph 3.14.4 in Foreign Trade Policy 2009-14.
5. As is evident from the nomenclature of the subject scheme, the objective of the same was to incentivize the incremental exports.
6. The petitioner, as an IEC holder was entitled to the benefits of the subject scheme for the year 2013-14.
7. However, subsequent thereto, vide notification dated 23.09.2014, a clarification regarding entitlement under the subject scheme was issued by the Director General of Foreign Trade, to the effect that, the subject scheme for the year 2013-14, would be limited to a scrip of a value not exceeding Rs.1 crore per IEC, with retrospective effect.
8. It is an admitted position that, a Division Bench of this Court vide decision dated 12.04.2018, in W.P.(C)5082/2017, titled as *M/s Welldone Exim Pvt. Ltd. (Formerly known as M/S G.D. Mangalam Exim Pvt. Ltd.) vs. Directorate General of Foreign Trade & Anr.*, held in paragraph 12 thereof, as follows:

“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 3.15.5 (c) read with paragraph 3.8.3 (e) (ii) would be undertaken. The aforesaid exercise would be completed within 10 weeks from the date of copy of this order is served on the respondent. There would be no order as to costs.”

9. Learned counsel appearing on behalf of the Union of India concedes that, the prayers sought in the present petition are covered on all fours by the aforesaid decision in **Welldone Exim** (*supra*), and the same will consequently have to be allowed in terms thereof.
10. Having heard learned counsel appearing on behalf of the parties and perused the petition paper book, and in terms of the decision in **Welldone Exim** (*supra*); the impugned communication dated 23.09.2016, whereby the respondent/Directorate General of Foreign Trade have restricted the entitlement to Rs.95,00,000/- only, as against the petitioner's claim to the tune of Rs.33,68,02,996.70/- is held to be without jurisdiction, arbitrary, illegal and capricious and contrary to the provisions of the Policy and the Handbook of Procedures. The same is accordingly set aside and quashed.
11. The writ petition is accordingly 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 in this behalf. The petitioner's application will, however, be not rejected on the ground that, the total amount of being claimed to the tune of Rs.33,68,02,996.70/- by the petitioner exceeds Rs.1 crore during the financial year 2013-14.

12.It is further directed that, requisite scrutiny in terms of clause (ii) of paragraph 3.14.5 (c) of the notification dated 25.09.2013, read with paragraph 3.8.3 (e)(ii) of the Handbook of Procedure, Volume I for Incremental Exports Incentivisation Scheme would be undertaken.

13.The official respondent is directed to complete this exercise within a period of ten weeks from today, under intimation to the petitioner.

14.With the above directions, the writ petition is disposed of accordingly.
No order as to costs.

**SIDDHARTH MRIDUL
(JUDGE)**

AUGUST 30, 2018
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