

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8301 OF 2018

Shalina Laboratories Private Limited ...Petitioner
vs.
The Union of India and Others ...Respondents

Mr. Jas Sanghvi i/b. PDS Legal, for the Petitioner.
Mr. P.S. Jetly a/w. Mr. D.P. Singh, for the Respondents

**CORAM : M.S. SANKLECHA &
M. S. SONAK, JJ.
DATE : JUNE 13, 2019**

P.C.:

. At the request of the parties, the Petition is taken up for final disposal at the stage of admission. This is for the reason that it is an agreed position between the parties that issue arising herein is concluded by an earlier decision of this Court.

2. This Petition under Art.226 of the Constitution of India challenges:

(a) This Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality thereof to quash and set aside (I) Policy Circular No. 9(RE-2013)/2009-14 dated 30th October, 2013 issued by the Respondent No. 2 and (ii) Order No. SEEPZ-SEZ/I-A-II/DBK /978/WP/ SPEL/2014-15/03290 dated 15th February, 2017 passed by Respondent No. 3.

(b) This Court be pleased to issue writ of mandamus or a writ in the nature of mandamus or any other appropriate writ order or direction under Article 226 of the Constitution of India, ordering and directing the Respondents, their subordinate servants and agents:-

(i) To forthwith sanction and grant to the Petitioner the deemed export drawback at the rate mentioned in Column B of the schedule of the all industry rate of duty drawback published vide Notification No. 68/2011-Customs (N.T.) dated 22nd September, 2011.

(ii) To forthwith sanction and grant the drawback of Rs. 1,17,99,917/- in respect of supplies by the DTA units to the Petitioner at the rate in column B of the schedule of All Industry Rate of Duty Drawback as claimed by the Petitioner its applications.

3. It is agreed position between the parties that the impugned order of the Respondent No. 3- Development Commissioner, SEEPZ, Mumbai was a common order dated 15th February, 2017 in respect of one Sarla Performance Fibers Limited and the Petitioner. The issues arising before Respondent No. 3 in the Revision Application of **M/s. Sarla Performance Fibers Limited** and the Petitioner were identical and disposed of by common/identical reasons by the order dated 15th February, 2017.

4. *M/s. Sarla Performance Fibers Limited* challenged the above

order dated 15th July, 2017 of the Respondent No. 3 in Writ Petition No. 7210 of 2017 before this Court being *M/s. Sarla Performance Fibers Limited vs. Union of India*. The reliefs sought therein by the *M/s. Sarla Performance Fibers Limited* were as under:

(a) This Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality thereof to quash and set aside (I) Policy Circular No. 9(RE-2013)/2009-14 dated 30th October, 2013 issued by the Respondent No. 2 and (ii) Order No. SEEPZ-SEZ/I-A-II/DBK /978/WP/SPEL/2014-15/03290 dated 15th February, 2017 passed by Respondent No. 3.

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(i) To forthwith sanction and grant to the Petitioner the deemed export drawback at the rate mentioned in Column B of the schedule of the all industry rate of duty drawback published vide Notification No. 68/2011-Customs (N.T.) dated 22nd September, 2011.

(ii) To forthwith sanction and grant the drawback of Rs. 1,17,99,917/- in respect of supplies by the DTA units to the Petitioner at the rate in column B of the schedule of All Industry Rate of Duty Drawback as claimed by the Petitioner its applications.

5. This Court by its order dated 27th April, 2018 in *Sarla Performance Fibers Limited* (supra) allowed its Appeal in terms of prayer clause (a) and (b) which are identical to the prayer clauses in this Petition.

6. It is an agreed position before us that decision of this Court in *Sarla Performance Fibers Limited* (supra) would equally apply to the present Petition.

7. In the above view, the Petition is allowed in terms of the prayer clause (a) and (b).

(M.S. SONAK, J.)

(M. S. SANKLECHA, J.)