



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2019

CORAM

WEB COPY

THE HONOURABLE DR.JUSTICE ANITA SUMANTHW.P (MD) No.13818 of 2015andM.P. (MD) No.1, 2 and 4 of 2015

M/s. Madura Coats Private Limited.,
Rep. By its Manager (Excise & Legal),
Mr.M.Ramasubramanian,
New Jain Road, Madurai-625 001.

... Petitioner

/Vs./

1.The Joint Director General of Foreign Trade,
The Office of the Joint Director General of Foreign Trade,
Plot No.117, 1st Main Road,
K.K.Nagar, Madurai-625 020.

2.Policy Relaxation Committee,
Rep by the Director General of Foreign Trade,
Ministry of Commerce,
Udyog Bhavan, New Delhi-110 011.

3.The Director General of Foreign Trade,
Ministry of Commerce,
Udyog Bhavan, New Delhi-110 011.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of mandamus, directing the respondents to remove the petitioner's name from the Denied Entity List as published in the official website of the second respondent namely www.dgftcom.nic.in and to direct the first and second respondents to forbear from taking any further steps in respect of the nine licenses namely 1. 3510017635/28.11.2005 in F.No.35/21/42/005/AM05, 2. 3510015139/31.12.2004 in F.No.35/21/42/011/AM05, 3. 3510015715/28.02.2005 in F.No.35/24/42/013/AM05 4. 3510015719/28.02.2005 in F.No.35/24/42/016/AM05 5. 3510015716/28.02.2005 in F.No.35/21/42/005/AM05 6. 3510015922/17.03.2005 in F.No.35/21/42/029/AM05 7. 3510016107/31.03.2005 in F.No.35/24/42/029/AM05 8. 3510017157/05.09.2005 in F.No.35/21/39/001/AM06 9. 3510019609/25.09.2006 in F.No.35/21/42/029/AM05 until the second respondent proposes of the the representation of the petitioner dated 11/06/2015 and in compliance with the order dated 27.05.2010



issued by this Court in W.P.(MD)No.6997 to 7006 of 2010.

For Petitioner : Mr.T.Mohan
for D.Geetha

For Respondents : Mr.S.Jeyasing
Central Government Standing Counsel

WEB COPY

ORDER

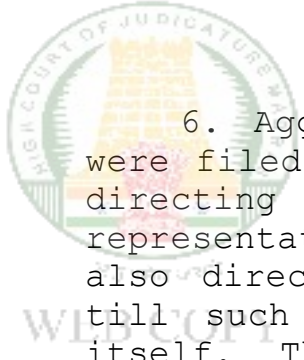
The petitioner is engaged in the textile business, specifically in the manufacture of a wide variety of sewing threads including specialized high performance threads for export. The petitioner imports polyester staple fibre and filament for utilization in the manufacture of high performance threads for export. Supply is effected to 100% Export Oriented Units (EOUs) within India which qualify as 'deemed exports' under the Foreign Trade Policy (FTP) issued by the Ministry of Commerce, Government of India, New Delhi.

2. The petitioner has availed incentives granting duty free imports by way of issuance of advance licenses for the period 2004 to 2007. The benefit of exemption from duty is conditional upon supplies being effected and utilized only for the purposes of exports. It is only upon fulfilment of the export obligation that the petitioner becomes entitled to the benefit under the advance licences.

3. The claim of exemption necessitates certain documents to be executed in Form ARE3 duly signed by the manufacturer certifying the items supplied, the quantity, value and date of supply. There was no difficulty faced by the petitioner in this regard till the eighth of July 2004, till such time the raw material imported was liable for central excise duty.

4. However, according to the petitioner, with effect from 09.07.2004, when the imports stood exempted from duty by virtue of Notification No.30/2004 CE dated 09.07.2004, there was no necessity for any documentation including ARE3 Form or other statements being supplied to the 100% EOU for endorsement or validation of the imports. Thus, no discharge certificate has been issued confirming the statutory obligation of certifying export in order to redeem the advance licences.

5. It was in this scenario that show cause notices dated nil.07.09, 14.07.09, 14.07.09, 14.07.09, nil.07.09, 30.08.09, 25.08.09, 14.07.09, nil.07.09, nil.07.09 and demand notices dated 27.04.10, 21.04.10, 21.04.10, 22.04.10, 21.04.10, 27.04.10, 21.04.10, 20.04.10, 21.04.10, 27.04.10 appear to have been issued by the 1st respondent calling upon the petitioner to establish compliance with the conditions for availment of benefit under the



6. Aggrieved by the same, W.P.(MD)Nos.6997 to 7066 of 2010 were filed and disposed by this Court vide order dated 27.05.2010 directing the second respondent to consider the petitioners' representations dated 22.10.2009, 12.03.2010 and 26.04.2010 and also directing that the show cause notices be kept in abeyance till such time final orders were passed on the representation itself. The (applications) representations are stated to be still pending.

7. The petitioner has approached the respondents seeking relaxation of the conditions and requesting that other documents available to establish exports be accepted in order to enable it to redeem the advance licences. It has also undertaken to execute an internity bond and this fact has been noted in order dated 27.05.2010.

8. Mr.Mohan, learned counsel appearing for the petitioner, prays that the respondents may be directed to dispose the applications of the petitioner, specifically in line with 4.25 of the Foreign Trade Policy, within a specified time frame.

9. The respondent does not raise any serious objection in regard to the request made. In fact, the second respondent is, admittedly, in correspondence with the petitioner in relation to the processing of the applications filed. In the light of the aforesaid, I find no reason for the second respondent to keep the Application of the petitioner dated 11.06.2015 pending for so long. He is thus directed to dispose the same within a period of six months from date of receipt of a copy of this order after hearing the petitioner and in accordance with law.

10. Till the applications are disposed as aforesaid, interim orders dated 27.05.2010 passed in W.P.(MD)Nos.6997 to 7006 of 2010 directing that the SCNs dated be kept in abeyance, are reiterated and shall continue to operate.

11. This writ petition is disposed in the aforesaid terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Joint Director General of Foreign Trade,
The Office of the Joint Director General of Foreign Trade,
Plot No.117,1st Main Road,
K.K.Nagar, Madurai-625 020.

2.Policy Relaxation Committee,
Rep by the Director General of Foreign Trade,
Ministry of Commerce,
Udyog Bhavan, New Delhi-110 011.

3.The Director General of Foreign Trade,
Ministry of Commerce, Udyog Bhavan, New Delhi-110 011.

+1 CC to M/s.D.GEETHA, Advocate (SR-71651[F] dated 27/06/2019)

+1 CC to M/s.S.JEYASINGH, Advocate (SR-71946[F] dated 27/06/2019)

W.P(MD)No.13818 of 2015
26.06.2019

KM/(17.09.2019) 4P 6C