IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP No.12133 of 2018
Date of Decision: 03.07.2019

M/s Pritul Machines .....Petitioner

Versus

Union of India and others .....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Jagmohan Bansal, Advocate for the petitioner.

Mr. Sanjay Vashisth, Sr. Panel Counsel for Union of India.

Mr. D.D. Sharma, Advocate for respondent No.4.

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RAKESH KUMAR JAIN, J. (ORAL)

The petitioner is engaged in the manufacture of bakery machines falling under Chapter Heading 84381010 of the First Schedule to Customs Tariff Act, 1975. The manufacturing unit of the petitioner is in Muzaffarnagar (U.P.). Respondent No.3 had issued Export Promotion Capital Goods Licence No.3330001681 dated 18.05.2010 to the petitioner. On the basis of said licence, the petitioner is entitled to export the goods either itself as a manufacturer or through third party as a merchant exporter without paying the custom duty. It is an admitted fact that the petitioner had imported capital goods against the said licence and saved custom duty amounting to ₹ 28,81,143/-. It is also an admitted fact that in return the petitioner has to perform the export obligation to the extent of six times in view of the duty saved i.e. of ₹ 1,74,86,858/-.

Counsel for the petitioner has submitted that in case of third party export i.e. through merchant exporter, the third party exporter shall provide the shipping bill to the Customs Department and 'H' Form to the manufacturer/petitioner, who would further submit ARE-I Form to the Excise Authorities in order to show that the goods were actually manufactured and exported. It is submitted that the petitioner has already performed his export obligation of exporting the goods six times of the custom duty saved and has prayed for redemption of certificate in respect of his licence dated 18.05.2010. However, the proceedings of redemption were put on hold by respondents No.1 to 3, inter alia, on the ground that the investigations are being carried out by the Directorate of Revenue Intelligence to find out as to whether in fact the petitioner has performed his export obligation or not.

Counsel for the petitioner has further submitted that in their reply filed by respondent No.4, it is admitted that the investigations in regard to export obligation have been over because show cause notice has been issued by respondent No.4 on 13.06.2018, which is pending adjudication but it is submitted that the show cause notice would be issued only after the investigations are complete.

On the other hand, counsel appearing on behalf of respondents No.1 to 3 has submitted that the redemption proceedings have not been carried out in respect to the licence of the petitioner dated 18.05.2010 because of the proceedings pending before the DRI in regard to the said investigations and also in regard to the letter dated 06.02.2018.

Counsel for the petitioner has submitted that once the investigations have been carried out by respondent No.4, it does not lie in the mouth of respondents No.1 to 3 to maintain status quo in regard to the redemption of the licence on the said ground.

Faced with this argument, counsel for respondents No.1 to 3 has submitted that if a direction is issued by this Court and the petitioner is also directed to join the proceedings by tendering the documents whatever is required by respondents No.1 to 3 then the verification in respect to the licence dated 18.05.2010 for the purpose of redemption can be carried out within a specified time.

After hearing learned counsel for the parties and keeping in view the aforesaid facts and circumstances, we are of the considered opinion that the main bottle neck before respondents No.1 to 3 was the investigation being carried out by respondent No.4 which has already been over and, therefore, keeping in view the prayer made by counsel for respondents No.1 to 3, direction is issued to complete the redemption proceedings in respect of export permission capital goods licence No.3330001681 dated 18.05.2010 issued to the petitioner by respondent No.3 within a period of three months from the date of receipt of certified copy of this order as the pendency of these proceedings is hampering the business of the petitioner.

It is needless to mention that the petitioner shall cooperate in the process of taking a decision by respondents No.1 to 3.

Disposed of.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

03.07.2019
Vinay

Whether speaking/reasoned Yes/No
Whether reportable Yes/No