IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No. 9908 of 2018
Date of decision: 26.8.2019

M/s Shree Hosiery Factory

Petitioner

vs.

Union of India and others

Respondent

CORAM Hon'ble Mr. Justice Jaswant Singh
Hon'ble Mr. Justice Lalit Batra

Present: Mr. Jasgmohan Bansal, Advocate for petitioner.
Mr.Tejender K. Joshi, Advocate for respondents 1 to 3
Mr. Naveen Sharma, Advocate for respondent No.4

Jaswant Singh, J (Oral)

Mr. Naveen Sharma,Advocate has placed on record Vakaltnama on behalf of respondent No.4.

The petitioner is a proprietorship concern engaged in the manufacture and export of textile garments with its factory situated at Industrial Area, Ludhiana.

The petitioner on 10.6.2017 exported goods vide five shipping Bills bearing Nos. 6650516, 6650549, 66561407, 6651637 and 6654466 to foreign country. The DRI on 18.6.2017 suspecting misdeclaration of the value of the exported goods, detained the container and freezed the bank account maintained with respondent No.4-bank due to alleged fraudulent availment of incentive drawbacks based on the aforesaid shipping bills, pending investigation by DRI.

The DRI upon conclusion of its investigations in November, 2017, dropped the investigations while proceeding to issue no objection

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certificate to the Department of Customs for release of the goods. Thus, the goods were permitted to be exported on 13.11.2017.

The instant writ petition was filed aggrieved with the action of Department of Customs in not releasing the drawback incentives based on the aforesaid export of the goods vide aforesaid shipping bills. The prayer was also for direction to de-freeze the bank account of the petitioner.

It is not in dispute that the export proceeds qua the aforesaid consignment stood released on 30.11.2018 under intimation through on line communication to Directorate General of False Trade (DGFT).

At the time of previous hearing on 19.7.2018, learned counsel for Customs-DRI informed the Court that the account of the petitioner with respondent No.4 stood de-freezed on 27.11.2018 and the amount of drawback incentives would be released on furnishing Bank Realization Certificate (BRC).

At the time of resumed hearing today, learned counsel for the petitioner has handed over copies of BRCs for the aforesaid five shipping bills although the same were already available to the Department of Customs on the web site of DGFT.

Be that as it may, the Department of Customs can no longer maintain the previous objections with regard to the non release of incentive amount due.

Learned counsel for the Customs Department assures the Court that the needful would be done and the amount due shall be released within four weeks.

In view of the aforesaid stand of the Department of Customs, learned counsel for the petitioner concedes that nothing more survives for adjudication in the present writ petition.

In view of the above, the present writ petition petition is

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disposed of as infructuous. The Department of Customs would be bound to release the due amounts of drawback incentives to the petitioner within a period of four weeks of the receipt of certified copy of this order, failing which the petitioner would be entitled to interest @ 9% on the total amount due from the date of accrual till the date of realization and the Department would be free to recover the amount of interest from the competent authority/ sanctioning authority concerned. That apart, the officials concerned shall make themselves liable in contempt proceedings.

(JASWANT SINGH)
JUDGE

(LALIT BATRA)
JUDGE

August 26, 2019
TSM

Whether speaking/ reasoned Yes/ No

Whether Reportable Yes/ No

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