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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1419/2019**

M/S. ANJAL GARMENTS

..... Petitioner

Through: **Mr.Anandh K., Advocate**

versus

UNION OF INDIA

..... Respondent

Through: **Ms.Shiva Lakshmi, CGSC**

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

12.02.2019

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1. The petitioner challenges the order of the Central Government finally declining its request for drawback. It had exported goods and claimed drawback to the tune of ₹14,18,630/-. The drawback application was rejected by the adjudicating officer and the appellate authority. The petitioner's revision to Central Government was unsuccessful. The Central Government noticed that despite considerable latitude, the export proceeds had not been realised in terms of the Foreign Exchange Management Act, 1999 and the extended period permitted by the Reserve Bank of India. In these circumstances, the petitioner's request was not granted.

2. It is urged on behalf of the petitioner that the inability to realise the export proceeds was beyond the control of the petitioner and moreover, its claim to the Export Credit Guarantee Corporation [hereafter referred to as 'ECGC'] had been declined, which was a ground for it to approach the

consumer forum where the dispute is presently pending. It is submitted that in the event its claims against ECGC are upheld, the petitioner would be justified in saying that the export proceeds were realised. This Court is of the opinion that, in the facts of this case it is evident that the petitioner was granted more than ten years time, apparently extended repeatedly, to realise the export proceeds; its argument with respect to the contingency of the realisation of the amounts due from ECGC is not a ground for entertaining these proceedings. The ECGC claims are essentially of indemnification or compensation for failure to receive consideration for the export. In fact in the event of favourable order, it could well be argued that the petitioner was not compensated primarily by its foreign buyer as the result of which the event occurred.

3. In these circumstances, the Court is not inclined to entertain the petition, which is accordingly dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

FEBRUARY 12, 2019

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