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

\+ W.P.(C) 1743/2019

DR. REDDY'S LABORATORIES LTD AND ANR. ..... Petitioners

Through: Ms Neelima Tripathi and Ms Gunjan Singh, Advocates.

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Ms Shiva Lakshmi, CGSC with Mr Sri Ram, Advo`cates for UOI.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% **25.02.2019**

1. The petitioner has filed the present petition, *inter alia,* impugning an order dated 16.11.2018 (hereafter 'the impugned order'), passed by the respondent no.2 (Director General Foreign Trade- DGFT), whereby the petitioner's claim for duty credit scrips under the Incremental Export Incentivisation Scheme (IEIS), on an annual basis, for the exports made during the year 2013-14, has been rejected. The petitioner had claimed a sum of ₹29.17 crores as benefits under the IEIS. However, the same has been restricted by the respondents to ₹1 crore, on an interpretation of the Notification no.43 dated 25.09.2013.

2. It is the respondents' case that the incentive under the IEIS is limited to ₹1 crore. The petitioner disputes the same and contends that the benefit is not limited to only ₹1 crore but the incentive above that amount is required

to bear greater scrutiny. The petitioners' contention has been upheld by the Division Bench of this Court in ***M/s Weldone Exim Pvt. Ltd. v. DGFT & Anr.: W.P.(C) 5082/2017*** and other connected matters decided on 12.04.2018. The operative part of the said decision reads as under:-

> "12. In view of the aforesaid discussion, the present writ petitions are allowed with a direction to the Regional Authority to examine the case of the petitioner for grant of export incentive and pass a reasoned and speaking order. The application would not be rejected on the ground that total amount being claimed exceeded Rs.1 crore during the financial year 2013-14. However, the greater scrutiny in terms of clause (ii) of paragraph 3.15.5 (c) read with paragraph 3.8.3 (e) (ii) would be undertaken. The aforesaid exercise would be completed within 10 weeks from the date copy of this order is served on the respondent. There would be no order as to costs."

3. The learned counsel appearing for the respondents, does not dispute that the controversy involved in the present petition is covered by the aforesaid decision of the Division Bench. She, however, states that the respondents have not accepted the said decision and have preferred a Special Leave Petition before the Supreme Court. However, she also confirms that the said decision has not been stayed by the Supreme Court.

4. The petitioner has already received the benefit to the extent of ₹1 crore and now claims the benefit for the remaining amount of ₹28.17 crores. In view of the decision in ***M/s Weldone Exim Pvt. Ltd.*** (*supra*), the petitioner would be entitled to the said amount, subject to the respondents carrying out greater scrutiny.

5. In view of the above, the present petition is allowed and the impugned order dated 16.11.2018 is set aside. The order dated 30.01.2018

passed by respondent no.3 (Addl. DGFT), rejecting the petitioner's appeal is also set aside. The respondents are directed to re-examine the petitioners request for export incentives in terms of the decision of the Division Bench of this Court in ***M/s Weldone Exim Pvt. Ltd.*** (*supra*). In the event, the respondents require any further documents, the respondents would be at liberty to call for the same. The petitioners are also at liberty to file any further documents as may be necessary within a period of two weeks. The concerned authority shall examine the same and pass an order within a period of six weeks from today.

6. The learned counsel for the petitioners, claims that the respondent no.4 has already scrutinised the petitioner's claim and, therefore, no further scrutiny is required. However, this is not persuasive for the reason that greater scrutiny is required in terms of paragraph 3.14.5(c)(ii) of the Foreign Trade Policy.

7. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

FEBRUARY 25, 2019
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