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

Date of decision: 11th December, 2019

\+ **W.P.(C) 6477/2018**

BAYER CROP SCIENCE LIMITED ..... Petitioner

Through: Mr. Ramesh Babu M.R. & Ms. Smitharani M.R., Advocates (M-9311289084)

versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr. Amit Bansal, Sr. Standing Counsel with Mr. Aman Rewaria, Advocate for R-3 (M-9810072413)

CORAM:
JUSTICE PRATHIBA M. SINGH

<u>Prathiba M. Singh, J.</u> (Oral)

1. The Petitioner – Bayer Crop Sciences Limited which is an exporter of agrochemicals and other formulated products has filed the present petition against the Directorate General Foreign Trade (*hereinafter 'DGFT')* and Commissioner of Customs/Union of India on the ground that under the Merchandise Exports from India Scheme (MEIS), it was entitled to various benefits which were extended to it in respect of 43 shipping bills. The case of the Petitioner is that MEIS is an incentive which is provided to exporters in order to compensate them for higher freight charges and labour costs. It is the usual process to upload shipping bills on the DGFT system which is done by exporters online. In respect of 43 shipping bills for the exports done during the period 2015-16, the Petitioner was unable to upload the same and despite repeatedly contacting the official web platform of the DGFT i.e. ICEGATE, the issues could not be resolved. Hence the Petitioner also made a representation to the Joint Director General of Foreign Trade to intervene in the matter and since repeated representations did not yield any fruitful

result, the present writ petition has been filed. The prayers in the petition are as under:

> *"(a) Direct the respondents to immediately upload the correct and complete data of the 43 shipping bills to enable the petitioner to apply for MEIS benefit which they are entitled to under the Export Import Policy of the Government.*
>
> *(b) Extend the time for submitting application for MEIS Benefit by Six months from the date the respondents upload the correct and complete data of the 43 shipping bills: and*
>
> *(c) Pass such other further and/or other writs, orders and directions as the nature and circumstances of the case may require."*

2. The petition was first listed on 1st June, 2018 when notice was issued in the matter. During the pendency of the petition, the Petitioner submitted on 12th July, 2019 that 39 shipping bills have already been uploaded. Ld. counsel for the Respondent was asked to seek instructions in the matter.

3. Mr. Amit Bansal, appearing for the Commissioner of Customs handed over copy of an affidavit dated 30th November, 2019 which is stated to have been filed yesterday. As per the said affidavit, sworn by the Assistant Commissioner working in the Office of the Commissioner of Customs i.e. Respondent No.3 most of issues have been resolved. Paragraphs 1 and 2 of the said affidavit read as under:

> *"1. That regarding the issue of transmission of 43 shipping bills from customs system to DGFT system it is stated that the whole process of transmission of shipping bills is automatic in EDI system. In the very first instance no manual intervention by customs is required for transmission of the data regarding*

shipping bills as the process is automatic. After filing of EGM (Export General Manifest) the data of shipping bills concerned get automatically transmitted to DGFT for further necessary action at their end. However, in very few cases the exporters approach EDI section with request of re-transmission of the shipping bills as their data is still not reflecting in DGFT even after the automatic transmission. Then the EDI section of this customs houses manually retransmits the shipping bills to DGFT. This happens only in very few cases. The issue of shipping bill not getting transmitted automatically has also been examined in general and found that due to connectivity or internet patch break or slow speed in some cases the continuing process of automatic transmission gets interrupted due to which the data of some shipping bill does not get transmitted. In such cases EDI section, when informed by the exporter immediately retransmits the data. At times these issues are brought to the notice of the team of DG system (Directorate General of Systems) which is custodian of the EDI system in Customs.

2. That further in response to Exporter's letter dated 06.01.2017, out of 43 Shipping Bills, 40 Shipping Bills were already re-transmitted to DGFT through AMEND role in the year 2017 & 2018. However, Shipping Bill No.3146189 dated 22.09.2015 could not be re-transmitted due to invalid date. Shipping Bill No.4896133 dated 24.12.2015 and 4896128 dated 24.12.2015 could not be retransmitted as the said Shipping Bills were not filed under reward scheme i.e. exporter has not opted the MEIS scheme."

4. As per the affidavit, the non-submission of the shipping bills by the Petitioner online could have been due to an IT related technical glitch. The same has been attempted to be resolved and the 40 shipping bills have now been re-transmitted to the ICEGATE platform. Printouts of the said

screenshots from the ICEGATE platform have also been placed on record. A perusal of the above affidavit shows that substantially, the Petitioner's grievance has been redressed - though belatedly. Out of the 43 shipping bills, the Respondents submits that 40 shipping bills have been re-transmitted and only the issue of three shipping bills remains as per the ld. counsel for the Petitioner.

5. Insofar as the three shipping bills which according to the Petitioner ought to have been re-transmitted are concerned, the proof of submission of the same contemporaneously would be furnished to the Respondent No.3. After verification of the same, if the Respondent No.3 has any objections in respect of the three shipping bills, the same shall be communicated to the Petitioner and the issues in respect of the three shipping bills shall also be resolved.

6. The 40 shipping bills which have now been re-transmitted shall now be processed by Respondent No.2 i.e. DGFT in order to permit the Petitioner to avail of the benefits under the MEIS. If the three shipping bills are re-transmitted after satisfying the Customs Authorities on the ICEGATE platform, then the said shipping bills would also be processed for extending of the MEIS benefit in respect thereof.

7. With the aforesaid directions, no further grievance of the Petitioner would survive. The petition is allowed in the above terms with no orders as to costs. All pending applications are also disposed of.

PRATHIBA M. SINGH
JUDGE

DECEMBER 11, 2019
Rahul