

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2020

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.8122 of 2019
(Heard Through VC)

M/s.Panasonic Carbon India Co.Ltd.,
Represented by its Managing Director,
Mr.R.Senthil Kumar .. Petitioner

Vs.

1. Ministry of Commerce and Industry,
Represented by its Additional Secretary,
Department of Commerce,
Udyog Bhawan, New Delhi - 110 011.
2. The Director General of Foreign Trade,
Office of Director General of Foreign Trade,
Udyog Bhawan, H-Wing, Gate No.2,
Moulana Azad Road, New Delhi -110 011.
3. The Zonal Director General of Foreign Trade,
Office of Zonal Director General of Foreign Trade,
4th Floor, Shastri Bhawan Annexe,
No.26, Haddows Road,
Chennai - 600 006.
4. The Joint Director,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan,
Jor Bagh, Aliganj, New Delhi - 110 003 .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to consider their representations dated 29.09.2018 and 01.10.2018 and permit them to import Super Fine Needle Coke (Processed Pet Coke) for use as raw material in the manufacture of carbon electrodes by them, subject to conditions that may be imposed by the Ministry of Environment, Forest and Climate Change, New Delhi, the fourth respondent herein.

For Petitioner : Mr.S.Murugappan
For Respondents : Mr.G.Babu,
CGSC

ORDER

The Writ Petition is filed seeking a mandamus to consider the representations of the petitioner dated 29.09.2018 and 01.10.2018 and permit them to import Super Fine Needle Coke (Processed Pet Coke) for use as raw material in the manufacture of carbon electrodes by them, subject to conditions that may be imposed by the Ministry of Environment, Forest and Climate Change, New Delhi, the fourth respondent herein.

2. It is stated that upto 16.08.2018, the said raw material, namely, Super Fine Needle Coke (Processed Pet Coke) was freely importable. However, on 17.08.2018, through a Notification bearing No.25/2015-2020, the policy was changed and the import of Pet Coke as fuel was prohibited. It is further stated by the learned counsel for the petitioner that certain concessions were made and import by certain industries were permitted for use of the goods as raw material and this was also subsequently expanded to include graphite electrode manufacturing industries also.

3. It is further stated by the learned counsel for the petitioner that the product manufactured by the petitioner is a carbon rod, which is a different form of graphite electrodes and thus, taking into account the fact that there is no manufacturer of this product in India and that this is a critical raw material for manufacture of carbon electrodes which are also consumed domestically, it is imperative that these industries should also be included, subject to the conditions that may be imposed by the Ministry of Environment, Forest and Climate Change. Hence, the petitioner has sent the representations to the respondents 2 and 3.

4. Mr.Babu, learned Central Government Standing Counsel appearing on behalf of the respondents, would place his reliance on the decision of the Hon'ble Supreme Court in M.C.Mehta -Vs- Union of India and Others, reported in 2018 SCC On-line SC 3565, wherein, it has been categorically stated that the Government has developed a policy of phasing out polluting vehicles and discouraging the manufacture of polluting vehicles, which has been done in a gradual manner. The need of the hour is to move to a cleaner fuel, as early as possible. Thus, considering Sub-Rule 21 of Rule 115 of the Central Motor Vehicle Rules, it has been stated that no motor vehicle conforming to the emission standard Bharat Stage-IV shall be sold or registered in the entire country with effect from 01.04.2020. Placing reliance on

the said judgment, it is stated that the fourth respondent is considering the same, as the same being a policy decision. However, the final order has to be issued by the second respondent, namely, the DGFT.

4. Considering the limited scope of prayer in the Writ Petition, the respondents 2 and 3 are directed to consider the representations of the petitioner dated 29.09.2018 and 01.10.2018 respectively, in the light of the judgement referred supra and pass appropriate orders, after affording an opportunity to the petitioner either personally or virtually, within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn

To

1. The Additional Secretary,
Ministry of Commerce and Industry,
Department of Commerce, Udyog Bhawan, New Delhi - 110 011.
 2. The Director General of Foreign Trade,
Office of Director General of Foreign Trade,
Udyog Bhawan, H-Wing, Gate No.2,
Moulana Azad Road, New Delhi -110 011.
 3. The Zonal Director General of Foreign Trade,
Office of Zonal Director General of Foreign Trade,
4th Floor, Shastri Bhawan Annexe,
No.26, Haddows Road, Chennai - 600 006.
 4. The Joint Director,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan,
Jor Bagh, Aliganj, New Delhi - 110 003.
- +2ccs to Dr.G.Babu, CGSC, Sr.No. 37241
+1 cc to M/s.Murugappan, Advocate Sr.No. 37273

W.P.No.8122 of 2019

AJS (CO)

RMP (19/01/2021)