BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **18.04.2022**
CORAM:
THE HONOURABLE MR.JUSTICE **C.SARAVANAN**
W.P.(MD) No.5009 of 2022
and
W.M.P.(MD) No.4113 of 2022

Paramount Textiles Mills Private Limited,
represented by its Managing Director,
M.Ramu, P.O.No.9, Thirali,
Thirumangalam,
Madurai. ... Petitioner

/vs./

1.The Deputy Director General of Foreign Trade,
Directorate General of Foreign Trade,
Ministry of Commerce and Industry,
Udyog Bhawan, H-Wing, Gate No.2,
Maulana Azad Road,
New Delhi 110 011.

2.The DGFT Policy Relaxation Committee,
represented by its Deputy Director General of Foreign Trade (PRC),
Directorate General of Foreign Trade,
Udyog Bhawan, H-Wing, Gate No.2,
Maulana Azad Road,
New Delhi 110 011.

3.The Assistant Commissioner of Customs,
KERN Enterprises Inland Container Depot,
29/3, Aruppukottai Road,
Valayankulam Village,
Madurai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 2nd respondent in its proceedings in F.no.HQRPRCAPPLY00114193AM22 in the PRC Meeting No.05/AM22 dated 09.07.2021 and quash the same as illegal and consequently grant the petitioner company the reward under the ROSCTL scheme in respect of its shipping bill No.2523603 and 30.04.2020 in light of the order made by this Court in Tractors and Farm Equipment Limited v. Director General of Foreign Trade (W.P.(MD) No.2085 of 2022) within the time that may be stipulated by this Court.

For Petitioner : M/s.Jasima Yasmin for Ajmal Associates

For R1 & R2 : Mrs.L.Victoria Gowri ASGI

For R3 : Mr.B.Vijay Karthikeyan Senior Standing Counsel

ORDER

The petitioner has filed this writ petition for a Certiorarified Mandamus to call for the records relating to the impugned order of the 2nd respondent in its proceedings in F.No.HQRPRCAPPLY00114193AM22 in the PRC Meeting No.05/AM22 dated 09.07.2021, to quash the same as illegal and to grant the refund to the petitioner company under the ROSCTL scheme in respect of its Shipping Bill No.2523603 on 30.04.2020.

2.The petitioner had made export under Rebate of State and Central Taxes and Levies *(herein after referred to as ROSCTL)* and the Foreign Trade Policy issued under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992. While filing the Shipping Bill on the exports made by the petitioner, the petitioner had inadvertently put 'NO' instead of 'YES' while opting for ROSCTL scheme ie., by filling the scheme code as 19 instead of 60.

3.The impugned order is challenged on the ground that the aforesaid scheme is a beneficial scheme available to an exporter under the Foreign Trade Policy and therefore, the benefit of the aforesaid scheme announced vide a Notification No.14/26/2016-IT (Vol.II) dated 08.03.2019 cannot be denied.

4.The learned counsel for the petitioner has placed reliance on the decision of this Court in W.P.(MD) No.16328 of 2020 ***(K.I.International Limited Vs. The Commissioner of Customs and another)*** dated 23.06.2021 and yet another decision of this Court in W.P.(MD) No.2085 of 2022 ***(Tractors and Farm Equipment Limited Vs. Directorate General of Foreign Trade, New Delhi and others)*** dated 21.02.2022.

5.The learned counsel for the petitioner submits that though these cases were in the context of MEIS scheme under the Foreign Trade Policy 2015-2020, the ratio therein will squarely apply to the facts of the present case, as ROSCTL scheme is another scheme under the Foreign Trade Policy.

6.Opposing the prayer, the learned counsel for the respondents submits that the petitioner has an alternate remedy by way of review before the 2nd respondent/the DGFT Policy Relaxation Committee, in terms of paragraph No.2.58 of the Foreign Trade Policy and therefore, it is submitted that the writ petition is without merits and the petitioner should be directed to approach the 2nd respondent to file appropriate application in terms of the aforesaid provisions under the Foreign Trade Policy. Hence, the learned counsel for the respondents prays for dismissal of this writ petition.

7.I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

8.The petitioner has exported a consignment of organic cotton and had filed a Shipping Bill No.2523603 on 30.04.2020. The export value of the consignment declared in the Shipping Bill was Rs.1,02,88,745.99/-. The Shipping Bill was filed by the petitioner through the petitioner's custom house agent. However, inadvertently chose the option 'NO' (scheme code 19) instead of 'YES' (scheme code 06) while filing the ROSCTL claim of the petitioner in the said Shipping Bill.

9.It is the case of the petitioner that such an error never occurred during the filing of IECGATE portal. It is submitted that there was an inadvertent error while filing the Shipping Bill and that upon realizing the same, the petitioner addressed the communication to the 3rd respondent on 06.05.2020 informing the inadvertence error with a request to amend the Shipping Bill. The 3rd respondent also appears to have given a certificate on 07.06.2021 to the effect that the petitioner is entitled to ROSCTL scheme. Hence, the request of the petitioner may be considered favorably. Despite the same, the 2nd respondent has rejected the request of the petitioner by conveying the decision of the Committee on 09.07.2021, vide e-mail dated 20.07.2021.

10.The aforesaid decisions of this Court *(referred supra)* though deal with export under the MEIS scheme, nevertheless it would apply to the facts of the case inasmuch as ROSCTL scheme announced vide Notification No.14/26/2016-IT (Vol.II) dated 08.03.2019 has been given to promote export. The Ministry of Textile has decided to rebate embedded State and Central taxes and levies to support exporters from India. The fact that the petitioner has exported goods out of India and the petitioner was otherwise entitled to the aforesaid scheme is not in dispute.

11.Considering the above, I am inclined to allow this writ petition by directing the respondents 2 and 3 to grant the aforesaid benefit to the petitioner in terms of the Foreign Trade Policy within a period of 6 weeks from the date of receipt of a copy of this order.

12.The writ petition stands allowed, in terms of the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (As)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mm

To

1.The Deputy Director General of Foreign Trade(PRC),
DGFT Policy Relaxation Committee,
Directorate General of Foreign Trade,
Udyog Bhawan, H-Wing, Gate No.2,
Maulana Azad Road,
New Delhi 110 011.

2.The Assistant Commissioner of Customs,
KERN Enterprises Inland Container Depot,
29/3, Aruppukottai Road,
Valayankulam Village,
Madurai.

+1 CC to M/s.B. VIJAY KARTHIKEYAN, Advocate (SR-19228[F] dated 19/04/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-19267[F] dated 19/04/2022)

W.P.(MD) No.5009 of 2022
18.04.2022

MGJ(02.05.2022) 4P 5C