

**19.12.2023**

Sl no. 90

Ct no. 2

P.M.

**WPA 4946 OF 2020**

**M/s. Texmaco Rail and Engineering  
Limited (previously known as Texmaco Ltd.)  
- Vs -  
Assistant Director General of Foreign Trade,  
Kolkata & Ors.**

Mr. Avra Mazumder,  
Mr. Kausheyo Roy,  
Mr. Samrat Das

... for the petitioner

Mr. Vipul Kundalia,  
Mr. Siddhartha Lahiri

... for the respondent DGFT Authorities

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of the respondent Policy Relaxation Committee (PRC), dated 3<sup>rd</sup> September, 2019, rejecting the claim of the petitioner for refund towards Terminal Excise Duty (TED) paid by it on the deemed export in question, on the ground that the deemed export in question was not dutiable and it was exempted under Foreign Trade Policy (FTP) 2004-2009.

The case of the respondent PRC is that DGFT authority concerned is not the authority concerned to refund the claim in question. Even if, in case, Duty has admittedly been paid, the appropriate authority for refund is the Central Excise Authority.

Such view has been taken by the Hon'ble Bombay High Court and it has been upheld by the Hon'ble Supreme Court in its judgement dated 4<sup>th</sup> January, 2022 in the case of Sandoz Private Limited – versus – Union of India & Ors. reported in 2022(1) TMI 225 Supreme Court which is reflected from paragraph 5 of the said judgement.

Considering the facts and circumstances of this case and submission of the parties and in view of the aforesaid judgement of the Hon'ble Supreme Court in the case of Sandoz Private Limited (supra) I am not inclined to grant any relief in this writ petition except granting liberty to the petitioner to approach the Central Excise Authority concerned by making appropriate application for its claim in question, within four weeks from date and if the petitioner approaches the said authority within the time stipulated herein the same shall be considered in accordance with law without raising point of limitation.

Accordingly this writ petition being WPA 4946 of 2020 is disposed of.

**(Md. Nizamuddin, J.)**