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WPA 21269 of 2019

Usha Martin Limited & Anr.
Vs
The Joint Director General of Foreign Trade & Ors.

Mr. Rahul Dhanuka
... For the Petitioners.
Mr. Vipul Kundalia,
Mr. Anurag Roy
... For the DGFT Authorities.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioners have made prayer for relief by way of direction upon the respondent/DGFT Authority concerned to grant petitioners duty credit scrip in terms of and in accordance with the notification No. 3(RE-2013)/2009-14 dated April 18, 2013 in respect of the application dated 28th August, 2015. Petitioners submit that the case of the petitioners is covered by a judgment of the Hon'ble Delhi High Court in the case of Welldone Exim Pvt. Ltd. vs. Directorate General of Foreign Trade, reported in 2018(14) G.S.T.L. 239(Del.) and particularly rely on paragraphs 11 and 12 of the said judgment which are quoted as herein:

" 11. We may note that the Bombay High Court in the case of J.S.,W. Steel Ltd.(Supra) had quashed the so-called clarification dated 23rd September, 2014 stating that the limit prescribed in clause (I) of Paragraph 3.14.4(c) in the Foreign Trade Policy place an upper limit for grant of import incentive for the fourth quarter for the financial year 2012-2013. Following this decision in J.S.W. Steel Ltd.(supra) in Writ Petition No. 2157/2016, Welspun Global Brand Limited and Others v. Union of India and Others, decided on 12th June, 2017, Bombay High Court had held that the amount of Rs. 1 crore mentioned in clause (I) to Pragraph 3.14.5(c) of the Foreign Trade Policy did not prescribe or fix an upper limit of Rs. 1 crore for grant of export incentive payable on annual basis for financial year 2013-14.

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 grater 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."

Petitioners further submit that against the aforesaid judgment of the Hon'ble Delhi High Court, Special Leave Petition of the DGFT was dismissed by the Hon'ble Supreme Court by the order dated 18th July, 2023 in Special Leave to Appeal(C) No.(S). 12878/2019.

Mr. Kundalia, learned Advocate representing the respondent/DGFT Authority could not dispute the aforesaid factual and legal position of covering of the issues involved in this writ petition by the aforesaid judgment of Hon'ble Delhi High Court. Accordingly, this writ petition being WPA 21269 of 2019 is disposed of by directing the respondent/DGFT Authority concerned to examine the case of the petitioners for grant of export incentive and pass reasoned and speaking order, within a period of ten weeks from date by taking into consideration and in the light of the aforesaid judgment of the Hon'ble Delhi High Court.

(Md. Nizamuddin, J.)