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W.P.No.7689 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.7689 of 2023

M/s.Lakshmi Machine Works Limited,
Perianaickenpalayam,
Coimbatore - 641 020

...Petitioner

Vs.

1. The Director General of Foreign Trade,
Office of the Director General of Foreign Trade,
H-wing, Gate No.2, Udyog Bhavan,
New Delhi - 110 011.

2. The Joint Director General of Foreign Trade,
1544, India Life Building Annexe,
1st Floor, Trichy Road,
Coimbatore - 641 018.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to pass an order in the representation filed by the petitioner by taking into account the amendment and clarification cited in their letter dated 24.02.2022.

For Petitioner : Mr.T.Ramesh

For Respondents : Mr.A.R.L.Sundaresan, ASG,



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Assisted by Mr.M.Ramamoorthi

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ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Mandamus to direct the 1st respondent to pass orders on the petitioner's representation by taking into account the amendment and clarification cited in their letter dated 24.02.2022.

2. Mr.M.Ramanurthi, learned Counsel takes notice for the respondents. In view of the consent expressed by the Learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner/company is engaged in the manufacture of Textile Machinery and its parts, CNC lathes, Machining Centers and its parts, Parts of Air Crafts and Iron castings etc.,. The petitioner/company export the above goods to different countries and also supply their finished goods to different domestic customers, who are holders of Export Promotion Capital Goods (in short 'EPCG') Licence. While so, the petitioner/company made applications for sanction of All Industry



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Rate of Drawback to their jurisdictional Joint Director of Foreign Trade towards the supply of their goods to various Export Promotion Capital Goods Licence holders during the period from 08.12.2017 to 31.10.2019 and 01.11.2019 to 31.12.2020, however, the same were rejected on the ground that, there is no CENVAT credit/excise duty to the products supplied under Demand Export category. In such circumstances, pursuant to the amendments made by the Central Government in Chapter 7 of Foreign Trade Policy 2015-20 with effect from 05.12.2017, wherein Industry was allowed to take benefit of All Industry Rate of Duty Drawback Schedule notified by the Department of Revenue in case of a Deemed Export Supply, the petitioner/company once again made a representation dated 24.02.2022 before the 1st respondent, seeking to pay AIR Drawback claims and also sent several reminders through e-mail dated 26.02.2022, 15.03.2022, 04.07.2022, 05.07.2022 and 21.10.2022 to the 1st respondent, however, till date, no orders have been passed on the same. Hence, this Writ petition.

4. Though very many grounds have been raised, learned counsel for the petitioner submits that, it would suffice, if this Court issues direction to the 1st respondent to consider the petitioner/company's representation dated



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24.02.2022 and pass orders on the same as expeditiously as possible.

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5. Learned Additional Solicitor General appearing for the respondents submitted that, already the petitioner/company's applications dated 02.11.2020 and 30.03.2022 filed before the 2nd respondent, claiming Duty Drawback were rejected, vide orders dated 27.09.2021 and 01.04.2022 respectively. While so, without challenging the said rejection orders, once again making a representation before the 1st respondent, seeking Deemed Export Duty Drawback is not sustainable. Hence, he prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the materials placed on record

7. Admittedly, the petitioner/company's applications dated 02.11.2020 and 30.03.2022 seeking Duty Drawback for the Goods cleared under EPCG Scheme at different periods were already rejected by the 2nd respondent, vide orders dated 27.09.2021 and 01.04.2022 respectively. While so, as



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rightly pointed out by the Additional Solicitor General, without challenging the above said rejection orders, making further representation before the 1st respondent, is not sustainable. Hence, the prayer sought for

by the petitioner in the present Writ petition cannot be acceded to. However, the petitioner/company is at liberty to challenge the above said rejection orders of the 2nd respondent in the manner known to law.

8. For the reasons aforesaid, this Writ petition stands dismissed. No costs.

14.03.2023

skt

Speaking Order : Yes/ No

Index : Yes/ No

To

1. The Director General of Foreign Trade,
Office of the Director General of Foreign Trade,

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M.DHANDAPANI, J.

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