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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of decision: 04.03.2024

\+ **W.P.(C) 5510/2023 & CM. APPL. 21600/2023**

AJANTA SOYA LTD ... Petitioner

versus

UNION OF INDIA & ORS. ..... Respondent

AND

\+ **W.P.(C) 3018/2024**

B.L. AGRO INDUSTRIED LIMITED ... Petitioner

versus

UNION OF INDIA & ORS. ..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Puneet Agarwal, Mr. Prem Kandpal, Mr. Yuvraj Singh, Mr. Tanmay, Mr. Vivek Vaibhav, Ms. Mansi Khurana and Mr. Chetan Kumar Shukla, Advocates in W.P. (C) 3018/2024.

Mr. Pradeep Jain, Mr. Sambhav Jain, Ms. Akshita Jain and Mr. Harneet, Advocates for petitioner in W.P. (C) 5510/2023.

For the Respondents: Ms. Shiva Lakshmi, CGSC with Ms. Archana Surve, GP and Mr. Madhav Bajaj, Advocate for UOI in W.P. (C) 5510/2023.

Mr. Rakesh Kumar, CGSC with Mr. Kamal Deep, GP and Mr. Sunil, Advocate for UOI in W.P. (C) 3018/2024.

Ms. Sonu Bhatnagar, Senior Standing Counsel with Ms. Nishtha Mittal and Ms. Apurva Singh, Advocates for respondent No.2 in W.P. (C) 3018/2024.

Mr. Harpreet Singh, Senior Standing Counsel with Ms. Suhani Mathur and Mr. Jatin Kumar Gaur, Advocates for the Revenue.

CORAM:-
HON'BLE MR. JUSTICE SANJEEV SACHDEVA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J (ORAL)

1. In W.P. (C) 5510/2023, petitioner impugns Notification No.15/2023 dated 03.03.2023. Petitioner further sought issuance of appropriate Notification for clearance of imports of Tariff Rate Quota (TRQ) consignment in line with Public Notice dated 01.03.2023.

2. In W.P. (C) 3018/2024, petitioner in addition seeks that the Notification dated 10.05.2023, issued by the Custom Authorities be made applicable retrospectively with effect from 01.04.2023.

3. As per the petitioners, they are aggrieved by illegal imposition of Agricultural Infrastructure Development Cess (AIDC) and denial of exemption benefit under TRQ for import of crude soyabean oil.

4. As per the petitioners, the Director General of Foreign Trade issued a Public Notice dated 24.05.2022 to allocate TRQ for import of crude soyabean oil and crude sunflower seed oil during the Financial Years 2022-2023 and 2023-2024 upto 20,00,000 metric ton per year for each of these commodities.

5. Correspondingly, on the same date the Ministry of Finance,

Department of Revenue issued an exemption Notification dated 24.05.202 for granting exemption from custom duty and AIDC to the goods covered under TRQ. Subsequently, by Public Notice dated 11.01.2023, the Director General of Foreign Trade decided to discontinue the TRQ for import of crude soyabean oil with effect from 01.04.2023. The Public Notice provided that Bill of Lading dated on or before 31.03.2023 shall be allowed for imports under crude soyabean oil TRQ till 30.06.2023. However, the consequential Notification No.15/2023-Customs dated 03.03.2023, issued by the Ministry of Finance, Department of Revenue did not extend the benefit to the Bills of Lading dated on or before 31.03.2023 till 30.06.2023 and restricted the same to 31.03.2023 with the result that consignments covered under the Bills of Lading which were dated on or before 31.03.2023, but were landing at the ports later, even up till 30.06.2023 were not covered under the exemption and accordingly, the AIDC and custom duty was payable on them.

6. Faced with this discrepancy, petitioners have approached this Court. We are informed that in the meantime some of the consignments which had landed after the said dates were got cleared under protest on payment of duty. Petitioners are also claiming refund of the duty paid on said consignments.

7. Counter affidavit has been filed by the Union of India in W.P.(C) 5510/2023, wherein reference is drawn to Notification issued by the Department of Revenue dated 10.05.2023, extending the benefit

under TRQ till 30.06.2023. By Public Notification dated 11.01.2023, the TRQ was discontinued with effect from 01.04.2023, however, by the Notification dated 10.05.2023, the same has been made co-terminus with the Public Notice issued by the DGFT dated 11.01.2023, which extends the benefit upto 30.06.2023. Accordingly, as per the counter-affidavit, benefit under TRQ stands extended till 30.06.2023.

8. In view thereof, petitions are disposed of holding that the benefit under TRQ being extended till 30.06.2023, the imports made in terms of the extant policy where the Bills of Lading are dated on or before 31.03.2023, would be covered under the said policy if the goods had landed before 30.06.2023.

9. Consequently, the consequential relief of refund of duty if any paid by the petitioners be also granted in accordance with law, subject to petitioners making the necessary compliances in law.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MARCH 04, 2024/NA