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

Date of Decision: 30.09.2024

\+ **W.P.(C) 11039/2020**

BOSCH CHASSIS SYSTEM INDIA PVT. LTD. .....Petitioner

Through: Ms. Archana Sharma, Adv. with Mr. Navneet Tanwar, Adv.

versus

DIRECTOR GENERAL OF FOREIGN TRADE & ORS. .....Respondents

Through: Mr. Ravi Prakash, CGSC with Mr. Jitendra Kr. Tripathi, Mr. Taha Yasin, Mr. Yasharth and Ms. Isha K., Advs.

CORAM:
HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition has been filed *inter alia* seeking the following prayers:

> *"a) issue a Writ in the nature of Mandamus and/or any other appropriate writ, order or direction calling upon the Respondent No. 1 to allow benefit under MEIS Scheme amounting to Rs. 23,37,185/- to the petitioner in respect of goods exported under Shipping Bills enumerated in Annexure-2 hereinabove;*
> *b) Issue directions calling for the records of the Respondents for rendering conscionable justice in the matter;*
> *c) Issue Rule NISI in terms of the prayers listed at (a) and (b) of the Writ Petition and to allow the same after hearing the causes, if any, shown by the learned respondent*
> *d) award cost of the Writ Petition; and*
> *e) pass such other and further order(s) and/or direction(s) in favour of the Petitioner as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

2. The grievance of the Petitioner as articulated in the present Petition, is

that the Petitioner had applied under the Merchandise Exports from India Scheme [hereinafter referred to as the "MEI Scheme"] as envisaged under Foreign Trade (Development & Regulation) Act [hereinafter referred to as the "FDRA"] framed under Section 3 of the FDRA in terms of paragraph 3.04 of the Foreign Trade Policy 2015-20 (FTP 2015-20).

3. Learned Counsel for the Petitioner submits that the Petitioner is entitled to reward under MEI Scheme in respect of various notified products that it has exported.

4. It is the contention of the Petitioner that as per the prescribed procedure an exporter is required to click 'Yes' or 'No' in the shipping bills which are generated in the Electronic Data Interface (EDI system) used by the Custom Department. It is only pursuant to declaration of such intent on the EDI system shipping bills that the MEI Scheme reward can be processed.

5. Learned Counsel for the Petitioner submits that inadvertently, the entry was left blank by the employees of the Customs Broker who omitted to fill in the relevant entry regarding the claim for MEI Scheme. As a result, the EDI system recorded a 'No' by default. Neither the Petitioner nor its Custom Broker noticed this mistake while processing the shipping bills. As a result, the payments under MEI Scheme were rejected by the Respondents.

5.1 Learned Counsel for the Petitioner further submits that by a Certificate of Amendment dated 15.11.2019, the Respondent Nos. 2 and 3 had granted no objection *qua* the amendment of the shipping bills.

5.2 The Petitioner had applied for an amendment in respect of 16 shipping bills from Respondent No. 2 and 41 shipping bills from Respondent No. 3, however, despite the Application, no action was taken by

Respondent No.1.

6. Notice in this Petition was issued by the Court on 23.12.2020. In its Counter-Affidavit, the Respondents have stated that the entitlement of a reward under the MEI Scheme is allowed only when the said procedure is followed by an Exporter. The marking of 'Y' (for Yes) in a shipping bill, was made mandatory by a public notice No.09/2015-20 dated 16.05.2016. Since, the shipping bill was not marked as 'Y', the authority has not examined the same and rejected the MEI Scheme reward.

7. Both parties have been briefly heard.

8. The grievance of the Petitioner is that despite being eligible, it is not getting benefit under the MEI Scheme in the sum of Rs. 23,37,185/-. It is the admitted case of the parties that in view of the inadvertent error the shipping bills have not been processed by Respondent No.1. The Counter-Affidavit of Respondents also sets out that in view of the fact that the EDI shipping bills of the Petitioner were left blank and the electronic transmission in the automatic environment assumed the Shipping Bills 'No' and accordingly proceeded to reject the case.

9. Given that the Respondents have not examined case of the Petitioner, in view of the inadvertent error, the Court deems it expedient to direct the Respondent to undertake the examination of the 16 EDI shipping bills of the Petitioner afresh, treating its submissions as a 'Yes'.

9.1 The Petitioner and/or his authorised representative will be given an opportunity to be present for a personal hearing in the matter. The Petitioner shall place before the Respondent/Authority all relevant documents and clarifications, as may be sought by the Respondent.

9.2 The Respondent shall pass a Speaking Order to decide the entitlement of the Petitioner to the MEI Scheme rewards, in accordance with law, within a period of 12 weeks from today.

9.3 The speaking order shall be communicated within a week to the Petitioner under acknowledged postal service and e-mail.

10. All rights and contentions of the parties are left open in this regard.

11. The Petition and all pending Applications are disposed of in the aforesaid terms.

12. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

SEPTEMBER 30, 2024/SA

Click here to check corrigendum, if any