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

+ **W.P.(C) 10750/2024, CM APPL. 44274-44275/2024**

CHINTAMANI SHARMA AND SONS

.....Petitioners

Through: Mr. Tarun Gulati, Senior Advocate
with Mr. Akashdeep Singh, Advocate.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Arjun Mahajan, SPC with
Mr. Apoorv Upmanyu, Advocate for
R-1 to 5.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

09.08.2024

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1. The present petition seeks to quash the order dated 22nd September, 2023,¹ passed by Respondent No. 3/ Assistant Director General of Foreign Trade² whereby a penalty amounting to INR 50,00,000/- was imposed on the Petitioner under the Foreign Trade (Development & Regulation) Act, 1992.³

2. Brief facts leading to the filing of the present petition are as follows:

2.1. The Petitioner obtained an Advance Authorisation License bearing

¹ "the impugned order"

² "DGFT"

³ "FTDR Act"



No. 0510406949 dated 22nd June, 2018 from the DGFT under the Foreign Trade Policy 2015-2020. The said license facilitated the import of Copper ROD 8mm which was intended for manufacturing and subsequent export of copper wire and was granted subject to the fulfilment of export obligations provided under Chapter 4.22 of the FTP 2015-2020 for a value of INR 4,96,16,064/-.

2.2. On 8th September, 2021, Deputy DGFT issued a show cause notice to the Petitioner alleging that the Petitioner has failed to fulfil the export obligations stipulated under the Advance Authorisation License issued by DGFT. Subsequently, on 6th September, 2023, the Petitioner was granted a final opportunity for personal hearing.

2.3. In compliance with the afore-noted direction, the Petitioner appeared before the office of Additional DGFT on 18th September, 2023. During the personal hearing, the Petitioner explained that the original documents relating to license were currently in the possession Directorate of Revenue Intelligence,⁴ Zonal Unit, Ahmedabad, and the Petitioner was in the process of gathering the necessary documents and would submit the same at the earliest.

2.4. In such circumstances, the impugned order dated 22nd September, 2023 was passed whereby the Assistant DGFT noted that despite several opportunities for submission of Export Obligation Documents, the Petitioner has failed to comply and wilfully defaulted in their export obligations. As a result, the Petitioner firm was placed under Denied Entry List in the B.O.

⁴ “DRI”



Portal and, accordingly, a fiscal penalty of INR 50 lakhs was imposed on the Petitioner. Hence, the present petition.

3. Mr. Tarun Gulati, Senior Counsel for the Petitioner, without going into the merits of the case, submits that if the Petitioner is afforded an opportunity, he shall furnish all the necessary documents to show compliance of the obligation under the Advance Authorisation License. As noted in the proceedings before the Additional DGFT, the lapse on the part of the Petitioner was on account of the non-availability of the documents for which the Petitioner was following up with the DRI, Ahmadabad.

4. In light of the above, although the Court does not find any infirmity in the impugned order, yet, considering that penalty amount imposed is substantial, and that the Petitioner is in the process of obtaining the documents, which they could not present in time due to circumstances beyond their control, the Court is inclined to extend a final opportunity to the Petitioner to furnish the necessary documents.

5. In these circumstances, the present writ petition is disposed of with the following directions:

- a. The impugned order dated 22nd September, 2023 is set aside.
- b. The Petitioner is afforded six weeks' time to furnish all the necessary documents in compliance of the obligation under the Advance Authorisation License.
- c. In case the Petitioner fails to furnish the documents within the above timeline, the Respondents shall then be free to pass a fresh order on the expiry of the said time period.

6. The Court has not expressed any comment on the merits of the case



and all rights and contentions of the parties are left open.

7. The petition is disposed of along with pending applications.

SANJEEV NARULA, J

AUGUST 9, 2024

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