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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 17801/2024 & CM APPL. 75806/2024**
NI-MET METALS INCPetitioner
Through: **Mr. Chirag Aneja, Advocate.**

versus

DIRECTOR GENERAL OF FOREIGN TRADE
& ANR.Respondents
Through: **Ms. Radhika Bishwajit Dubey, CGSC**
with Mr. Karan Khetani, Ms. Gurleen
Kaur Waraich and Mr. Vivek Sharma,
Advocates for R-1 & 2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
23.12.2024

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1. The Petitioner, Ni-Met Metals Inc. is a foreign company authorized as a Pre-Shipment Inspection Agency¹ by Respondent No. 1 - Directorate General of Foreign Trade² through Public Notice No. 56/2015-2020.
2. Earlier the Petitioner approached this Court in W.P.(C) 15630/2024 when their application for renewal of PSIA status was not being processed. Disposing of the said petition on 13th November, 2024, the following directions were issued:

“5. At the outset, Mr. Chirag Aneja, counsel for Petitioner states that subsequent to the filing of the writ petition, the Petitioner has been able to successfully submit their online application and e-payment receipt for such submission has also been generated by the online portal of DGFT. In this regard, Mr. Kaushal Jeet Kait, counsel representing DGFT, states that the Petitioner’s application shall now be processed within a period of two weeks from today, in accordance with law. The above statement is taken on record and shall bind the Respondent.

¹ “PSIA”

² “DGFT”



6. *In light of the above development and the stand of the Respondent, they are directed to process the application of the Petitioner as per the timelines specified. It is further directed that since the Petitioner has duly made the payment of the application fees of INR 21,000/- along with online submission, the earlier DDs deposited by the Petitioner with DGFT shall be returned/ refunded to them.*

7. *All rights and contentions of parties are reserved.*

8. *With the above directions, the present writ petition is disposed of, along with pending application.”*

3. In terms of the aforementioned directions, although Respondent No. 1 - DGFT took up the matter of the Petitioner, they did not process the same within the stipulated timeline, constraining the Petitioner to file Contempt Petition No. 1905/2024. During the course of the said proceedings, counsel for the Respondent argued that the application of the Petitioner has already been decided by the DGFT *vide* order dated 10th December, 2024, and supplied a copy of the said decision to the Petitioner. The said communication reads as follows:

“iii. In light of the above, your request for renewal has been examined at this Directorate. It has been noted that the Special Power of Attorney (SPA) holder for Ni-Met Metals Inc., Shri Dinesh Aneja, is also a proprietor of SMV International Inc, another Pre-Shipment Inspection Agency (PSIA) recognized by this Directorate under the Foreign Trade Policy.

*iv. Whereas, SMV International, have been issued Show Cause Notice dated 19.09.2024 for a series of irregularities as observed in the operation of SMV International Inc. for inspections reported as PSIA in the past. It may be noted that Pre-Shipment Inspection Agencies (PSIAs) must maintain high standards to ensure the safety, compliance, and quality of imported materials, which directly impact human life, property, and national interests. By adhering to rigorous inspection protocols and international benchmarks, PSIAs are expected to prevent hazardous materials, such as radioactive substances or explosives, from entering the country, safeguarding public health and industrial safety. **Hence, the involvement of Shri Dinesh Aneja, in his capacity as the proprietor of SMV International Inc. as well as being the***



Indian SPA for Ni-Met Metals Inc., is a matter of grave concern, as it establishes a nexus of common interests and unequivocally implicates him as an accomplice in the violations presently under investigation.

Therefore, it is deemed requisite to not accede to the request of the applicant, at this point of time, for renewal as status of PSIA until the matter is adjudicated on violations of SMV International to which Show Cause Notice dated 19.09.2024 has been issued. A copy of the SCN is enclosed.

v. It may be noted that this Directorate is empowered under the provisions of FTDR Act read with the Rules as well as FTP & HBP, to refuse issuance/re-newal of authorisation/licenses as deemed appropriate.

vi. In view of the above, your application filed under File No-HQPSIAPPLY00000425AM2 is kept pending, until the matter is decided for the SMY International.”

[Emphasis added]

4. In light of the above, the Court disposed of the Contempt Petition with liberty to the Petitioner to assail the decision of the Respondent dated 10th December, 2024.

5. It is revealed from aforementioned communication that DGFT has deferred the decision on Petitioner’s renewal application primarily because Special Power of Attorney³ holder of the Petitioner company, Mr. Dinesh Aneja, also serves as proprietor of another SMV International Inc., a PSIA under investigation.

6. Addressing this point, through a subsequent representation, the Petitioner has clarified the reasons for appointing Mr. Aneja as their SPA. They have explained that being a Canadian entity they required local representation in India, especially for litigation and related formalities, and were introduced to Mr. Aneja through the Material Recycling Association of India (MRAI) which includes major PSIAs as its members as stipulate by DGFT. This SPA was issued to Mr. Dinesh Aneja specifically for

³ “SPA”



representing the Petitioner company as a local attorney in the court proceedings in India. The Petitioner further clarified that this authorization does not imply any ownership, partnership or association with Mr. Dinesh Aneja.

7. In the opinion of the Court, the Respondents' decision to defer the Petitioner's renewal application exclusively because Mr. Aneja (the Petitioner's SPA holder) faces a show cause notice in terms of his separate venture — SMV International Inc., cannot be sustained. Should further scrutiny reveal that the Petitioner - Ni-Met Metals Inc., itself played any part in wrongdoing through its SPA holder, the Respondents are, of course, at liberty to act against the Petitioner. However, in the absence of any specific allegation of misconduct directly against the Petitioner, the mere association with an individual facing unrelated irregularities offers no valid basis for withholding the Petitioner's renewal.

8. Accordingly, the present writ petition is disposed of with a direction that the Respondents shall take a decision on the Petitioner's renewal application bearing file no. HQRPSIAAPPLY00000425AM24, positively within a period of four weeks from today.

9. With the above direction, the writ petition is disposed of along with pending application.

SANJEEV NARULA, J

DECEMBER 23, 2024

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