24.07.2025
Item No. 03
Ct. 05
Sayandeep/sb

WPA 13022 of 2025

S.A. Exports
versus
Additional District General of Foreign Trade & Ors.

Mr. Anurag Roy
Mr. Aayush Sharma
Mr. Dhirodatto Chaudhuri
...For the petitioner

Mr. Dhiraj Trivedi, Ld.DSGI
Mr. Rishav Kumar Thakur
.....For the respondents

1. The instant writ petition has been filed, inter alia, praying for direction upon the respondent No. 1 to consider the representations made by the petitioner in connection with the issue of balance duty credit script amounting to Rs. 16,637,438.86/-. The petitioner claims to be a registered partnership and is engaged in the business of foreign trade. The petitioner is interested in seeking the benefit of a Judgment delivered by the Hon'ble High Court to Delhi in the case of **M/s. Welldone Exim Pvt. Ltd. vs. Director General of Foreign Trade** reported in **2018 SCC online Delhi 8480** as regards the interpretation of the notification No. 3 dated 18th April, 2013 and notification No. 43 dated 25th September, 2013 issued an exercise of powers conferred under Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (hereinafter referred to as the said Act) which specifically deals

with the Incremental Exports incentivisation Scheme (hereinafter referred to as the said Scheme).

2. According to the petitioner, the petitioner being entitled to benefit of the said Scheme had duly made an application in requisite format before the appropriate authorities for the export period that is 1st April, 2013 to 31st March, 2014 vis a vis 1st April, 2012 to 31st March, 2013, in format ANF 3F with the Government of India, Ministry of Commerce and Industries. Accordingly, the petitioner had computed the export eligibility having regard to the cap provided in the notification No. 43 dated 25th September, 2013 to the extent of Rs. 1 crores notwithstanding the entitlement of the petitioner being Rs. 16,637,438.86/-. The aforesaid fact would corroborate from paragraph no. B-3 of the application filed by the petitioner on 23rd January, 2015.

3. On the basis of the aforesaid, the Foreign Trade Development Officer had permitted credit to the petitioner vide authorization letter dated 14th May, 2015 to the extent of Rs.1 crore. By the judgment delivered by the Hon'ble Delhi High Court in the case of **M/s. Welldone Exim Pvt. Ltd**. (supra) taking into consideration the aforesaid notifications in paragraph 6 thereof had observed as follows:-

> "6. *The aforesaid public notice in our opinion settles the position beyond any doubt and debate. This public notice clarifies that*

amendment in form of clauses (i) and (ii) to paragraph 3.14.5 (c) of Foreign Trade Policy were to ensure that annual claims n excess of Rs.1 crore should be subjected to greater scrutiny by the Regional Authority. In other words, the two newly inserted clauses had to be read harmoniously. Clauses (i) and (ii) were not introduced and inserted as clauses, but as a part of sub-paragraph (c) to paragraph 3.14.5. Clauses (i) did not put or prescribe an upper limit. To interpret it differently would make clause (ii) otiose and redundant. The public notice No. 28/2009-14 (RE-2-013) dated 25th September, 2013 had set out the procedure for scrutiny of claims in excess of Rs.1 crore by giving details of the documents and particulars to be submitted by the exporter. Clearly, this was not required and necessary if R. 1 crore was the upper limit, and therefore claims over this amount were not required to be scrutinized and examined".

4. Although a Special Leave Petition was file before the Hon'ble Supreme Court which was registered as Special Leave to Appeal (C) No.(S) 12878 of 2019, by an order dated 18th July, 2023, the Hon'ble Supreme Court after condoning the delay had dismissed the Special Leave Petition. Following the above, by an order dated 25th August, 2023, Coordinate Bench of this Court in respect of a person claiming duty credit scrip had directed the authorities to consider such representation.

5. Mr. Roy, learned advocate appearing in support of the writ petition would submit that although the petitioner had made a representation to the

authorities on 13th January, 2025, since such representation was not considered the same was followed up by further representation and ultimately having no other recourse, the petitioner has approached his Court.

6. Mr. Thakur, learned advocate appears on behalf of the respondents.

7. Having heard the learned advocates appearing for the respective parties, I find that the situation at hand insofar as the petitioner is concerned was set at rest by the application filed by the petitioner on 23rd January, 2025. In fact, in the aforesaid application the petitioner by treating the Notification No. 53 dated 25th September, 2013 creating the upper limit for being entitled to its claim in paragraph B-3 of the above application restricted its claim to a sum of Rs.1 crore as against the original entitlement of Rs.1,66,37,438.86. The signature of the petitioner's partner appears on the aforesaid application. On the basis of the above, the authorities by scrutinizing the petitioner's application had allowed the benefit as claimed vide authorization letter dated 14th May, 2015. Although, the petitioner would contend that upon the judgment delivered by the Hon'ble Delhi High Court in the case of **M/s. Welldone Exim Pvt. Ltd**. (supra) as regards the upper limit has been

interpreted and only thereafter the petitioner had realized the real entitlement under the aforesaid notification, I, however, find that notwithstanding the judgment of the Delhi High Court being delivered on 12th April, 2018, for a period of upto 7 years thereafter, no steps had been taken by the petitioner. The petitioner is interested to resurrect the dead claim by filing the writ petition and by seeking consideration of its representation at this late stage, which, in my view is not permissible. It is well-settled that a settled issue cannot be permitted to unsettled after more than a decade.

8. The writ petition fails and is accordingly dismissed without any order as to costs.

9. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(**Raja Basu Chowdhury, J.**)