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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2298 OF 2025

Gianna Agro Private Limited : Petitioner.

Versus

Union of India & Ors. : Respondents

Mr. Ranit Basu a/w. Ms. Harshada Nirmal i/b Bridgehead Law
Partners, for the Petitioner.

Mr. Siddharth Chandrashekhar i/b Ms. Sangeeta Yadav, for
the Respondent.

CORAM M. S. Sonak &
Jitendra Jain, JJ.
DATED: 22 JULY 2025

PC: -

1. We heard Mr. Ranit Basu, learned counsel for the petitioner, and Ms. Sangeeta Yadav, learned counsel for the respondent, at our request.
2. Petitioner's challenge is to an order dated 31 March 2025 made by Respondent No.2 rejecting petitioner's scheme for refund under the RoDTEP scheme.
3. Mr. Basu learned counsel for the petitioner quite ably submitted before us that this is a fit case where the petitioner ought not to be relegated to an alternate remedy of appeal otherwise available to the petitioner. He pointed out that the scheme was designed to incentivise exporters, and the respondent's approach in rejecting the petitioner's claim,

which was allegedly barred by limitation, was patently erroneous and amounted to an arbitrary deprivation of the benefits under the scheme. He submitted that Respondent No.2 did not consider the precedents that were cited before him, and without distinguishing them, the petitioner's claim was rejected by citing a bar of limitation.

4. Mr. Basu submitted that the bar of limitation did not apply in the present case because the initial recovery of the amount/credits was *void ab initio*. He submitted that respondent No.2, without going into the merits of the matter, though all submissions were made on merits, has now chosen to nonsuit the petitioner on the ground of limitation. Mr. Basu reiterated that this bar did not apply to the facts of the present case. He pointed out that representations made by the petitioner from time to time were also not considered, and a violation of natural justice was involved.

5. For the above reasons, Mr. Basu submitted that this Court should entertain the present petition so that the legal position is clarified and the petitioner is not relegated before the appellate authority, which would only delay justice.

6. Ms. Yadav, learned counsel for the respondent, submitted that the petitioner has an alternative and efficacious remedy of appeal under Section 128 of the Customs Act, and no case is made out to deviate from the normal practice of exhausting alternative remedies in such matters. Accordingly, she urged that this Court may not entertain this petition, but that the petitioner could be relegated to avail themselves of an alternate remedy.

7. We have considered the rival contentions, and despite Mr. Basu's arguments, we have not been persuaded that this is the matter in which we should deviate from the practice of exhausting the alternate remedy available under the statute.

8. Most of the contentions raised by Mr. Basu relate to the merits of the matter. Such contentions are best considered by the authorities under the Act, which is more so because the powers conferred upon the appellate authority by Section 128A of the Customs Act are significantly broad, enabling the appellate authority to address a wide range of issues, including challenges based on the failure of natural justice.

9. Section 128A of the Customs Act authorises the appellate authority to send the matter back to the adjudicating authority for instructions, new adjudication, or decision if necessary. The arguments about avoiding precedents, misinterpreting legal provisions, or applying the limitation bar—issues that, according to the petitioner, should not apply—are all matters best considered by the appellate authority initially. On these grounds, we cannot persuade ourselves to entertain this petition, bypassing the statutory remedies provided by the legislature in such matters.

10. We note that the impugned order was passed on 31 March 2025 and was received by the petitioner on 1 April 2025. This petition was filed on 16 May 2025, i.e., within the limitation period prescribed for instituting an appeal. Therefore, if the petitioner now institutes an appeal within two weeks from the date of uploading of this order, then the appellate authority is directed to decide the said appeal on its

merits and without adverting to the issue of limitation. We are satisfied that the petitioner was *bona fide* pursuing this matter before the Court and therefore, this is a fit case to direct that the petitioner's appeal be heard on the merits.

11. Further considering Mr. Basu's submission that RoDTEP scheme was intended to incentivise the exporters, and the fact that the petitioner had refunded the benefit which it had earlier obtained under protest, we direct the appellate authority to expedite the hearings in the appeal and dispose of the appeal within 4 months of its institution.

12. We clarify that all contentions of all parties are expressly left open since we have not examined the merits and demerits of the matter.

13. This petition is disposed of in the above terms without any costs.

14. All concerned must act on an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)