



2025:DHC:115



\$~84, 85, 91, 93 & 102

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

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Date of Decision : 09.01.2025

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W.P.(C) 138/2025

M/S MANJALLY JEWELLERS

.....Petitioner

Through: Mr. Rajat Mittal, Mr. Dharan Gandhi,
Mr. Suprateek Neogi and Mr.
Priyanshu, Advs.

versus

DIRECTOR GENERAL OF FOREIGN TRADE & ORS.

.....Respondents

Through: Ms. Shiva Lakshmi, CGSC and Mr.
Govind Sharma, Adv. for DGFT/UOI.
Mr. Aditya Singla, SSC, CBIC, Mr.
Ritwik Saha and Ms. Medha Narain,
Advs. for R-2.

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W.P.(C) 139/2025

(85) **MS KIFS FINSTOCK LIMITED**

.....Petitioner

Through: Mr. Rajat Mittal, Mr. Dharan Gandhi,
Mr. Suprateek Neogi and Mr.
Priyanshu, Advs.

versus

DIRECTOR GENERAL OF FOREIGN TRADE & ORS.

.....Respondents

Through: Ms. Shiva Lakshmi, CGSC and Mr.
Govind Sharma, Adv. for DGFT/UOI.
Mr. Aditya Singla, SSC, CBIC, Mr.
Ritwik Saha and Ms. Medha Narain,
Advs. for R-2.

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W.P.(C) 180/2025

(91) **MS KIFS BULLION PRIVATE LIMITED**

.....Petitioner

Through: Mr. Rajat Mittal, Mr. Dharan Gandhi,
Mr. Suprateek Neogi and Mr.
Priyanshu, Advs.

versus



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DIRECTOR GENERAL OF FOREIGN TRADE & ORS.

.....Respondents

Through: Ms. Shiva Lakshmi, CGSC and Mr. Govind Sharma, Adv. for DGFT/UOI. Mr. Aditya Singla, SSC, CBIC, Mr. Ritwik Saha and Ms. Medha Narain, Adv. for R-2.

+ **W.P.(C) 188/2025**

(93) MS UNIQUE CHAINS PVT LTD

.....Petitioner

Through: Mr. Rajat Mittal, Mr. Dharan Gandhi, Mr. Suprateek Neogi and Mr. Priyanshu, Adv.

versus

DIRECTOR GENERAL OF FOREIGN TRADE & ORS.

.....Respondents

Through: Ms. Shiva Lakshmi, CGSC and Mr. Govind Sharma, Adv. for DGFT/UOI. Mr. Aditya Singla, SSC, CBIC, Mr. Ritwik Saha and Ms. Medha Narain, Adv. for R-2.

+ **W.P.(C) 211/2025**

(102) MS KARAN KOTHARI JEWELLERS PVT LTD

.....Petitioner

Through: Mr. Rajat Mittal, Mr. Dharan Gandhi, Mr. Suprateek Neogi and Mr. Priyanshu, Adv.

versus

DIRECTOR GENERAL OF FOREIGN TRADE & ORS.

.....Respondents

Through: Ms. Shiva Lakshmi, CGSC and Mr. Govind Sharma, Adv. for DGFT/UOI.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

CM APPL.653/2025 & 654/2025 in W.P.(C) 138/2025

CM APPL. 660/2025 & CM APPL. 661/2025 in W.P.(C) 139/2025



CM APPL. 778/2025 & CM APPL. 779/2025 in W.P.(C) 180/2025
CM APPL. 847/2025 & CM APPL. 846/2025 in W.P.(C) 188/2025
CM APPL. 947/2025 & CM APPL. 948/2025 in W.P.(C) 211/2025

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

W.P.(C) 138/2025 & CM APPL. 652/2025
W.P.(C) 139/2025 & CM APPL. 659/2025
W.P.(C) 180/2025 & CM APPL. 777/2025
W.P.(C) 188/2025 & CM APPL. 845/2025
W.P.(C) 211/2025 & CM APPL. 946/2025

3. The present petitions are filed by the petitioners who are engaged in the business of importing gold bullion which are used for the manufacturing of gold ornaments. The petitioners are aggrieved by the Minutes of Meeting dated 08.11.2024, in terms of which, the utilization of allocated Bullion Tariff Rate Quota (hereinafter referred as 'TRQ') for the Financial Year 2024-25, under the India-UAE Comprehensive Economic Partnership Agreement dated 18.02.2022 (hereinafter referred as 'CEPA') was reviewed and revised mid-term by the respondent no.1.
4. At the outset, it is noticed that the factual matrix is identical in all these petitions and the petitioners (in each of these petitions) impugn the same Minutes of Meeting, raising similar grounds of challenge against common respondents. In the above circumstances, it is considered apposite to dispose of the petitions by way of a common order.
5. Pursuant to the execution of CEPA, a meeting was held on 15.04.2024 at the Directorate General of Foreign Trade (DGFT) headquarters for consideration of the allocation of the bullion TRQs under the CEPA for the



Financial Year 2024-25. The respondents in the aforesaid meeting decided/concluded as under:

“6. The Committee decided to allocate the said TRQs based on the said Modalities -

i. Notwithstanding the subsequent conditionalities, the allocation shall be subject to a maximum of the quantity as applied.

ii. Applicants who had utilised more than 95% of their previous TRQ quantities shall be allocated 3 times their previous TRQ imports (as per Bills of Entry records received by DGFT)

iii. Applicants who had utilised less than 95% of their previous TRQ quantities shall be allocated 2.5 times their previous TRQ imports (as per Bills of Entry records received by DGFT)

iv. Notwithstanding conditionalities (i) and (ii), Qualified Jewellers as notified by IFSCA till March'2024 shall be allocated a minimum of 200 Kgs.

v. Applicants who are not QJs and have no prior imports shall be allocated 80 kgs.

7. Details of allocation made are submitted at Annexure. Further, the Committee decided to review the utilisations of given TRQs in the October'2024. The Committee may thereafter choose to revise the extant TRQ allocations based on the TRQ imports made till September'2024.”

6. The petitioners had applied for the TRQ in CEPA for the import of gold bullion and on the basis of the aforesaid decision/meeting, the petitioners were issued a certificate/license with validity up to 31.03.2025.

7. Subsequently, in terms of paragraph no. 7 of the Minutes of the aforesaid Meeting, the respondents held a mid-year review of allocation of bullion TRQ under CEPA for FY 2024-25. In the said Minutes, the committee reviewed and revised the original TRQ on the basis of the utilisation records of the previously allocated TRQs (FY 2024-25) and



decided as under:

“6. The Committee decided to re-allocate the TRQs of the balance quantity based on the following Modalities –

i. Applicants who had utilised 25% or less than 25% allocated TRQ quantities in 6 months i.e. upto 30th September, 2024, their allocations shall be revised to half (50%) of their original allocations.

ii. Applicants who had utilised 75% or more (& less than 95%) of their allocated TRQ quantities in 6 months i.e. upto 30th September, 2024, shall be eligible for additional allocation of 1 time of their original TRQ allocations.

iii. Applicants who had utilised 95% or more of their allocated TRQ quantities in 6 months i.e. upto 30th September, 2024, shall be eligible for additional allocation of 1.5 times of their original TRQ allocations.

iv. Notwithstanding the above conditionalities, the additional allocation shall be subject to a maximum of the quantity requested.”

8. It is submitted by the counsel on behalf of the petitioners that based on their respective utilization records available with the DGST, quantity allocated to them was reduced by half (to 50%) of the original allocation. The petitioners were also directed to not make imports beyond the revised reduced quantity.

9. It is averred in the petition that the aforesaid decision is unreasonable and arbitrary because firstly, the said decision was taken without granting an opportunity of hearing to the petitioner and without a sufficient prior notice and secondly since criteria for revising the TRQ allocation were never communicated to the petitioners, they had no basis to anticipate that their imports are required to be aligned with the criteria subsequently laid down in the Minutes of the Meeting dated 08.11.2024 . Further, it is averred in the petitions that the paragraph 7 of the Minutes of Meeting held on 15.04.2024



which provided for the review of TRQs and paragraph 6 of the Minutes of Meeting dated 08.11.2024 which reviewed and revised the allocated TRQs are without jurisdiction and in excess of authority of the respondent no.1 because any revision before the expiry period of licence is in contravention to the provisions of the Foreign Trade (Development & Regulation) Act, 1992, Foreign Trade (Regulation) Rules, 1993 and the procedures prescribed in the Handbook of Procedures, 2023 dated 01.04.2023(notified vide public notice no.1 of 2023).

10. During the course of proceedings, it has been also brought out that this Court had issued directions in W.P.(C) 16809/2024 and other connected matters, which arose in a similar factual matrix. The order dated 05.12.2024 passed by this Court in the aforesaid writ petition, reads as under:

“6. In the opinion of the Court, there is significant merit in the contentions raised by the Petitioners. While Paragraph No. 7 of the Minutes of Meeting dated 15th April, 2024 does indicate that a review exercise would be conducted based on the imports up to September 2024, however, as correctly pointed out by Mr. Gulati, this review can be deemed a ‘blind’ review, given that no criteria were specified in the said Minutes with respect to the potential allocation. Furthermore, the public notice referred to by the Respondents only addresses cases where TRQ utilization, in the review process, is ≤ 25%, without providing further details regarding other quantities of utilisation. Moreover, this public notice pertains to FY 2023- 24, and there is no such public notice informing the Petitioners or the general public about such a criteria for FY 2024-25.

7. That being said, the Court understands that the intent behind the review exercise is to ensure that the TRQ allocations are specifically adhered to. Therefore, the Respondents’ objective in conducting the review appears to be solely to ensure that the TRQ imports under the India-UAE CEPA are fully met. However, in light of the aforementioned circumstances, since the review decision was made without affording the Petitioners an opportunity to be heard, and Ms. Shiva Lakshmi has also indicated that the Petitioners should have first approached the DGFT



with their concerns, the Court is of the opinion that it would be more appropriate at this stage, without delving deep into the merits of the case, to direct the DGFT to examine all the issues raised by the Petitioners in the present petitions and issue a fresh decision on the basis thereof.

8 Furthermore, it is undisputed that as of today, no re-allocations have been made pursuant to the impugned Minutes of Meeting in the present proceedings. Therefore, it is directed that the current allocations be maintained until a decision is made following the review process. The above exercise shall be carried out within three weeks from today.

9. It is clarified that the views expressed by this Court are of a prima facie nature. Therefore, the Respondents, while taking the same into consideration, shall also examine each case on its own merits and take a fresh decision, in accordance with law.

10. In the event that the Respondents are inclined to accept the Petitioners' requests, the DGFT may introduce additional conditions to ensure that the Petitioners comply with the TRQ allocation and carry out the imports, in accordance with law.

11. With the above directions, the present petitions are disposed of, along with pending applications."

11. Further, this Court on 19.12.2024, while hearing another set of similar petitions (in W.P (C) 17514/2024 and W.P(C) 17489/2024 and connected matters), passed the same order as above.

12. In the circumstances, the present writ petitions are also disposed of in terms of the aforesaid directions as contained in the order dated 05.12.2024 in W.P.(C) 16809/2024 and other connected matters. The petitioners are directed to file an application for review before the DGFT within one week from today whereupon the DGFT shall examine all the issues raised by the petitioners in the present petitions and issue fresh orders/directions, within a period of three weeks thereafter.

13. Further, the current allocations shall be maintained during the



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pendency of the above exercise.

14. Needless to say, the views expressed by this Court are of a *prima facie* nature and nothing in this order shall be construed as an expression of this Court on the merits of the respective contentions of the parties. The respondents shall also examine each case on its own merits and take a fresh decision, in accordance with law.

15. In the event that the respondents are inclined to accept the petitioners' requests, the DGFT may introduce additional conditions to ensure that the petitioners comply with the TRQ allocation and carry out the imports, in accordance with law.

16. The present petitions, along with all pending applications, stand disposed of in the above terms.

SACHIN DATTA, J

JANUARY 9, 2025/sl