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

\+ **CUSAA 178/2022 & CM APPL. 51160/2022**

M/S ANJANI TECHNOPLAST LTD .....Appellant

Through: Mr. Priyadarshi Manish, Mrs. Anjali Jha Manish, Ms. Amit Saxena and Ms. Madhuri Malegaonkar, Advs.

versus

THE PRINCIPAL COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) & ANR. .....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Aayushman Bhatt and Mr. Shashank Kumar, Advs.
Mr. Puneet Yadav, Adv. for R-2/DGFT

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\+ **W.P.(C) 4339/2024 & CM APPL. 17756/2024**

ANJANI TECHNOPLAST LTD .....Petitioner

Through: Mr. Priyadarshi Manish, Mrs. Anjali Jha Manish, Ms. Amit Saxena and Ms. Madhuri Malegaonkar, Advs.

versus

THE PRINCIPAL COMMISSIONER OF CUSTOMS, AIR CARGO COMPLEX (IMPORT) & ANR. .....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Aayushman Bhatt and Mr. Shashank Kumar, Advs.
Mr. Puneet Yadav, Adv. for R-2/DGFT

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% 08.10.2025

1. This hearing has been done through hybrid mode.

2. The present appeal ***CUSAA 178/2022*** has been filed, *inter alia,* challenging the impugned order dated 8th August, 2022 passed by the Central Excise and Service Tax Appellate Tribunal (hereinafter "*CESTAT*"). *Vide* the impugned order the CESTAT has dismissed the application for restoration of Appellant's Appeal against the Order-in-Original dated 10th October, 2014.

3. *Vide* the said Order-in-Original a demand of Rs. 5,96,03,154.51/- had been confirmed against the Appellant by the Customs Department in respect of failure to fulfil the export obligations pursuant to clearing of subject goods under Advance Authorization.

4. The Appellant firm has filed ***W.P.(C) 4339/2024*** challenging the said Order-in-Original pursuant to the order passed in ***CUSAA 178/2022*** on 18th January, 2024, whereby the Court has *prima facie* held the said order to be infructuous in light of subsequent developments, including issuance of export obligation discharge certificate.

5. The facts leading to the filing of the present appeal and the writ petition are that the Appellant firm had imported subject goods under Advance Authorisation, subject to fulfilment of export obligations within a period of 36 months in terms of Exemption Notification dated 11th September, 2009. The Appellant Firm had also executed a bond to the tune of Rs. 5,96,03,154.51/- pursuant to the said obligations. The case of the Appellant is that it had completed the export obligations, partially, of about 47% of the required amount. Further to this failure, a show cause notice was issued to the Appellant Firm on 10th June, 2014 by the Customs Department, raising a demand of Rs. Rs. 5,96,03,154.51/-, and the same was confirmed by the impugned Order-in-Original dated 10th October, 2014.

6. The Appellant firm preferred appeal against the said order, however, the

same was dismissed due to failure to pay the pre-deposit amount. The Appellant firm then sought relaxation from the Policy Relaxation Committee which extended the period of fulfilment from 36 months to 133 months 7th January, 2020. However, the Appellant firm again failed to fulfil the export obligation and accordingly, deposited the basic Customs duty and interest on 9th September, 2020 and 20th April, 2021. Thereafter, the Appellant firm was issued export obligation discharge certificate dated 9th March, 2022.

7. Thus, the Appellant firm is aggrieved by the demand which is being pressed by the Customs Department despite the issuance of the export obligation discharge certificate.

8. This matter was considered by the Court and *vide* order dated 18th January, 2024 in ***CUSAA 178/2022*** it was held as under;

> *"1. This appeal has a checkered history; though the appellant has filed an appeal against the order rejecting the application seeking restoration of the appeal before the Tribunal, however, the factual matrix show a peculiar situation.*
>
> *2. Appellant is a manufacturer of safety and defence goods and had imported certain duty-free inputs against an Advance Authorization with a corresponding obligation of exporting bullet proof vests.*
>
> *3. The Advance Authorization permitted appellant to import raw material for the CIF value of USD 12,54,803.27 equivalent to then INR 5,96,03,154.51. Appellant had a corresponding obligation of exporting vests for FOB value of USD 16,63,407.50 equivalent to then INR 7,81,80,152.00 within a period of 36 months.*
>
> *4. As per the appellant, appellant imported goods for a total CIF value of Rs. 2,41,79,375.79 on which the total custom*

duty forgone was Rs. 66,20,421/-.

5. Appellant made export of finished goods for total FOB value of Rs. 1,47,91,760.07 equivalent to 47% of the export obligation leaving unfilled export obligation of 53%. As per the appellant, 53% of the corresponding duty forgone was Rs. 35,35,305/-. Subsequently, a ban was imposed on the appellant, which was challenged by the appellant though unsuccessfully.

6. A show cause notice dated 10.06.2014 was issued to the appellant demanding custom duty of Rs. 5,96,03,154.51 equivalent to the bond submitted by the petitioner for the total value of Advance Authorization. As per the appellant such a demand could not have been raised and the demand could have been raised at best for the value of the custom duty forgone corresponding to the non-fulfilment of the export obligation corresponding to the goods imported without payment of the custom duty against the Advance Authorization.

7. ***An Order in Original was passed against the appellant on 10.10.2014, creating a demand of Rs. 5,96,03,154.51 besides imposition of penalty of Rs. 1,49,00,000/-.***

8. Appellant applied to the authorities for rectification of the Order in Original, however, the same was declined. Appellant filed / the subject appeal before the Central Excise Service Tax Appellate Tribunal. However, since the appellant could not make a pre-deposit as envisaged under Section 129-E of the Customs Act, 1962, the appeal was dismissed. Subsequent challenges to the dismissal on account failure to make pre-deposit by the appellant before this Court as also before the Supreme Court was unsuccessful.

9. Appellant thereafter applied to the Policy Relaxation Committee and the Policy Relaxation Committee in its

meeting held on 07.01.2020 granted an extension of Advance Authorization to the appellant by a further period of 12 months from the date of endorsement. Subsequently, by an endorsement carried by the Director-General of the Foreign Trade, the export obligation period was changed from 36 months to 133 months ending on 11.11.2021.

10. Appellant once again failed to meet the export obligation and as such, being unable to meet the export obligation deposited the basic custom duty of Rs. 34,24,603/- and interest of Rs. 5,49,102 on 09.09.2020 and a further sum of Rs. 41,59,710/- towards interest on 20.04.2021. Post the extension by the PRC and deposit of custom duty and the interest, a redemption letter dated 09.03.2022 has been issued by the Office of Director-General of Foreign Trade certifying the export obligation discharge/redemption to the appellant.

11. As per the appellant, once the redemption letter has been issued, appellant is discharged from the export obligation as against the Advance Authorization dated 28.10.2010 which was subject matter of the Order in Original and the subject appeal.

12. Learned counsel submits that though the entire issue was laid at rest by the issuance of the redemption letter, the custom authorities are seeking to still recover the amount as was assessed by the Order in Original though the same has been over taken by subsequent events.

13. ***Keeping in view the above factual matrix, particularly the issuance of the redemption letter, it appears that prima facie the Order in Original itself does not survive and the respondent may be called upon to have a fresh look at the matter.***

14. Learned counsel for the respondent prays for time to take instructions.

15. At request, renotify on 12.03.2024."

9. The above order was passed in ***CUSAA 178/2022*** challenging the order of CESTAT dated 8th August, 2022. As per the order extracted above, the Court categorically records a *prima facie* finding that the Petitioner's export obligation stood fulfilled once the Directorate General of Foreign Trade had extended the time period for fulfilling the same and thereafter issued the discharge certificate.

10. After the above order dated 18th January, 2024, was passed, the Petitioner filed the writ petition challenging the Order-in-Original dated 10th October, 2014 itself. In the writ petition *vide* order dated 1st April, 2024, this Court deemed it appropriate to issue notice to the Directorate General of Foreign Trade (hereinafter "*DGFT*") and direct filing of an affidavit by the DGFT in the following terms:

> *"2. This Court has perused the Order dated 18th January, 2024 which is a detailed order. Considering the narration in the said order it is deemed appropriate to issue notice to the Director-General of the Foreign Trade ("DGFT").*
>
> *3. Let the amended memo of parties be filed within one week. Notice be issued to DGFT through all modes including through the litigation Section of the Union of India in the High Court.*
>
> *4. Let DGFT file an affidavit, bearing in mind the Order dated 18th January, 2024, addressing whether the Petitioner has, in fact, discharged their export obligations in terms of the letter dated 9th March, 2022. The said certificate is attached as Annexure A-42 in* **CUSAA 178/2022**.*"*

11. The affidavit of the DGFT has now been filed which would show that

the DGFT has clearly taken the stand that the export obligation of the Petitioner stands fully satisfied. The relevant portions of the affidavit of the DGFT are set out below:

> *"1. That I am duly authorized to swear upon this affidavit and on behalf of the Directorate General of Foreign Trade (hereinafter referred to as "DGFT") and am fully conversant with the facts of the present case.*
>
> *2. That the present affidavit is being filed in compliance with the directions passed by this Hon'ble Court vide Order dated 01.04.2025 in CUSAA 178/2022, wherein DGFT was directed to file an affidavit bearing in mind the vide Order dated 18.01.2024, addressing whether the Petitioner has, in fact, discharged their export obligations in terms of the Redemption letter issued by DGFT dated 09.03.2022.*
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> *3. That the Petitioner, M/s Anjani Technoplast Ltd., was issued Advance Authorisation No. 0510275875 dated 28.10.2010 for the duty-free import of raw materials for manufacturing bulletproof vests and associated defence equipment. The CIF value of import under this Authorisation was ₹5,96,03,154.51 (USD 12,54,803.27), and the corresponding Export Obligation, hereinafter referred to as EO, was ₹7,81,80,152.00 (USD 1,663,407.50), to be fulfilled within 36 months. (Annexure- A1)*
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> *4. That the Petitioner initially fulfilled only 47% of the EO, having exported goods worth ₹1,47,91,760.07, and was thereby unable to meet the stipulated obligation due to a commercial ban imposed by the Directorate General of Supplies & Disposals (DGS&D) vide order dated 24.01.2011, which remained effective for three years due to alleged misconduct in a technical evaluation trial. (Annexure-A2)*
>
> *5. That the Petitioner subsequently approached the Policy Relaxation Committee (PRC) under Para 2.59 of the Foreign*

Trade Policy (FTP) 2015-20 seeking an extension of the EO period. Para 2.59 empowers DGFT to pass such orders grant such exemption, relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade to any person or class or category of persons from any provision of FTP or any Procedures in public interest. Based on the Petitioner's submissions, financial hardship, and past ban on export product the PRC, in its 26th Meeting held on 07.01.2020, allowed an extension of the EO period for 12 months. (Annexure-A3)

6. That accordingly, As per PRC meeting No.26/AM.20 dated 07.1.2020 the Office of DGFT issued an endorsement, effectively modifying the original EO period from 36 months to a cumulative 133 months, ending 11.11.2021.(Annexure-A4)

7. That upon the lapse of the extended EO period, and in the absence of complete fulfilment of the EO, the Petitioner voluntarily deposited the proportionate customs duty amounting to ₹34,24,603/- along with accrued interest (₹5,49,102) on 09.09.2020 and ₹41,59,710 on 20.04.2021, corresponding to the unfulfilled portion of the EO (i.e., 53%) vide challan form TR-6(Annexure-A5)

8. That based on the voluntary compliance, deposit of proportionate customs duty, and fulfilment of part of the export obligation, the competent authority within the DGFT, having satisfied itself of the documents and payment evidence submitted by the Petitioner, issued the Redemption Certificate dated 09.03.2022, under Para 4.26 of the Handbook of Procedure 2004-09. (Annexure- A6)

9. That the said Redemption Certificate expressly states that the EO has been met in full value as well as in quantity term in proportion to the imports made, and the authorisation has been redeemed. It is also clarified that such redemption is issued "without prejudice" to the rights of Customs

Authorities to take action if any misdeclaration, misrepresentation, or misuse is later discovered.

10. That the DGFT, therefore, confirms that in terms of its statutory role and after due scrutiny, the export obligation under Advance Authorisation No. 0510275875 dated 28.10.2010 stands discharged, and the issuance of the Redemption Certificate dated 09.03.2022 is conclusive evidence to that effect.

11. In view of the above it is hereby submitted that the Petitioner has discharged their export obligation in terms of the applicable provisions of FTP and HBP. The Redemption Certificate dated 09.03.2022 was issued based on compliance with statutory and policy requirements. Any further recovery or adjudication may lie within the domain of the Customs Department and not the DGFT, once redemption has been granted."

12. Mr. Priyadarshi Manish, ld. Counsel for the Petitioner submits that the ***CUSAA 178/2022*** arises out of the same Order-in-Original and he does not press the same in view of the writ petition being allowed today.

13. Mr. Anurag Ojha, ld. SCC for the Respondent submits that at the time when the Order-in-Original was passed, the facts relating to the DGFT and the extension of period for fulfilling the obligations as also the subsequent redemption certificate did not exist.

14. To cut the long story short, in effect, the events which have transpired subsequent to the passing of the Order-in-Original dated 10th October, 2014, particularly the issuance of export obligation discharge certificate dated 9th March, 2022, has therefore rendered both the proceedings, *i.e.*, before the CESTAT and the appeal before this Court, infructuous.

15. However, insofar as the writ petition is concerned, considering the fact that the Petitioner was granted an extended period of 133 months to satisfy the

export obligation and thereafter the redemption/discharge certificate has also been issued, the impugned Order-in-Original dated 10th October, 2014 confirming demand raised for failure to fulfil the export obligation would no longer survive. Accordingly, the Order-in-Original deserves to be set aside. Ordered accordingly.

16. If any amount has been deposited by the Petitioner for pursuing the appeal before CESTAT, the Petitioner may approach CESTAT for refund of the pre-deposit. The amount of pre-deposit, if any, which was deposited by the Petitioner for filing the appeal shall be refunded within two months.

17. ***CUSAA 178/2022*** and ***W.P.(C) 4339/2024*** are disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

OCTOBER 8, 2025/kp/msh