HC-KAR

NC: 2026:KHC:61744-DB
WA No. 1447 of 2025

CNR: KAHC010570652025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT APPEAL NO.1447 OF 2025 (GM-RES)

BETWEEN:

M/S. NADIA EXIM,
REP. BY ITS PROPRIETOR
MR. ROY DANIEL SOUZA,
AGED ABOUT 62 YEARS,
PREVIOUSLY HAVING THE ADDRESS AT
8A, 8TH FLOOR, 'SOLUS' JAIN HEIGHTS
NO.2, 1ST CROSS, J.C. ROAD,
BANGALORE-560 002.

AND PRESENTLY HAVING THE ADDRESS AT
#A 103, WILSON MANOR APARTMENTS
13TH CROSS, AREKEMPANAHALLI,
BANGALORE SOUTH, BENGALURU-560 027.

...APPELLANT

Digitally signed by C K LATHA
Location: High Court of Karnataka

(BY SRI. NANDISH PATEL, ADVOCATE)

AND:

1. THE DIRECTOR GENERAL OF FOREIGN TRADE,
OFFICE OF THE DIRECTOR GENERAL OF
FOREIGN TRADE, UDYOG BHAVAN,
NEW DELHI-110 011.

2. THE JOINT DIRECTOR GENERAL OF FOREIGN TRADE,
KENDRIYA SADAN, KORAMANGALA,
BANGALORE-560 034.

...RESPONDENTS

(BY SRI. KUMAR M.N., CGSPC)

CNR: KAHC010570652025

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO CALL FOR THE ENTIRE RECORDS IN W.P.NO.49480/2017 (GM-RES); SET ASIDE THE ORDER DATED 14.02.2025, PASSED BY THE LEARNED SINGLE JUDGE IN W.P. NO.49480/2017 AND CONSEQUENTLY ALLOW THE WRIT PETITION AS PRAYED FOR AND ETC,.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present appeal impugning an order dated 14.02.2025 passed by the learned Single Judge in Writ Petition No.49480/2017 [GM-RES].

2. The appellant filed the petition impugning a rejection letter dated 16.07.2015, which rejected the appellant's application for benefits under the Incremental Exports Incentivisation Scheme [**IEIS**]. The rejection letter stated that the IEIS was not extended for the period April 2014 to March 2015. The appellant contended that this reason was patently erroneous, as the IEIS had in fact been extended. However, the learned Single Judge found no merit in this contention and accordingly rejected the petition.

3. The learned counsel for the appellant referred to a notification dated 18.04.2013. The notification indicates that it was issued in exercise of the powers conferred by Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 [**the FTDR Act**] and by Para 2.1 of the Foreign Trade Policy, 2009-2014 [**FTP 2009**]. By virtue of the notification, paragraph 3.14.5 was added to FTP 2009 to provide an incentivisation scheme for incremental exports. The relevant extract of paragraph 3.14.5, setting out the exporters' entitlement under the scheme, is set out below:

"**Entitlement**

(a) Objective of the Scheme is to incentivize incremental exports.

(b) An IEC holder would be entitled for a duty credit scrip @ 2% on the incremental growth (achieved by the IEC holder) during the current year (for example, say for the period 01.04.2013 to 31.3.2014) compared to the previous year (for example, say for the period from 01.04.2012 to 31.3.2013) on the FOB value of exports. Incremental growth shall be in respect of each exporter (IEC holder) without any scope for combining the exports for Group Company.

(c) Incentive will be admissible only if the IEC holder has achieved growth in the financial year 2013-2014 vis a vis financial year 2012-2013. Quantum of benefit will be calculated on the incremental growth achieved subject to eligibility criteria given in para 3.14.4(d) of FTP 2009-14. "

4. As is apparent from the above, the said scheme was applicable for the current year, that is, 2013-2014. As stated above, the object is to incentivise the incremental exports which would be calculated on the basis of the quantum of exports in the previous financial year, that is, 01.04.2012 to 31.03.2013.

5. The learned counsel for the appellant also referred to a public notice dated 19.02.2014, issued under the powers conferred by paragraph 2.4 of FTP 2009. By virtue of that notice, the Handbook of Procedures 1 was amended, extending the Handbook of Procedures until further orders.

6. The learned counsel for the appellant also refers to a notification dated 19.02.2014 issued by the Central Government which reads as under :

"To be published in the Gazette of India Extraordinary Part-II,
Section - 3, Sub-Section (II)
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade

Notification No. 69 (RE-2013)/2009-2014
New Delhi, Dated: 19th February, 2014

S.O. (E) In exercise of powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 read

with paragraph 1.3 of the Foreign Trade Policy (FTP) 2009-2014, as amended, the Central Government hereby makes an amendment in paragraph 1.2(a) of FTP 2009-2014 (RE-2013) by substituting the phrase "shall remain in force upto 31st March, 2014 unless otherwise specified" by the phrase "shall remain in force until further orders."

2. The amended paragraph 1.2(a) of FTP 2009-14 (RE-2013) would be as under:

1.2(a) "The Foreign Trade Policy (FTP) 2009-2014, incorporating provisions relating to export and import of goods and services, shall come into force with effect from 27th August, 2009 and shall remain in force until further orders. All exports and imports upto 26th August 2009 shall be accordingly governed by the FTP 2004-2009."

Effect of this notification: The existing Foreign Trade Policy 2009-14 (RE-2013) was to remain in force until 31.3.2014. To provide continuity in policy environment, this is being extended beyond 31.3.2014 until further orders.

(Anup K. Pujari)
Director General of Foreign Trade
dgft[at]nic[dot]in

(Issued from File No. 01/94/180/219/AM 14/PC-4) "

7. The appellant's case that it is entitled to the benefits of IEIS for financial year 2014-15 is founded on the notification dated 19.02.2014. The learned counsel for the appellant contends that by virtue of the said notification, the FTP 2009, which included IEIS, continues to be in force. He submits that no specific orders have been passed for terminating the said scheme.

8. We find no merit in the aforesaid contentions.

9. The notification dated 19.02.2014 merely extended the period for which FTP 2009 would remain in force. It did not amend paragraph 3.14.5 of FTP 2009. Under paragraph 3.14.5(c), the incentive is admissible only if the IEC holder has achieved growth in the financial year 2013-2014 compared with the financial year 2012-2013. Thus, the IEIS, by its own terms, was confined to incremental exports achieved in the financial year 2013-2014. The extension of FTP 2009 beyond 31.03.2014 did not, by itself, extend the IEIS to exports made in the financial year 2014-2015.

10. Section 5 of the FTDR Act empowers the Central Government to formulate, announce and amend the Foreign Trade Policy. The said Section is set out below :

> "**5. Foreign Trade Policy.—**The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, in like manner, amend that policy:
>
> Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette."

11. The Central Government, in exercise of the power under Section 5 of the FTDR Act, framed the Foreign Trade Policy 2015-2020 [**FTP 2015**]. The notification dated 01.04.2015 expressly provides that FTP 2015 would come into force with effect from 01.04.2015. The said policy does not provide for any incentives under IEIS. According to the Directorate General of Foreign Trade, IEIS did not exist for the year 2014-2015, and the benefits thereunder were not extended to exports made beyond 31.03.2014.

12. The learned counsel appearing for the DGFT also states that benefits under IEIS have not been provided to any exporter.

13. In view of the above, we find no merit in the present appeal. It is accordingly dismissed.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

CKL
List No.: 2 Sl No.: 12