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

\+ **W.P.(C) 4237/2023**

Date of decision: **17.02.2026**

MCCAIN FOODS INDIA PRIVATE LIMITED .....Petitioner

(Through: Mr. Yogendra Aldak, Mr. Agrim Arora, Advocates.)

versus

UNION OF INDIA THROUGH SECRETARY, MINISTRY OF COMMERCE AND INDUSTRY, DEAPRTMENT OF COMMERCE & ORS.

.....Respondents

Through: Ms.Nidhi Raman, CGSC with Mr.Arnav Mittal, Advocate for R-1 to 3.)

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The instant petition is for the following reliefs:-

> *"a) Issue an appropriate writ, order or direction in nature of Certiorari quashing the Impugned Decisions (MOM No. 01/23 dated 07.04.2022 and MOM No. 211 AM23 dated 02.12.2022) (Annexure-PI), being discriminatory, arbitrary, capricious and violative of Article 14 and 19(1)(g) of the Constitution;*
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> *b) Issue an appropriate writ, order or direction relaxing the time limit for filing claims for assistance under TMA for quarters ending September 2019 and December 2019 in terms of Hon'ble Supreme Court Suo Moto Orders;*

c) Issue a writ in nature of Mandamus directing the Respondent No.2 and its officers to allow Petitioner to file claims for assistance under TMA for the quarters ending September 2019 and December 2019 after reopening the DGFT Portal or manually; and

d) Issue any other writ order or direction, which this Hon 'ble Court may deem fit and proper under the facts and circumstances of the present case."

2. The case of the petitioner is that both, the original decision as well as the review has been taken without considering the facts and circumstances put forth by the petitioner. The petitioner submits that he had exported notified goods to specified countries as per Chapter 7A of Foreign Trade Policy 2015-2020 ('FTP') for the relevant period from 01.07.2019 to 30.09.2019 (hereinafter referred to as 'relevant period 1') and from 01.10.2019 to 31.12.2019 (hereinafter referred to as 'relevant period 2').

3. According to the petitioner, for the relevant period 1, the petitioner attempted to file an application to claim Transportation and Marketing Assistance ('TMA') under Chapter 7A of FTP of Rs.12,44,600/- on the DGFT Portal for which e-com reference no.05970215620010143078 was generated, however due to some technical glitch, the payment of fee for filing the TMA application could not be completed. For the relevant period 2, the petitioner attempted to claim TMA under Chapter 7 A of FTP of Rs.20,73,400/- on the DGFT Portal for which e-com reference no. 05970215620010147243 was generated. However, again due to some technical glitch payment of fee for filing the TMA application could not be completed. The petitioner, therefore, submits that he could finally make payment of fee for both the TMA applications, but, could not submit the TMA applications as the DGFT portal prompted that the time-period for

filing TMA applications had expired.

4. The sole grievance raised by the petitioner is that the case was considered by the Competent Committee as case no.26 in its meeting dated 07.04.2022 and the said Committee rejected the petitioner's case without considering the facts and circumstances which were pointed out. The petitioner also submits that in the review proceedings, the Review Committee has not bestowed consideration to similarly situated cases and has rejected the same without assigning any cogent reason.

5. The minutes of meeting dated 07.04.2022 are extracted as under:-

> ***"Case No. 26 M/s. Mccain Foods India Pvt. Ltd., New Delhi***
> ***F. No. HORPRCAPPLY00135236AM22***
> ***Meeting No.01/AM23 held on 07.04.2022***
>
> *Subject: Condonation for delay in submission of 2 online TMA applications for the period'(I July 2019 to September 2019 and (ii) October 2019 to December 2019.*
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> *The applicant stated that they couldn't submit the application within the stipulated time due to technical glitches on DGFT portal and disruption of the business of the company due to covid-19 pandemic. Hence, they are requesting to condone the delay in submission of 2 online TMA applications for the period (i) July 2019 to September 2019 (ECOM No.0597021562001O147243 dated 31.12.2020) and (ii) October 2019 to December 2019 (ECOM No.05970215620010143078 dated 23.11.2020).*
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> *Decision: The Committee after examining the case in detail on the basis of justification submitted by the firm and it decided to reject the case as the same was' found to be without any merit."*

6. It would thus appear that except recording the petitioner's case, the aforesaid minutes of meeting does not record any reason as to why the same is not acceptable. Similarly, if the decision of the Review Committee dated 02.12.2022 is considered, the same only records the stand of the petitioner

that in various cases, which were situated identically, the benefit was granted, however, it does not record as to why the same benefit cannot be granted to the petitioner.

7. The minutes of meeting dated 02.12.2022 is extracted as under:-

> ***"PH Case No. 07) (M/s. Mccain Foods India Pvt. Ltd., New Delhi***
> ***F. No. HQRPRCAPPLY00001337AM23***
> ***Meeting No.21/AM23 held on 02.12.2022***
>
> *(Subject: Condonation for delay in submission of 2 online TMA application for the period July 2019 to September 2019 and (il) October 2019 to December 2019.)*
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> *The applicant had sought personal hearing in terms of Para 2.59 of FTP-2015-2020, which was afforded on 02.12.2022, Shri Rajat Dosi, Partner appeared on behalf of the firm and made the following submissions:*
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> *This is the review case of PRC Meeting No.01/AM23 dated 07.04.2022(Case No.26)) (wherein the Committee rejected the case. The applicant has filed application for review the decision of the Committee and stated that due to the Covid-19 pandemic and (technical glitches in the system, the company could not submit the application for quarters ending September, 2019 and December 2019. The PRC has passed an order without giving any reasons nor is any opportunity being provided to be heard in person, therefore in the given case there a clear violation of the principles of natural justice. The PRC has already given relaxation in various cases to various parties on identical matters i.e. M/s. Astish Industries, Mumbai and M/s. Bhagavati Commission Agents Pvt. Ltd. etc. Hence they are requesting to allow condonation of delay in submission of TMA application.*
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> ***Decision**: The Committee heard and reviewed the case on the basis of submission furnished by the applicant it observed that there is no merit in firm's contention and accordingly, it decided to maintain rejection of the earlier decision of PRC in its meeting No.01/AM23 dated 07.04.2022 (Case no.26)."*

8. However, even in the said minutes of meeting, deliberation on the petitioner's contentions is conspicuously not discernable. It is trite law, that

administrative orders must be supported by reasons contained therein. Reference, in this regard, may be made to the decision of the Supreme Court in ***Mohinder Singh Gill v. Chief Election Commr.***,[1]

> ***"8.** The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji [Commr. of Police, Bombay v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16] :*
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> > *"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."*
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> *Orders are not like old wine becoming better as they grow older.*
> *A CAVEAT"*

9. Upon consideration of both the decisions, it appears that the authorities have failed to adequately address the petitioner's grievance, especially with regard to the denial of benefits granted to similarly situated companies. The matter is, therefore, remitted to the Review Committee for reconsideration in accordance with law.

10. Let the Review Committee to reconsider the case of the petitioner and to pass a well reasoned order within a reasonable period of time.

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[1] (1978) 1 SCC 405

11. With the aforesaid observations, the instant petition stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

FEBRUARY 17, 2026
Nc/amg