
(2016) 05 DEL CK 0228

In the Delhi High Court

Case No : Writ Petition (C) No. 3334 of 2016 & CM No. 14216 of 2016

Auto Ignition Ltd.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 03-05-2016

Acts Referred:

Citation : (2016) 336 ELT 398

Hon'ble Judges : S. Muralidhar and Vibhu Bakhru, JJ.

Bench : Division Bench

Advocate : V. Lakshmikumaran and Yogendra Aldak, Advocates, for the Petitioner; Satish Kumar, Senior Standing Counsel, for the Respondent

Final Decision : Disposed Off

Judgement

1. This is one more case where the petitioner is being directed to deposit the entire customs duty on the ground of failure to produce the Export Obligation Discharge Certificate (?EODC?).

2. The case of the petitioner is that in respect of the EPCG Licence No. 05301447718, dated 4th October, 2007 (Old EPCG Licence No. 0530137650, dated 21st December, 2004), the petitioner fulfilled its export obligation and received the EODC dated 5th November, 2008. According to the petitioner, by a letter dated 9th December, 2008, it submitted a copy of the EODC to the Commissioner of Customs.

3. It appears that a show cause notice (SCN) was issued nearly six years thereafter to the petitioner on 29th May, 2014, but the petitioner states that it was never served with the said SCN nor the subsequent notices for personal hearing. The impugned Order-in-Original dated 31st December, 2014 was passed ex parte by the Additional Commissioner of Customs affirming the duty demand.

4. This Court has, in a number of orders, in similar circumstances set aside the adjudication order and remanded the matter to the adjudicating authority for fresh consideration after taking into account EODC furnished by the petitioner.

These orders include the following :-

1. Order dated 12th January, 2016 in W.P. (C) No. 10031/2015 (Lifelong India Pvt. Ltd. v. Union of India) [2016 (334) E.L.T. 410 (Del.)]
2. Order dated 15th January, 2016 in W.P. (C) No. 11852/2015 (Lloyd Electric & Engineering Limited v. Union of India)
3. Order dated 29th January, 2016 in W.P. (C) Nos. 741 & 757/2016 (KEI Industries Ltd. v. Union of India)
4. Order dated 25th August 2015 in W.P. (C) No. 7896/2015 (Jonson Rubber Industries Ltd. v. Union of India).
5. On the last date, Mr. Satish Kumar, learned senior standing counsel appearing for respondent Nos. 2 and 3 sought time to take instructions. Today, he informs the Court that he has not yet received instructions.
6. In view of the unrebutted categorical assertion by the petitioner that it has obtained the EODC certificate way back on 5th November, 2008 and has furnished a copy thereof to the Commissioner of Customs on 9th December, 2008, the Court considers it appropriate to set aside the impugned Order-in-Original dated 31st December, 2014 passed by the Additional Commissioner of Customs and remand the matter to the file of the concerned Additional Commissioner for a fresh determination after taking into account the EODC dated 5th November, 2008 issued to the petitioner by the Zonal Joint Director General of Foreign Trade.
7. The matter will now be listed before the Additional Commissioner on 8th June, 2016 for further proceedings in accordance with law.
8. The writ petition and pending application are disposed of in the above terms.
9. Order dasti under the signature of Court Master to both the parties.