

(2006) 01 DEL CK 0050
In the Delhi High Court
Case No : LPA 988 of 2005

Exim Concept

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 18-01-2006

Acts Referred:

Citation : (2006) 129 DLT 647

Hon'ble Judges : Markandeya Katju, C.J.; Madan B. Lokur, J

Bench : Division Bench

Advocate : Priyadarshi Manish, for the Appellant; Gaurav Duggal, for the Respondent

Final Decision : Dismissed

Judgement

Markandeya Katju, C.J.—This writ appeal has been filed against the impugned judgment of the learned Single Judge dated 19.1.2005.

2. We have heard the counsel for the parties and perused the record.

3. The facts in detail have been set out in the judgment of the learned Single Judge and hence we are not repeating the same, except where necessary.

4. It appears that Duty Free Replenishment Certificate license had been granted to M/s Alpha Overseas and M/s Gunja Impex in the month of November, 2002. The petitioner/appellant is stated to have purchased these licenses from those parties. Thereafter these licenses have been cancelled by respondent No.2. It is alleged that the cancellation was done without an opportunity of hearing.

5. In paragraph 2 of the counter affidavit, it is stated that a show cause notice was issued to the predecessor-in-interest of the petitioner firm, namely, M/s Alpha Overseas and M/s Gunja Impex respectively to show cause as to why the licenses issued in their favor be not cancelled. Thus, the aforesaid firms were given an opportunity of hearing before the licenses were cancelled. The petitioner had purchased a license even before the issuance of the show cause notice.

6. In para 4 of the counter affidavit, it is stated that the license were subject to the "Actual User" condition. Hence in our opinion, the transfer of the license by M/s Alpha Overseas & M/s Gunja Impex was not valid.

7. Apart from that, the petitioner/appellant himself has transferred these licenses as stated in para 7 of the impugned judgment.

8. In paragraph 8 of the counter affidavit, it is stated that the communications addressed by the Petitioner firm in November, 2003 were promptly replied to. It is stated that the petitioner was pleased with the quick response from the office of the respondent and they had discussions with the Joint Director on 5.11.2003 and 11.11.2003. Petitioner was also given an appointment for 12.11.2003 to put forward his grievance with the zonal joint DGFT, CLA, New Delhi. The issue was also placed before the Advance Licencing Committee in its meeting on 15.1.2004. The petitioner was given an opportunity for hearing there also.

9. We agree with the view taken by the learned Single Judge that since it was an "Actual User" license, it could not be transferred. We are also satisfied that the appellant was given opportunity of hearing.

10. Hence, there is no force in this appeal and it is dismissed.