

(2011) 05 AHC CK 0041
In the Allahabad High Court
Case No : Writ Petition No. 7153 of 2010 (MS)

Mayfair Leather Export (Pvt.) Ltd

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 23-05-2011

Acts Referred:

Customs Act, 1962 — Section 129DD, 75, 75(1)
Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 — Rule 16,
16A, 16A(2), 16A(3), 2
Foreign Exchange Management Act, 1999 — Section 10(4), 11(1)

Citation : (2011) 6 ADJ 353 : (2011) 272 ELT 193

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—Heard Counsel for the Petitioner and the Counsel for the Respondents.

2. Draped in brevity, the facts arising out of the instant writ petition are that M/s Mayfair Leather Export (Pvt.) Ltd.-Petitioner is a Company registered under the provisions of Companies Act and is engaged in the business of manufacturing and export of finished leather products. In the course of its business, the Company exported leather shoes/ boots under ten drawback shipping bills on different dates i.e. 18.10.2000, 13.10.2000, 21.10.2000, 1.11.2000, 31.10.2000, 8.11.2000, 15.11.2000, 17.11.2000, 30.11.2000 and 11.12.2000 from ICD, JRY Kanpur and in its export business transaction, a duty drawback of Rs. 44,38,625/- was paid to the Petitioner. As the exporter Company failed to submit proof of realization of export proceeds in the form of Bank Realization Certificate [in short referred to as "BR Certificate"], a notice dated 9.7.2001 was issued by the Deputy Commissioner (Customs), ICD, JRY, Kanpur, requiring him to show-cause as to why drawback Rs. 44,38,625/- be not recovered from the Petitioner in view of the provisions of Rule 16A of the Customs and Central Excise Duties Drawback Rules, 1995 and proviso to Section 75(1) of the Customs Act,

1962.

3. Petitioner-Company replied to the aforesaid show-cause notice and furnished "BR Certificate" against Shipping Bill No. 25 dated 13.10.2000. Regarding other Shipping Bills, it was informed that the Petitioner-Company has obtained permission for extension of time from the Reserve Bank of India and as a proof thereof had also enclosed the RBI's letter extending the due date till 27.7.2001. It may be added that the time schedule was extended by the Reserve Bank of India from time to time and finally upto 1.8.2004 through various letters. vide letter dated 22.3.2007, the Petitioner-Company informed the Customs Department that the nine Shipping Bills for which notice was issued and three other Bills relating to Shipments from other ports have been written off by the Banker i.e. State Bank of India, Industrial Estate Branch, Kanpur vide letter dated 3.4.2007. The Assistant Commissioner, ICD Railway Yard, Customs, Kanpur, after considering the reply as well as other material on record, passed an order dated 8.5.2007 for recovery of Rs. 38,92,527/- as drawback paid to the Petitioner and the Petitioner was directed to pay the said amount within thirty days of receipt of the order.

4. Feeling aggrieved, the Petitioner preferred an appeal before the Commissioner (Appeals) Customs against the order dated 8.5.2007, which was ultimately rejected by the impugned order dated 27.7.2007. Therefore, the Petitioner preferred a Revision u/s 129-DD of the Customs Act, 1962 before the Government of India and the Revisional Authority/Joint Secretary, Ministry of Finance-opposite party No. 2 by the impugned order dated 19.8.2010 upheld the order passed in Appeal saying therein that there was no illegality.

5. Hence this writ petition.

6. It has been vehemently argued on behalf of the Petitioner-Company that the very basis for initiation of recovery proceedings is the receipt of relevant information from Reserve Bank of India and once the Reserve Bank of India vide its letter dated 25.5.2004 had clearly stated that the relevant bills of the Petitioner have been written off without surrender of duty drawback, it was not within the competence of the Custom Department to continue the recovery proceedings, particularly when on the basis of the letter of Reserve Bank of India, the Banker of the Petitioner i.e. State Bank of India had also issued a letter on 13.4.2007. Under these circumstances, it was incumbent upon the authorities of the Custom Department to withdraw the show-cause notice and consequential recovery proceedings, but the authorities in breach of the relevant provisions/Circulars proceeded to order for recovery of the aforesaid amount. The Appellate Authority as also the Revisional Authority were swayed away with absolutely irrelevant provisions/Circulars and ignored the relevant facts and the law in vogue making the impugned orders unsustainable in the eyes of law.

7. It has also been argued that the Commissioner (Appeals) had wrongly interpreted Rule 16-A of the 1995 Rules and wrongly observed that if the

Department comes to know from any other source or from asking from Exporter itself that export proceeds are not realized, the Department can very well proceed for recovery of drawback even in absence of Export Outstanding Statement. Before the appellate authority, it was vehemently argued that the proceedings can be initiated by the Department only on receipt of relevant information from Reserve Bank of India but the appellate authority overlooked the aforesaid contention and observed that in Rule 16-A, the word "only" has nowhere been used in the aforesaid Rule. Therefore, the customs authorities can very well initiate proceedings of recovery of drawback even in absence of Export Outstanding Statement.

8. Elaborating his argument, learned Counsel for the Petitioner submitted that the Central Board of Excise & Customs has issued various circulars from time to time, which govern the settlement of disputes. The Reserve Bank of India has written off the bills of the Petitioner without surrender of duty drawback vide its letter dated 24.5.2004, the relevant period/year for decision of the present dispute would be the period starting from 1.7.2003 till 30.6.2004. The appellate authority has wrongly relied on paragraph 3 of the circular No. 22 dated 24.9.2003 and observed that even the deletion of Exporter's name from Export Outstanding Statement does not entitle the Petitioner to enjoy the drawback. Similarly, the Circular dated 1.7.2006 issued by the Reserve Bank of India was relied upon although the aforesaid circular ought not to have been relied upon as the present dispute pertains to the period between 1.6.2003 to 30.6.2004.

9. Learned Counsel for the Petitioner also contended that before the revisional authority, it was clearly demonstrated that drawback can be recovered from the defaulting Exporter when the sale proceeds are not received within the time allowed by FEMA in accordance with the procedure specified in 1995 Rules. Further as per Rule 16-A, as stood at the relevant time (prior to its amendment on 15.2.2006) the custom authorities could issue a show-cause notice only on the receipt of relevant information from the Reserve Bank of India. It is surprising that the revisional authority merely reiterated the facts and rejected the revision although legal infirmities were clearly demonstrated before him.

10. Sri K.D. Nag, Senior Standing Counsel appearing for Respondents Nos. 1 to 4 while refuting the allegations made in the writ petition submitted that even after having availed benefit of Custom Duty" drawback of Rs. 44,38,652/-, the Petitioner failed to produce the evidence of realization of "sale proceeds" of items exported by the Petitioner, during October, 2000 to October, 2001 against 10 shipping bills even after lapse of 7 months period from the date of export. Consequently, the show-cause notice dated 9.7.2001 was issued to the Petitioner in light of legal provisions of Section 75 of the Customs Act, 1962 and 16-A of the Customs & Excise Duties drawback Rules, 1995.

11. As regard to the contention of the Petitioner that customs officials derive authority to issue show-cause notice and authority to initiate proceedings for recovery of Customs Duties Drawback on receipt of relevant information from

RBI, it has been contended that the customs officials are bound by the statutory legal duty to issue "show-cause notice" immediately after six months in case of non realization of sale proceeds. The receipt of information from RBI is only an official communication from RBI regarding non-application of sale proceeds which fact had already come to notice, as no evidence of realization had been produced and accordingly in terms of provisions of the statutes, show-cause notice was issued. It was also added that the scheme of "Duty Drawback" is governed by the provisions of Customs Act, 1962 and the Rules framed thereunder which clearly provide that drawback should be recovered, if sale proceeds have not been realized. There is no stipulation under the provisions of the Customs act, 1962 or Rules framed thereunder that Reserve Bank of India or State Bank of India can allow any person to retain export incentives, like "Duty Drawback".

12. On behalf of the aforesaid Respondents, it has next been contended that paragraph 6C, 14 of Exchange Control Manual governs the mechanism for realization of export proceeds and also deals with the situation regarding write off of unrealized export bills and provides that in cases where the exporter has not been able to realize the outstanding export dues despite best efforts, he may approach the authorized dealer, who had handled the relevant shipping documents with appropriate supporting documentary evidence with a request for write off of the unrealized portion and the authorized dealer may accede to such request subject to conditions noted thereunder. Condition (g) under Paragraph 6C-14 of the Exchange Control Manual, clearly stipulates that "the export has surrendered proportionate export incentives, if any availed in respect of the relatives shipments" which means that for "write off and settlement of export bill claim, it is a precondition that export incentive, duty drawback if any has to be proportionately surrendered.

13. According to the Respondents, as averred above, the Petitioner has failed to produce documentary evidence and as such a show-cause notice and adjudication were carried out within the ambit of legal provisions of Rule 16-A of the Customs & Central Excise Duties Drawback Rules 1995 read with Section 75 of the Customs Act, 1962. The CBEC vide circular No. 7/2010-Cus dated 23.3.2010 have also clarified that provisions contained in paragraphs 2.25.1 and 2.25.4 of the Hand Book of Procedures would not be applicable to the drawback scheme and drawback would not be payable in cases where export proceeds have not been realized in accordance with the provisions of the Foreign Exchange Management Act, 1999 even if the claim has been settled by ECGS or realization waived by RBI.

14. Lastly, while concluding the arguments, it was urged on behalf of the Respondents that the Respondents have passed reasoned, legal and judicious order after considering the provisions of the statutes and it cannot be said that the impugned order suffers from any legal infirmities. Therefore, the writ petition is devoid of merits and is liable to be dismissed.

15. On behalf of the Reserve Bank of India, it has been submitted that after

receipt of request letter written by the Petitioner to the Authorized Dealer i.e. State Bank of India, Industrial Estate Branch, Kanpur, the said Bank wrote a letter to the Reserve Bank of India for writing off of the export bills without surrendering the export incentives/duty draw back. The matter was examined in light of paragraph 2.25.3 of Hand Book of Procedures (Volume I) issued by the Director General of Foreign Trade read with Exim Policy Circular No. 12/2002-07 dated 1st November, 2002 and only thereafter the letter dated 25th May, 2004 was issued to the AD Bank advising therein that the aforesaid twelve bills may be written off without surrendering the export incentives/duty draw back, which is well in consonance with the Circular No. 22 dated 24th September, 2003 issued by the Reserve Bank of India as in terms of the said circular, the authorized dealers are allowed to write off export bills on production of documentary proof of ECGC on getting confirmation claim in respect of outstanding bills.

16. On the basis of the arguments so advanced by the Counsel for the parties, the primary question to be decided by this Court is whether the custom authorities are competent to issue show-cause notice to a exporter for production of evidence for realization of exports proceeds on its own or only on receiving the relevant information from Reserve Bank of India.

17. In order to adjudicate the said question, it would be apt to reproduce the relevant provisions. Rule 16-A of the Customs and Central Excise Duties Drawback Rules, 1995 deals with the recovery of amount of Drawback where exports proceeds are not realized. Rule 16-A of the 1995 Rules as it stood prior to amendment made on 15.2.2006, reads as under:

16A. Recovery of amount of Drawback where export proceeds not realized,--(1) Where an amount of drawback has been paid to an export or a person authorized by him (hereinafter referred to as the claimant but the sale proceeds in respect of such export goods have not been realized by on behalf of the export In India within the period allowed under the Foreign Exchange Regulation Act, 1973 (46 of 1973) including any extension of such period, such drawback shall be recovered in the manner specified below.

(2) On receipt of relevant information from the Reserve Bank of India, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall cause notice to be issued to the exporter for production of evidence of realization of export proceeds within a period of thirty days from the date of receipt of such notice and where the exporter does not produce such evidence within the said period of thirty days, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall pass an order to recover the amount of drawback paid to the claimant and the exporter shall repay the amount so demanded within sixty days of the receipt of the said order:

Provided that where a part of the sale proceeds has been realized, the amount of drawback to be recovered shall be the amount equal to that portion of the amount of drawback paid which bears the same proportion as the portion of the

sale proceeds not realized bears to the total amount of sale proceeds.

(3) Where the exporter fails to repay the amount under Sub-rule (2) within said period of sixty days referred to in Sub-rule (2), it shall be recovered in the manner laid down in Rule 16.

(4) Where the sale proceeds are realized by the exporter after the amount of drawback has been recovered from him under Sub-rule (2) or Sub-rule (3) and the exporter produces evidences about such realization within one year from the date of such recovery of the amount of drawback, the amount of drawback so recovered shall be repaid by the Assistant Commissioner of Customs or Deputy Commissioner of Customs to the claimant.

(emphasis supplied)

18. The amended Rule 16-A reads as under:

16-A Recovery of Amount of Drawback Where export Proceeds Not Realized.-- Where an amount of drawback has been paid to an exporter or a person authorised by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realised by on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall be recovered in the manner specified below.

Provided that the time-limit referred to in this sub-rule shall not be applicable to the goods exported from the Domestic Tariff Area to a special economic zone.

(2) If the exporter fails to produce evidence in respect of realisation of export proceeds within the period allowed under the Foreign Exchange Management Act, 1999, or any extension of the said period by the Reserve Bank of India, the Assistant Commissioner of Customs or the Deputy Commissioner of Customs, as the case may be or Deputy Commissioner of Customs shall cause notice to be issued to the exporter for production of evidence of realisation of export proceeds within a period of thirty days from the date of receipt of such notice and where the exporter does not produce such evidence within the said period of thirty days, the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be or Deputy Commissioner of Customs shall pass an order to recover the amount of drawback paid to the claimant and the exporter shall repay the amount so demanded within thirty days of the receipt of the said order:

Provided that where a part of the sale proceeds has been realised, the amount of drawback to be recovered shall be the amount equal to that portion of the amount of drawback paid which bears the same proportion as the portion of the sale proceeds not realised bears to the total amount of sale proceeds.

(3) Where the exporter fails to repay the amount under Sub-rule (2) within said period of) thirty days referred to in Sub-rule (2), it shall be recovered in the

manner laid down in Rule 16.

(4) Where the sale proceeds are realised by the exporter after the amount of drawback has been recovered from him under Sub-rule (2) or Sub-rule (3) and the exporter produces evidence about such realisation within one year from the date of such recovery of the amount of drawback, the amount of drawback so recovered shall be repaid by the Assistant Commissioner of Customs or Deputy Commissioner of Customs to the claimant.

19. A perusal of Sub-Rule 2 of Rule 16-A (as it stood prior to amendment), clearly reveals that the customs official can issue a show-cause notice only after relevant information is received. The sub Rule 2 opens with the word "On receipt of relevant information from the Reserve Bank of India, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall cause notice". No where in the said Rule, it is provided that the Assistant Commissioner or Deputy Commissioner of Customs can cause notice to be issued on receipt of relevant information from any other source or suo motu. The Custom Department has failed to show that any information was ever received by them in this regard from the RBI. Therefore, the conclusions arrived at by the appellate and revisional authority that if the department comes to know from any other source that export proceeds are not realized, it can very well initiate proceedings for recovery of drawback even in the absence of XOS statement is wholly erroneous. Therefore, I cannot read the aforesaid provision in the manner sought to be read by the Counsel for the Union of India, for reading by adding certain words in the aforesaid manner does not appear to be the intention of the legislature while enacting the aforesaid legislation, for otherwise the legislature would have explicitly said so in the body of the main part of the Rule 16A as it stood prior to amendment. It may be noted that such words are missing in amended provision and there is no retrospectivity attached to it.

20. The provision of an Act is to be read in the manner as it exists in the statute book and it is a well settled principle in law that the Court cannot read anything into a statutory provision which is plain and unambiguous. The language employed in a statute is determinative factor of legislative intent. If the language of the enactment is clear and unambiguous, it would not be proper for the Courts to add any words thereto and evolve some legislative intent, not found in the statute. The Court cannot add words to a statute, or change its language, in particular when on a plain reading meaning becomes clear.

21. In *Sri Jeyaram Educational Trust and Others Vs. A.G. Syed Mohideen and Others*, the Apex Court while saying that a provision of statute should have to be read, as it is, in a natural manner plain and straight, without adding, substituting or omitting any words, held as under:

While using the tools of interpretation, the Court should remember that it is not the author of the Statute who is empowered to amend, substitute or delete, so as to change the structure and contents. A Court as an interpreter cannot alter

or amend the law. It can only interpret the provision, to make it meaningful and workable so as to achieve the legislative object, when there is a vagueness, ambiguity or absurdity. The purpose of interpretation is not to make a provision what the Judge thinks it should be, but to make it what the legislature intended it to be.

22. In the well-known treatise - Principles of Statutory Interpretation by Justice G.P. Singh, the learned author enunciated the same principle that the words of the statute are first understood in their natural, ordinary or popular sense and phrases and sentences are construed according to their grammatical meaning, unless that leads to some absurdity or unless there is something in the context or in the object of the statute to suggest the contrary (see: the Chapter - "The Rule of Literal Construction" page 78 9th edition).

23. Thus, if the interpretation as drawn by the aforesaid authorities is accepted, it would be a case of adding or deleting something from the provision, which is not permissible. This Court is not going to adopt a criterion, which has the force of an insertion in the provisions of the Act. Since there is no mention of any power vested in the Custom Department to issue show-cause without information of the RBI, I found it difficult to accept the view as expressed by the Appellate and Revisional authority.

24. It is not in dispute that Petitioner had exported the goods under ten drawback shipping bills on different dates in the year 2000. As per provisions of Section 75 of the Customs Act, 1962 the Petitioner was under an obligation to furnish receipt of sale proceeds within the time prescribed. It is also not disputed that the period of realization had been extended by the Reserve Bank of India initially till 27th July, 2001 and ultimately till 1st August, 2004 by the Reserve Bank of India. On 9.7.2001, the Assistant Commissioner, Customs Kanpur issued a show-cause notice to the Petitioner to show-cause as to why duty drawback of Rs. 44,38,625/- may not be recovered from the Petitioner under the provisions of Rule 16-A of 1995 Rules. Thereafter various other notices were sent. Petitioner objected to said show-cause notice on the ground that there was no occasion for the custom officials for issuing any show-cause notice prior to 1.8.2004 i.e. the time extended by the Reserve Bank of India. Counsel for the Union of India, on one hand, stated that the show-cause notice dated 9.7.2001 was issued in light of legal provisions of Section 75 of the Customs Act and Rule 16A of the 1995 Rules, and on the other hand, it has been stated that if the sale proceeds of exported goods, in respect of which drawback allowed/paid is not realized, within six months, the amount of drawback becomes recoverable subject to extension of time by the RBI. Undisputedly, the RBI had extended realization period upto 1.8.2004 and this fact was brought to the notice of the custom authorities by the Petitioner. Thus, the notice was issued when the RBI had already extended time period from time to time and finally upto 1.8.2004.

25. It would be useful to mention that Reserve Bank of India issued a circular 24th September, 2003 in exercise of powers conferred u/s 10(4) and Section

11(1) of the FEMA, 1999. It reads as under:

Export of Goods and Services-Payment of Claims by ECGC

Attention of Authorized Dealers is invited to Paragraph C.17 of the Annexure to A.P. (DIR Series) Circular No. 12 dated September 9, 2000 in terms of which exporter is not absolved of the statutory obligation undertaken by him on the GR/SDF/PP/SOFTEX forms to realize proceeds of the exports within prescribed period, even if the claim is settled by Export Credit Guarantee Corporation of India Ltd. (ECGC), under the policy issued by them. Further, Authorised Dealers are required to continue to hold the duplicate copies of GR/SDF/PP/SOFTEX forms in their custody and initiate follow-up measures in the normal manner.

2. It has now been decided that Authorised Dealers shall, on an application received from the exporter supported by a documentary evidence from the ECGC confirming that the claim in respect of the outstanding bills has been settled by them, write off the relative export bills and delete them from the XOS statement. Such write-off will not be restricted to the limit of 10 percent indicated in paragraph C. 18(b) of the circular *ibid*,

3. It is clarified that the claims settled in rupees by ECGC should not be construed as export realisation in foreign exchange and claim amount should not be allowed to be credited to Exchange Earner's Foreign Currency Account maintained in terms of Regulation 4 of FEMA Notification No. FEMA 10/2000-RB dated May 3, 2000.

4. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this circular have been issued u/s 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999(42 of 1999)

26. The Reserve Bank of India while allowing the authorized dealer to write off the realization of export proceeds has relied upon paragraph 2.25.3 of Hand Book of Procedures (Volume 1) as also the EXIM policy Circular No. 12/2002-2007 dated 1st November, 2002. The relevant paragraph reads as under:

Paragraph 2.25.3 of the Handbook of Procedures (Vol 1) permits taking into account of such exports for the purpose of benefits under the Exim Policy where the exports have been completed but the payment has not been realised from the buyer provided the payment has been realised through ECGC cover.

It has been decided to grant the benefits under para 2.25.3 of the Handbook of procedures (Vol 1) even for old cases. Hence exports made and payment realised through ECGC cover would be taken into account for benefits under the Exim Policy even if such exports were made and/or licences issued prior to 1.4.2002.

27. From the circular and Paragraph 2.25.3 of the Hand Book, reproduced hereinabove, it is imminently clear that the authorized dealers are allowed to

write off export bills on production of documentary proof of ECGC (Export Credit Guarantee Corporation of India) on getting confirmation claim in respect of outstanding bills. Thus the authorized dealers are vested with the power to write off export bills subject to the production of documentary evidence. The Circular which prohibits application of paragraph 2.25.1. and 2.25.4 to the drawback scheme pertains to the year 2010 and as such it has no significance as the instant matter pertains to the year 2003-2004. At this juncture it would be apt to reproduce paragraph 5 of the counter-affidavit sworn by Sanjiva Mohan Mishra, Manager in the Foreign Exchange Department on behalf of RBI:

The Reserve Bank of India, on the recommendations of Authorized Dealer Bank granted extension of realization of the export bills up to October 29, 2001 and thereafter up to June, 2002. After that the Authorized Dealer Bank granted extension up to August 1, 2004 for realization of the export proceeds. In the present case authorized dealer viz. State Bank of India on the basis of letter dated 14.2.2004 issued Petitioner vide its letter dated 23 March, 2004 sought a clarification from the Bank "whether overdue export bill can be written off without surrendering the incentives." After examining the request of the authorized dealer carefully and in consonance with the Government of India's Foreign Trade Policy and on the basis of paragraph 2.25.3 of Hand Book of Procedures (Volume 1) issued by the Director General of Foreign Trade read with EXIM policy Circular No. 12/2002-2007 dated November 1, 2002, a conscious decision has been taken by the Bank to allow the authorize dealer to write off the realization of export proceeds.

28. It may be noted that the Reserve Bank of India derives its power to act in such matters under the provisions of Foreign Exchange Management Act, 1999. The said Act being a special enactment has an overriding effect over the Customs Act. Therefore, the RBI has got power to write off realization of export proceeds.

29. Therefore, once the RBI after examining the matter issued the letter dated 25.5.2004 indicating in clear words that the shipment bills of the Petitioner were written off without surrender of duty drawback, the proper course available to the custom department was to drop the recovery proceedings. The RBI has clearly stated in his counter-affidavit that the letter dated 25.5.2004 was issued in accordance with the provisions of relevant Rules and Act. Thus the stand of the RBI supports and strengthens the case of the Petitioner.

30. In view of the above, the inevitable conclusion is that the findings recorded in impugned orders are perverse and are based on incorrect appreciation of relevant Act, Rules and Circulars. The Respondents have also tried to mislead this Court by saying that provisions contained in paragraphs 2.25.1 and 2.25.4 of the Hand Book of Procedures cannot be applied in view of the clarification given by the CBEC vide Circular No. 7/2010-Cus dated 23.3.2010 but they forget that the transaction pertains to the year 2000-2001 and the conscious decision has been taken by the Reserve Bank of India to allow the authorize dealer to write off the realization of export proceeds through the letter dated 25.5.2004. Thus this

circular was not in vogue when the transaction took place or when the letter dated 25.5.2004 was issued by the Reserve Bank of India.

31. In view of the aforesaid discussions, the impugned orders suffer from legal infirmities and are liable to be quashed. Accordingly, the writ petition is allowed and the impugned orders dated 19.8.2010, 27.7.2007 and 8.5.2007 and the consequential recovery proceedings/notice are hereby quashed.

32. Costs easy.