

(2005) 11 BOM CK 0001
In the Bombay High Court
Case No : Writ Petition No. 7148 of 2005

Mayur Enterprises

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 24-11-2005

Acts Referred:

Citation : (2006) 194 ELT 402

Hon'ble Judges : J.P. Devadhar, J;H.L. Gokhale, J

Bench : Division Bench

Advocate : S.N. Kantawala, instructed by Yogesh Rohira, for the Appellant; Y.R. Mishra, for the Respondent

Final Decision : Allowed

Judgement

1. Rule. Returnable forthwith.
2. Heard Mr. Kantawala in support of this petition. Mr. Mishra appears for the respondents.
3. The petitioner had applied for the licence under the Duty Entitlement Pass Book [DEPB] Scheme at an earlier point of time and on being denied the same, he had filed a Writ Petition bearing No.2383 of 2005. A single judge who heard that matter in vacation was informed that some investigation was going on about the export and genuineness by the petitioner concerning the same and it will be completed within a period of two weeks. The counsel for the respondents fairly stated that if nothing was found against the petitioner, necessary no objection certificate will be issued to the petitioner.
4. Now, it appears that the Additional Commissioner of Customs (DEPB) who is an appropriate officer had written to the Joint Director General of Foreign Trade informing him by letter dated June 22, 2005 that the department have no objection for issuance of the licence to the petitioner. In spite thereof, the licence was not being issued and hence this petition has been filed.

5. Now, the Deputy Director General of Foreign Trade one Mr. R. Mul huraj has filed an affidavit in reply on November 23, 2005. Mr. Mishra appearing for the respondents state that the office of the Director General of Foreign Trade wanted to make an enquiry as to how the export and imports were arranged by the petitioner. We fail to understand that if the Additional Commissioner of Customs (DEPB) informs the Joint Director General of Foreign Trade that they have no objection for issuance of licence, how this office goes into further investigation and prolongs issuance of necessary licence. We are not at all satisfied by this explanation and in the circumstances we are of the view that the particular licence is unnecessarily being denied to the petitioner.

6. In the circumstances, we allow this petition and direct the respondents to issue necessary licence to the petitioner. Rule is made absolute in terms of prayer clause 13(a) with no order as to costs.