(2018) 02 DEL CK 0159

In the Delhi High Court

Case No : Civil Writ Petition No. 11715 Of 2016

M/S RHA Enterprises APPELLANT

Vs

Union Of India And Anr RESPONDENT

Date of Decision : 05-02-2018

Acts Referred:

Citation : (2018) 02 DEL CK 0159

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Dr. G.K. Sarkar, Malabika Sarkar, Prashant Srivastava, Deepak Mahajan, Ravi Prakash, Farman Ali

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

1) The petitionerâ??s principal grievance in the present writ petition is that it has not been issued duty credit scrips under the Merchandise Exports

From India Export Scheme (in short â??Schemeâ??) in terms of Chapter 3 of the Foreign Trade Policy. The Foreign Trade Policy which is in issue,

according to the learned counsel for the petitioner, is the one relating to the period 2015-2020.

2) It appears that the respondents refused to issue duty credit scrips under the said Scheme on account of an alert having been issued by the Customs

Department/Directorate of Revenue Intelligence (DRI) on 22.3.2016, regarding 488 entities/firms. As a result of this alert export consignments and all

other attendant benefits were disallowed to entities/firms whose names were on the list. Since petitioner's name was also on the said list it suffered a

similar handicap.

3) This according to the petitioner changed when the DRI issued an updated list vis-a-vis 45 firms whose names were excluded from the earlier list

comprising of 488 entities/firms.

3.1) The petitioner says that despite this development the respondents are not issuing duty credit scrips to the petitioner. The petitioner, apparently, has

written several letters to the respondents. According to the petitioner letters have been written to the respondents on this subject on the following

dates: 5.4.2016, twice on 13.5.2016 and 13.7.2016. In addition thereon, letters have also been written on: 1.8.2016, 23.8.2016 and 5.8.2016.

4) Since, there was no movement in the matter, the instant writ petition was filed on 16.12.2016. Upon notice being issued in the writ petition, counter

affidavit has been filed. A perusal of the counter affidavit filed on behalf of respondents shows that respondent no.2/ DGFT has, in fact, written

several letters to the investigating authority seeking clarification on the issue.

5) In this regard, my attention has been drawn to para (e) of the counter affidavit. It appears that respondent no.2/DGFT wrote letters to the

investigating authority on 6.9.2016, followed by a letter dated 18.10.2016. Specific response was sought by respondent no.2/DGFT with regard to

whether or not the petitionerâ??s name stands excluded from the earlier list comprising of 488 exporters.

6) Given this situation, counsel for the respondent says that unless it gets a response from the investigating authority, i.e., DRI it cannot move further

in the matter.

7) Having regard to the facts and circumstances obtaining in the case, I am inclined to dispose of the writ petition with the following directions:-

(i) The respondent no.2/DGFT will once again write to its counterpart in the DRI, that is, the investigating authority and put it to notice that if no

response is received within four weeks of receipt of its communication, it will issue duty credit scrips in favour of the petitioner.

(ii) The respondent no.2/DGFT will also telephonically interface with his counterpart in the DRI to hasten the matter.

8) At this stage, I may only indicate that learned counsel for the petitioner has placed on record a copy of the DRI's letter dated 5.4.2016 which has

been addressed, inter alia, to the Commissioner of Customs Exports, Air Cargo, New Customs House, New Delhi. Alongwith this communication, the list of exporters have been attached.

9) A perusal of this communication alongwith the list shows that the petitionerâ??s name is on the list. The petitionerâ??s name appears against

serial no.34. A copy of this communication has been handed over to counsel for respondent no.2/DGFT. If the communication is found to be genuine,

then, respondent no.2/DGFT, as indicated above, will act in terms of the aforementioned directions and issue the duty credit scrips to the petitioner.