

**(2008) 02 DEL CK 0220**

**In the Delhi High Court**

**Case No :** Writ Petition (Civil) No. 21314 of 2005 and C.M. No. 14044 of 2005

Ridhima Overseas Pvt. Ltd.

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 28-02-2008

**Acts Referred:**

**Citation :** (2008) 02 DEL CK 0220

**Hon'ble Judges :** Gita Mittal, J

**Bench :** Single Bench

**Advocate :** Naveen R. Nath, for the Appellant; Rajesh Rawal and Manoj Ohri, for the Respondent

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## **Judgement**

Gita Mittal, J.—The writ petitioner is stated to be a manufacturing and exporting unit of ready made garments. During the course of its business it is stated to have received export orders from a foreign buyer in the USA. In order to execute these contracts, as per the specifications of the buyer, the petitioner is stated to have placed orders for import of raw materials from manufacturers in China and Indonesia. The petitioner claims to have taken prompt steps to open letters of credit which have been detailed in the writ petition. However, it is urged that the Chinese exporters delayed shipments of the fabrics/raw material despite the petitioner having opened the letters of credit promptly, there was delay in the petitioner executing the contracts. Details of imports from Indonesia and delays of the raw material from that country have been also detailed in the writ petition. The submission is that for these reasons, the petitioner was prevented from fulfilling the terms and conditions of the export entitlement quota allotted to the petitioner.

2. Inasmuch as the production and execution of the contract was delayed, the respondent No. 1 issued a notice to show cause on 1st June, 2004 to explain why the earnest money deposit should not be forfeited due to non-fulfilment of the terms and conditions of the export entitlement FCFS quota allotted to the petitioner during the year 2003 as per the then extant export entitlement policy.

The petitioner submits that an explanation was submitted. However without considering the explanation rendered by the petitioner, the respondent No. 1 passed a cyclostiled pre-formatted speaking order dated 20th August, 2004 directing forfeiture of the earnest money deposited by the petitioner on the ground of non-performance of the quota.

3. The petitioner assailed the same before the first appellate authority appointed by the Government of India being the office of the Textile Commissioner, Mumbai. This appeal was rejected by an order dated 29th April, 2005.

4. The petitioner assailed the order of the first appellate committee before the second appellate committee appointed by the Ministry of Textile, Government of India. It is pointed out that the petitioner was required to appear to represent the appeal on 12th July, 2005. However, as the managing director of the petitioner company was not available, a written request for adjournment was submitted to the second appellate committee which was ignored and a non-speaking order without considering the contentions of the petitioner was passed on the 12th July, 2005 itself dismissing the appeal.

5. Mr. Naveen Nath, learned Counsel for the petitioner points out that the order of the first appellate committee dated 29th April, 2005 records that the authority had sought comments on the petitioner's appeal repeatedly. There was nothing forth coming from the AEPC and no repudiation of the petitioner's contentions. Yet, unfairly and illegally the petitioner's appeal stands dismissed.

6. So far as the second appellate order is concerned, there is substance also in the contention that the request for adjournment on behalf of the petitioner was fair and the appeal has been dismissed in a cryptic manner without recording any reasons or consideration of the petitioner's contentions. Even prior thereto the speaking order dated 20th August, 2004 records no reasons also other than enclosing the facts sheet presented by the respondents. In view of the above discussion I have no hesitation in holding that the petitioner has been denied a fair consideration of its appeals.

7. This writ petition is consequently allowed. The orders dated 20th August, 2004; speaking order dated 29th April, 2005 and 12th July, 2005 are hereby set aside and quashed. The petitioner is given liberty to place all the documents in support of its contentions within three weeks before the AEPC which shall consider the matter and after, giving a fair opportunity of hearing to the petitioner, pass a speaking order afresh.

The writ petition and the application are disposed of in the above terms.

Needless to say, in case the petitioner is still aggrieved by the orders passed, it shall open to the petitioner to assail the same in accordance with law.