(2026) 03 P&H CK 1154

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 4041 Of 2026

Rishi Ganga Enterprises Limited — APPELLANT

Vs

Additional Director General Of Foreign Trade — RESPONDENT

Date of Decision : 12-03-2026

Acts Referred:
Constitution Of India, 1950 — Article 226, 227

Citation : (2026) 03 P&H CK 1154

Hon'ble Judges : Sheel Nagu, CJ;Sanjiv Berry, J

Bench : Division Bench

Advocate : Prithu Garg, Himanshu Bindal

Judgement

Sheel Nagu, CJ

1. The petitioner, by way of present petition invoking the power of judicial review under Articles 226/227 of the Constitution of India, assails Annexure P-1 dated 29.01.2026, whereby the application for registration certificate for imports against File No.LDAREGCAPPLY00000003AM26 dated 29.01.2026 was rejected by the Additional Director General of Foreign Trade, Ludhiana, without assigning any reasons.

2. Learned counsel for the petitioner, at the very outset, relies upon the decision of the Apex Court rendered recently on 21.01.2026 in SLP (C) No.1979 of 2019 titled 'Viraj Impex Pvt. Ltd. Vs. Union of India and Another', wherein, in a similar situation, while interpreting Para 1.05 (b) of the Foreign Trade Policy, 2023, the Apex Court held as follows:-

"20. Paragraph 2 of the Notification dated 05.02.2016 provides that imports/ shipments under Letter of Credit already entered into before the date of this Notification shall be exempt from MIP condition subject to para 1.05(b) of the FTP. Thus, Notification incorporates para 1.05(b) of the FTP, which provides that in case an export or import i.e. permitted freely under FTP is subsequently subjected to any restriction or regulation, such export or import will ordinarily be permitted, notwithstanding such a restriction or regulation, otherwise stipulated. We do not, therefore, find any force in the submission that para 1.05(b) of the FTP has either no relevance or the same is in conflict with the Notification.

21. For yet another reason, the benefit of transitional provision contained in para 1.05(b) of the FTP cannot be denied to the appellants, as the same would defeat the plain language of the FTP and would undermine the object of the parent Act, and would introduce uncertainty to a field where certainty is indispensable. The imposition of fiscal or trade burdens on the basis of an unpublished Notification would erode commercial confidence and offend the Rule of Law, the result which the court must steadfastly guard against.

22. Once it is held that Notification became operative only on 11.02.2016, the expression 'date of this Notification' occurring in para 2 thereof, must necessarily be construed to mean the date of its publication in the Official Gazette. Accordingly, the issue is answered. The appellants having opened irrevocable Letters of Credit prior to 11.02.2016 and having complied with procedural requirements under para 1.05(b) of the FTP are clearly entitled to the benefit of transitional provision contained therein. The MIP introduced by the Notification with effect from 11.02.2016 cannot be applied to imports effected by the appellants pursuant to irrevocable Letters of Credit prior to 11.02.2016.

CONCLUSION

23. We accordingly hold that the Notification issued under Section 3 of the Act acquires the force of law only upon its publication in the Official Gazette. The expression 'date of this Notification' must necessarily mean the date of such publication.

ORDER

24. For the foregoing reasons, the impugned order and judgment dated 21.12.2018 of the High Court is quashed and set aside. The appellants are held entitled to protection of para 1.05(b) of the FTP.

25. The appeals are allowed. There shall be no order as to costs."

3. In view of above, this Court need not enter into the prolixity of adjudication on this issue, since the same now stands concluded by the aforesaid authoritative decision of the Apex Court pertaining to very same Para 1.05 (b) of the Foreign Trade Policy, 2023.

4. The facts of the case reveal that the petitioner entered into commercial arrangement with a foreign supplier namely Siam Jewelry Creation Co. Ltd. Thailand for import of 'Platinum Alloy Jewellery-Unstudded', classified under ITC (HS) Code 71131921.

4.1 Pursuant thereto, on 11.11.2025, an irrevocable Commercial Letter of Credit was opened by the petitioner in favour of the seller.

4.2. At the time when the said commercial arrangement was entered into, the aforesaid ITC (HS) Code was categorized as “Free” for import under Schedule-I of the ITC (HS) 2022, and no licence or prior permission was required for its import to India.

4.3. However vide Notification dated 17.11.2025 (Annexure P-4) an amendment was carried out in the import policy for ‘Platinum Alloy Jewellery-Unstudded’ changing its status from “Free” to “Restricted” with immediate effect.

5. Thereafter, vide Annexure P-1, the Additional Director General of Foreign Trade rejected the application of the petitioner without assigning any reason.

6. Learned counsel for the respondent No.1 has filed a reply opposing the petition.

6.1. However, learned counsel for respondent No.1 does not dispute the law laid down by the Apex Court in the case of Viraj Impex Pvt. Ltd. (supra) rendered on 21.01.2026, with regard to interpretation of Para 1.05(b) of the Foreign Trade Policy.

7. Since the Apex Court has already held that the change in the policy would apply prospectively, the impugned decision (Annexure P-1), which has been passed in ignorance of the said decision of the Apex Court, cannot be upheld.

8. Though, learned counsel for respondent No.1 submits that there is a remedy of preferring an appeal to the Director General of Foreign Trade, but since the issue now stands settled in view of the decision of the Apex Court, this Court in the attending facts and circumstances of this case, need not compel the petitioner to undergo the travail of prolonged litigation, and therefore, deems it appropriate to step in and exercise the power of judicial review.

9. Accordingly, the petition stands allowed. The impugned order (Annexure P-1) dated 29.01.2026 is hereby quashed. The petitioner is thus entitled to the benefit of transitional arrangement under Para 1.05(b) of the Foreign Trade Policy, 2023.