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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 29.10.2024

\+ **W.P.(C) 7015/2019**

M/S SUPER CIRCLE AUTO LTD. .....Petitioner

Through: Mr. D.S. Nagi and Mr. Lokesh Kumar, Advs.

versus

GOVERNMENT OF INDIA, DELHI AND ORS......Respondents

Through: Mr. Manish Mohan, CGSC with Mr. Jatin Teotia and Mr. Samarth Talesara, Advs. for UOI.

CORAM:
HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition has been filed seeking directions for quashing the decisions dated 30.10.2018 and 12.03.2019 of the Policy Relaxation Committee (PRC) of Respondent No.2 where the committee has rejected the claim of the Petitioner for release of the reward amounts admissible under the Merchandise Exports from India Scheme (MEIS) of Foreign Trade Policy 2015-20 [hereinafter referred to as the "MEIS"] under 28 shipping bills of the Petitioner.

2. Learned Counsel for the Petitioner submits that the Petitioner is a manufacturer of Asbestos Free brake-lining (CTH 6813 81 00) and Brake pads & brake shoes (CTH 8708 30 00) and exported these items to various countries which have been informed in Table 1 of Appendix 3B of the MEIS as notified by Respondent No.2 including to Denmark, UAE, Russia, Egypt, Kenya, Canada, Madagascar, U.S.A., Sri Lanka, Tunisia and Netherlands.

The list of 28 shipping bills is annexed along with the present Petition.

3. It is the case of the Petitioner that in 28 shipping bills generated by Electronic Data Interchange (EDI), due to a technical difficulty, they inadvertently marked 'N' in the "reward item box" instead of 'Y' in the Reward. Consequently, these 28 shipping bills were not transmitted from customs to Respondent No.2 server for grant of rewards.

4. Learned Counsel for the Petitioner submits that the error was an error of inadvertence on the part of the Petitioner. He further submits that a representation was filed before the PRC, however, the Committee found that there was no merit in the case and thus rejected the plea of the Petitioner.

4.1 Learned Counsel for the Petitioner further submits that this issue is no longer *res integra*. The decision of the Supreme Court in the case of ***Commissioner of Customs v. N.C. John & Sons Pvt. Ltd.***[1] has dealt with a similar situation by allowing the shipping bills to be processed.

4.2 It is contended that a similar view has been taken by the Madras High Court and a Division Bench of the Kerala High Court in the following cases:

(i) ***Paramount Textiles Mills Pvt. Ltd. v. Deputy D.G.F.T., Directorate General of Foreign Trade, New Delhi***[2]; and ***K.I. International Ltd. v. Commr. Of Cus. (Appeal-II), Chennai***[3]; and

(ii) ***Commissioner of Customs, Cochin v. Mangalath Cashews***[4];

5. Notice in this Petition was issued 03.07.2019 and a Counter-Affidavit was filed opposing the Petition.

6. It was contended by the Respondents that in view of the fact that the

[1] 2022 (380) E.L.T. 241 (S.C.)
[2] 2022 (381) E.L.T. 375 (Mad.)
[3] 2021 (378) E.L.T. 285 (Mad.)
[4] 2020 (373) E.L.T. 149 (Ker.)

entitlement of a reward under the MEIS is only allowed when the procedure is followed by the exporter and since the shipping bills were not correctly marked, the authority examined the bills and rejected the MEIS reward.

7. Both parties have been briefly heard in the matter.

8. The grievance of the Petitioner is that despite being eligible, it is not getting benefit under the MEIS in the sum of Rs. 15,17,526.42/-. It is the admitted case of the parties that in view of the inadvertent error, the shipping bills have not been processed.

8.1 Learned Counsel for the Respondents has opposed the grant of this MEIS reward.

9. The Supreme Court in ***N.C. John*** case has set out that where there was an inadvertent mistake of mentioning 'N' instead of 'Y' in the Column and the claimant had shown the intent to claim the MEIS benefit, which was granted by the High Court, in such a situation the Court sees no reason to interdict with the grant of such reward under the MEIS to the claimant. The relevant extract of the order is extracted below:

> *"In the facts and circumstances of the present case, more particularly,* ***when right from the very beginning the respondent had declared the intention to claim the rewards under the MEIS (Merchandise Export from India Scheme) and it was found that there was an inadvertent mistake in checking the column 'N' instead of 'Y', we see no reason to interfere with the impugned judgment and order passed by the High Court.***
>
> *2. As such, we are in complete agreement with the view taken by the High Court.*
>
> [Emphasis supplied]

9.1 A similar view has been taken by a Division Bench of the Kerala High Court in ***Commissioner of Customs Cochin*** case.

10. Undisputably the only reason for denying the MEIS benefits to the Petitioner is the fact that the Petitioner had inadvertently marked 'N' instead of 'Y' in a declaration that it intends to claim rewards under the MEIS in view of an inadvertent lapse on its part. The Petitioner while filling the aforesaid 28 Shipping Bills in the EDI system had declared their intention in the affirmative by stating "*we intend to claim rewards under Merchandise Exports from India Scheme (MEIS)*". Thus, the intention of the Petitioner was from the very beginning to make such a claim. Applying the judgment of the Supreme Court in the ***N.C. John*** case, the Petitioner is entitled to the rewards.

11. Accordingly, the Petition is allowed. The Respondents are directed to release the reward amounts due to the Petitioner in respect of the 28 shipping bills, the details of which are annexed as Annexure P-4 to the present Petition within a period of six weeks from today.

12. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

OCTOBER 29, 2024/r

Click here to check corrigendum, if any