

(2016) 07 DEL CK 0143

DELHI HIGH COURT

Case No: Rev. Pet. No. 55 of 2015 in LPA No. 582 of 2003

Parasrampur
Synthetics Ltd.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision: July 15, 2016

Citation: (2016) 339 ELT 542

Hon'ble Judges: S. Ravindra Bhat and Najmi Waziri, JJ.

Bench: Division Bench

Advocate: S/Shri Chinmoy Sharma and Ashish Rana, Advocates, for the Petitioners; None, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Najmi Waziri, J.—This petition seeks a review of the judgment dated 10-10-2013 whereby above noted LPA No. 582 of 2003 was dismissed. The facts of the case are that in terms of the prevalent EPCG scheme, the petitioner had imported machinery at a concessional rate of customs duty with an undertaking/export obligation to export goods worth three times the CIF value of the licence/imported goods. The export obligation was specifically mentioned in US dollars, i.e., US \$ 11,600,459. Therefore, the undertaking and intention was clear: that the petitioner was to fulfil the export obligation of the said value in US Dollar terms, the exchange rate in Indian rupee terms was also mentioned.

2. In terms of the Handbook of Procedures, the export obligation was to be discharged in freely convertible currency. The freely convertible currency was specifically mentioned as US \$, therefore, even if the rupee value of the export obligation was indicated in the licence, the equivalent value in dollar had to be met.

3. The petitioner seeks a review of the aforesaid judgment on the ground that the exports obligation was met in terms of Deutsche Mark (DM) and its rupee equivalent

ought to have been adjusted against the export obligation mentioned in rupee terms. We are not persuaded by this argument because, firstly the petitioner is seeking to set up entirely a new case and secondly, the export obligation being specifically mentioned in US \$, ought to have been met accordingly. However, even if the undertaken obligation was discharged in DM, the equivalent value of the specified US \$ would have to be met. Furthermore, the DM convertible rate apropos Indian rupee could well have appreciated in the subsequent four years period in which the purported exports were made, thus reducing the petitioner's export obligation specified in freely convertible foreign currency terms. If only the rupee specified amount is met, it would result in reduction in quantum of foreign currency (US \$) and would provide an unintended relief to the petitioner. Such interpretation of the EPCG Scheme would defeat its very objective, which was to earn more foreign exchange/convertible currency for the Indian economy. Hence, the petitioner cannot seek to circumvent the export obligation by bringing in lesser foreign exchange. It is also not known whether at the relevant time Deutsche Mark was kept in the basket of freely convertible currency, by Government of India. No apparent error in the order is shown.

4. In light of the above, we find no merit in the review petition. It is accordingly dismissed.