
(2016) 04 KAR CK 0016

KARNATAKA HIGH COURT

Case No: Writ Petition No. 42828 of 2015 (GM-RES)

Blueline Foods (India) Pvt. Ltd.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision: April 4, 2016

Citation: (2016) 337 ELT 63

Hon'ble Judges: A.S. Bopanna, J.

Bench: Single Bench

Advocate: Shri Ravi M.R.C, Advocate, for the Petitioner; S/Shri Krishna S. Dixit, ASG and Chinmay J. Mirji, CGC, for the Respondent

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

A.S. Bopanna, J.—Sri Chinmay J. Mirji, learned Central Government Counsel to accept notice for respondent Nos. 2 to 4. He is permitted to file memo of appearance in four weeks.

2. The petitioner is before this Court assailing the order dated 1-12-2014 at Annexure-J to the petition. In that light, the petitioner is seeking that respondent No. 3 be directed to grant the scrip for the full quantum of exports as per the petitioner's eligibility as claimed in their letter dated 2-4-2015 as at Annexure-K to the petition.

3. The petitioner-company is a Merchant Importer engaged in the trade and export of fish meal. The petitioner contends that as per the one trade policy announced in terms of the Foreign Trade Development Regulation Act, 1999, among various schemes to permit the exports, a scheme called 'Incremental Exports Incentivisation Scheme (IEIS)' is also announced. In that view, the petitioner contends that since the petitioner satisfies the requirement as provided under the scheme, the petitioner had submitted necessary documents and statements seeking payment of the incentive amounting to Rs. 45,28,896/-.

4. The grievance of the petitioner is that though all necessary details had been furnished and the respondents at the first instance had taken note of all these aspects of the matter and the grant of authorisation in that regard was made, the amount was cut down to Rs. 3,70,007/-. The balance amount has not been considered is the grievance. Despite the same, the respondents without assigning any reasons have rejected the claim of the petitioner through the communication dated 1-12-2014. It is in that light, the petitioner is before this Court.

5. A perusal of the petition papers in the background of the contention put forth, the very nature of the consideration as made by the respondents would disclose that though a claim of Rs. 45,28,896/- is made by the petitioner, the further scrutiny in that regard for considering the claim is to be made for the amount beyond the extent of 25% of such claim. It is in that view, a sum of Rs. 3,70,007/- has been paid to the petitioner which according to the respondents is the amount payable without further scrutiny and the petitioner had been intimated that the balance amount would require further scrutiny and through the public notice dated 24-9-2013, the requirement of the documents in that regard had been indicated. The petitioner contends that the necessary documents have been submitted.

6. In that background, a perusal of the communication dated 1-12-2014 would disclose that the respondents have informed the petitioner that the amount paid is after restricting the growth rate to 25% as per the public notice dated 25-9-2013. Insofar as the rejection, the respondents have neither adverted to the documents and the details that had been furnished by the petitioner nor any reasons for application of mind in that regard is indicated in the communication at Annexure-J dated 1-12-2014.

7. Hence, to the said extent, the communication dated 1-12-2014 would not be sustainable. The rejection as made therein is set aside. The respondents shall now take note of the documents submitted by the petitioner, keep in view the scheme and thereafter take a decision and communicate the decision taken to the petitioner. Such consideration by the respondents shall be made as expeditiously as possible, but not later than two months from the date on which a copy of this order is furnished.

8. The petition is disposed of accordingly.