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

+ **W.P.(C) 4349/2018**

EASTMAN INTERNATIONAL

..... Petitioner

Through: Mr.Puneet Agrawal, Mr.Purvi Sinha,
Ms.Hemlata Rawat and Mr.Deepak
Anand, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Ashim Sood, CGSC with
Mr.Rhythm B., Advocate for
respondent Nos. 1 to 3.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **05.03.2020**

1. During the course of hearing, our attention has been drawn to the letter dated 26.06.2012 issued by the Commissioner of Customs, Amritsar. The stand taken by the respondents in their short affidavit *inter alia* is as follows:

“6. I say that the decisions of the PRC taken in its meeting held on June 6, 2017 clearly recorded that the requests for revalidation of the DFIA's on the ground of “change of Customs software from ICES 1. to 1.5 version” was not acceptable because these DFIA's were issued before April 1, 2009 and were therefore not transmitted to the Customs Department through the EDI mode.

7. I further say that the Petitioner has sought to paint a picture in the Writ Petition that the DFIA's could not be utilized during the period of January to March, 2010 because in that period the Customs Department's software was being upgraded from ICES 1 to 1.5 and hence could not be utilized.

8. I say that this picture is incorrect and distorted. As a matter of fact, all DFIA's issued prior to April 1, 2009 were in physical form and would not have been transmitted through the EDI mode. Since the nine DFIA's issued to the Petitioner are all prior to April 1, 2009, any problems encountered due to change in the Custom Department's software system from ICES 1 to 1.5 during the relevant extended period, i.e. between January to March, 2010, would not impede the Petitioner's utilization of the DFIA's in any manner whatsoever."

2. We direct the petitioner to specifically deal with the averments made by the respondents in their short affidavit as aforesaid by filing an affidavit in response within two weeks. We also direct impleadment of the Commissioner (Customs), Amritsar as a party respondent. The complete paper book along with the counter affidavit of the respondents and their short affidavit as well as the rejoinder that the petitioner will file in terms of this order be served upon the Commissioner of Customs within four weeks. The Commissioner of Customs should respond to the stand taken by the petitioner as well as respondents and specifically state whether the DFIA's, which have been issued in physical form could have been utilised by the petitioner even during the period of upgradation of software from version 1 to version 1.5 i.e. between January to April, 2010.

3. List on 13.05.2020. The respondents should ensure that the counter affidavit as well as the additional affidavit are brought on record.

VIPIN SANGHI, J

SANJEEV NARULA, J

MARCH 05, 2020

v