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

+ **W.P.(C) 3321/2017**

ELECTROSTEEL STEELS LIMITED

..... Petitioner

Through : Mr S.Ganesh, Senior Advocate and
Mr Darpan Wadhwa, Senior
Advocate with Mr Padam Khaitan,
Mr Ajay Bhargava, Mr Aseem
Chaturvedi and Ms Chandni Anand,
Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through : Mr Sanjeev Narula, Advocate for
UOI.
Mr R.V.Sinha and Mr Amit Sinha,
Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% 19.04.2017

CM No.14520/2017(exemption)

Allowed, subject to all just exceptions.

W.P.(C) 3321/2017 & CM No.14519/2017(interim relief)

1. The petitioner, by the present petition, impugns order dated 11.04.2017, whereby the respondent – Director General of Foreign Trade has rejected the application for grant of extension filed by the petitioner relying upon Notification No.70 dated 20.02.2014.

2. It is contended that the petitioner was subjected to a Corporate Debt



Restructuring Scheme and the Notification entitles the petitioner to extension of time, to fulfil the export obligation, by a period of three years.

3. It is contended that without considering the impact of the Notification, the respondents have passed the impugned order.

4. By relying on paragraph 5.11 of the Handbook of Procedures Vol.I, 2009-14, it is submitted that the order has been passed solely on the basis of the opinion expressed by the Directorate of Revenue Intelligence (DRI) and without independently applying its mind.

5. Issue notice. Notice is accepted by the learned counsel appearing for respondent Nos.1 & 2 as also by the learned counsel for the respondent No.3.

6. Learned counsel for the respondent submits that the Notification would not be *ipso facto* applicable unless there is a corresponding Notification issued by the Customs Authority. Further, it is contended that in terms of para 5.8.3 of the Hand Book of Procedures, Volume-I, the petitioner had to apply for extension of time for each block period.

7. Learned senior counsel for the petitioner submits that block-wise applications have also been filed but the same have not been disposed of.

8. Prima facie, I am of the view that there would not be requirement of a Notification by the Customs Authority as the Handbook of Procedures Vol.I has been issued by the Director General of Foreign Trade (DGFT) in exercise of the powers conferred upon it under FTP 2009-14. The 2014 Notification amends Foreign Trade Policy 2009-14. Further it is, prima facie, not borne out from the Handbook of Procedures Vol.I, that the 2014 Notification issued by the DGFT would not be applicable, in the absence



of a subsequent notification of the Customs Authorities.

9. Secondly, perusal of the impugned order shows that the Authority has not taken into account the 2014 Notification as it reads, but has tried to read into the Notification other clauses of the Handbook of Procedures Vol.I, which have not been referred to in the notification.

10. In my view, the matter requires deeper examination.

11. Let counter-affidavit be filed within two weeks. Rejoinder-affidavits thereto, if any, be filed within one week thereafter.

12. Till the next date of hearing, respondent No.4 is restrained from taking any action in terms of the impugned order dated 11.04.2017.

13. It is clarified that order does not interdict any proceedings or investigations initiated by the respondents independent of order dated 11.04.2017.

14. Renotify on 18th May, 2017.

15. *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

APRIL 19, 2017

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