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**Foray International Vs. Director General of Foreign Trade and Another**

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**SooperKanoon Citation :** [sooperkanoon.com/683094](http://sooperkanoon.com/683094)

**Court :** Delhi

**Decided On :** Oct-24-2000

**Reported in :** 2001IAD(Delhi)67; 88(2000)DLT426; 2000(55)DRJ811;  
2001(73)ECC44

**Judge :** Manmohan Sarin, J.

**Acts :** [Constitution of India](#) - Article 226

**Appeal No. :** CW. No. 1039/2000 & CM. 1642/2000

**Appellant :** Foray International

**Respondent :** Director General of Foreign Trade and Another

**Advocate for Def. :** Mr. Jayant Bhushan, Adv.

**Advocate for Pet/Ap. :** Mr. Arun Kapil, Adv

**Judgement :**

ORDER

**Manmohan Sarin, J.**

1. Rule.

With the consent of the parties writ petition is taken up for dispos-al.

2. The petitioner has filed the present writ petition for quashing of the order 1F No. 03/509/AM-89/ECA/CLA dated 22.2.1999 and No. 03/509/AM-89/ECA/CLA dated 20.5.1999, by a writ of certiorari. The petitioner also prays for directions to the respondent to grant advance import license etc. to the petitioner, as per the entitlement, without being influenced by the debarment orders.

3. By the aforesaid orders dated 22.2.1999 and 20.5.1999, the petitioner's application for deletion of its name from the defaulters list of black listed persons was rejected. Petitioner firm had been granted an advance license under the Duty Exemption Scheme by the Office of Joint Chief Controller of Imports and Exports in the year 1983 in the sum of Rs. 7,78,600/-. The said license was issued subject to the condition that the petitioner would export a specified quantity of goods for a total value of Rs. 14,25,000/- within a period of 6 months.

4. It is common ground that the petitioner firm failed to meet its export obligation and as a consequence was declared defaulter on 17.12.1986 by the Joint Chief Controller of Imports and Exports and defaulter certificate dated 8.4.1998 was issued. Investigations were also initiated for mis-utilisation of the goods imported against the advance license issued. Certain abeyance orders were also passed in the interregnum. It is the case of the respondents that the petitioner had used duty free goods of Rs. 2,57,442/- against advance license No. P/K/0406150 dated 15.9.1983 contrary to the terms and conditions of the licence. A complaint with the CBI had also been lodged against the petitioner for offences under the Indian Penal Code.

5. It is the petitioner's case that the petitioner on being asked to deposit the custom duty, which was payable for non-utilisation on the imported material on account of non-performance of the export, obligation and other conditions of the import license was duly paid by the petitioner. In this regard learned counsel submits that a sum of Rs. 3,81,000/- as custom duty and interest thereon of Rs. 3,51,555/- was also paid.

6. Be it may, the ultimate position which emerges is that the petitioner has duly paid the custom duty and interest thereon as well as the reduced amount of penalty as required to be paid in terms of orders passed. The debarment vide

adjudication order dated 8.4.1993 was for a period of 29.3.1993 to 31.3.1994. Learned counsel for the petitioner thereforee urges that once the custom duty amount, penalty amount as well as the debarment period has expired, there is no justification to continue to treat the petitioner as a defaulter and a black listed importer and denying all the benefits, which are otherwise available to a Government recognised export house. There is considerable merit in this submission.

7. Learned counsel for the respondent submits that the rejection of the request for deletion from the list of black listed persons has been done on account of the pendency of the CBI case. This in my view is not a sufficient ground to continue the debarment which has expired or to treat the petitioner as black listed person. The complaint case will take its own course in accordance with law. The petitioner cannot be denied the benefits due as a registered export house, till the trial is concluded. A writ and direction in the nature of certiorari is issued to quash the orders of respondent No.1 as conveyed to the petitioner vide letters of respondent No.1 F. No. 3/509/AM-89/ECA/CLA/2949 dated 22.2.1999 and No. 03/509/AM-89/ECA-CLA/343 dated 20.5.1999. The application of the petitioner for grant of import license be disposed of on merits without the petitioner being treated as a defaulter or a black listed person. Petitioner's application be expeditiously dealt with.

8. Writ petition stands allowed in above terms.

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