

**injecto Ltd. Vs. Controller of Aid Account and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/684885](http://sooperkanoon.com/684885)

**Court :** Delhi

**Decided On :** Feb-10-2005

**Reported in :** 117(2005)DLT657; 2005(80)DRJ650

**Judge :** B.C. Patel, C.J. and; Sanjay Kishan Kaul, J.

**Appeal No. :** LPA 33/1988

**Appellant :** injecto Ltd.

**Respondent :** Controller of Aid Account and ors.

**Advocate for Def. :** Nemo

**Advocate for Pet/Ap. :** B. Mohan, Adv

**Disposition :** Appeal allowed

**Judgement :**

B.C. Patel, C.J.

1. The present appeal has been preferred against the order made by learned Single Judge in WP (C) 1639/1973 decided on 22nd March, 1988.

2. A public notice No.52-ITC(PN)/64 dated 24th June, 1964 was issued by the Ministry of Commerce inviting the applications for license for import of machinery, components thereof, equipment, other commodities and raw materials from the

U.S. Under AID Loan 103. It is the case of the appellant that he had applied under the said Scheme and the license was issued and the goods were shipped from USA by the exporter. It is pointed out that unfortunately on account of Indo-Pak War in the year 1965, cargo was seized at Karachi by the Government of Pakistan. In view of the scheme the application was made for release of funds.

3. In the affidavit in reply filed by Mr. P.V. Vasudevan, Controller of Aid Accounts and Audit, it is pointed out by the deponent in para '3' that the company did not give complete documentation in respect of its import as stipulated in the licencing conditions and its cargo was not aid-financed. It is also indicated that documents such as Suppliers' detailed invoice, Source and Origin certificate from supplier, Evidence of shipment were produced before the competent authority to examine the claim of the appellant. It is contended by learned counsel for the appellant that the three documents indicated hereinabove clearly show the "emblem aid" and in view of this there was sufficient material to come to conclusion that the license was issued under the Aid Scheme, goods were imported under the said Scheme and therefore benefit ought to have been extended. It is also further submitted that funds have been received from the United States under the Scheme and the remaining amount has not been remitted ask to the United States Government and is lying with the Union of India.

4. We have carefully examined the judgment delivered by the learned Single Judge wherein much emphasis has been given to this aspect over and above the other aspects. No doubt affidavit refers to delay and laches, nonetheless the application was pending for examination as contended by learned counsel for the appellant. The learned Judge expressed an opinion that the petitioners did not comply with the mandatory provisions of the public notice under which the license was given and therefore held that goods imported by them cannot be described as Aid Cargo. On reading of the affidavit of the respondent it appears that if suppliers' certificate and invoice and contract abstract would have been supplied by the petitioner, possibly he would have stated that the goods were Aid Cargo.

5. It is under these circumstances, we allow this appeal with a direction to competent authority to examine the matter afresh. The authority should examine

these three documents as indicated in above mentioned paras to come to conclusion whether it was Aid Cargo or not and to state whether in the absence of suppliers' certificate, the claim can be assessed or not despite the fact that these three documents coming from different agencies indicating it as Aid Cargo. The authorities shall also examine other documents which indicate that the goods are covered under the Aid Scheme. Keeping these aspects in mind the authorities shall examine the matter afresh.

6. The appellant may be given an opportunity of hearing. The appellant shall make an application in this behalf with a copy of this judgment to the competent authority and on receipt of the same, within a period of six weeks thereafter, the authority shall decide the same. It goes without say that the appellant shall make an application within a period of three weeks from today.

7. Direct service (dusty) on usual payment.

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