08
22.9.2026
Court No. 10
AGM

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 4721 of 2023
IA No: CAN 1 of 2025

S/s Sharma Export
-Versus-
Union of India & Ors

Mr. Arijit Chakraborty.
Mr. Nilotpal Chowdhury.
Mr. Prabir Bera.
...For the Petitioner.

Mr. Bhaskar Prosad Banerjee.
Mr. Tapan Bhanja.
Mr. Gourab Karmakar.
... For the Customs Authority.

Mr. Uday Sankar Bhattacharya.
Mr. Bibekananda Sinha.
Ms. Banani Bhattacharya.
... For the DGFT Authority.

1. Pursuant to the order dated 3rd September, 2026, the DGFT Authorities remain present in Court today to make appropriate submissions with regard to the issue involved herein.

2. The core issue involved in the present writ petition is :

i. Whether the petitioner is entitled to Merchandise Exports from India Scheme (MEIS) benefit against the 17 EDI Shipping Bills in question where the declaration in column 'Reward' was inadvertently marked as 'N' instead of 'Y' .

ii. Whether such inadvertent error can be rectified by conversion from 'N' to 'Y' and reflection thereof in the automated EDI system.

iii. Whether in absence of uploading and transmission of shipping bills by Customs to DGFT portal any benefit can be accordingly granted since the process is online.

iv. Whether genuine exporters should be driven it needless litigation for procedural lapses already rectified.

3. Learned counsel appearing for the petitioner submits that the petitioner is a genuine exporter and has exported goods under 17 EDI Shipping Bills. Due to inadvertence, the column 'Reward' was marked as 'N' instead of 'Y'. Upon learning of the mistake, the petitioner applied for amendment. It is submitted that the Policy Relaxation Committee has already taken a decision and observed that conversion from 'N' to 'Y' as well a reflection of such manual amendment in the automated system is not possible and therefore approaching the Committee against would be a futile exercise.

4. The petitioner places reliance upon paragraph nos. 10, 14, 15 and 16 of the judgment of the Hon'ble Supreme Court in the case of **M/s Shah Nanji Nagsi Exports Pvt. Ltd –Versus- Union of India and Ors**

reported in **2025 INSC 1032**. The relevant portion of the paragraph nos. 10, 14, 15 and 16 are reproduced below:

> *"10. The principal question for consideration is whether an inadvertent error in the shipping bills, which was permitted to be corrected under Section 149 of the Customs Act, can defeat an exporter's claim under the MEIS?*
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> *14. These decisions, read together, demonstrate a consistent judicial approach that distinguishes between procedural formalities and substantive entitlements. The scheme under Chapter 3 of the FTP is a beneficial one, intended to reward exporters. Once exports are genuine and fall within the notified category, inadvertent mistakes of procedure cannot be treated as fatal, especially where they are corrected under statutory authority. The rejection by the PRC, bereft of reasons and passed without hearing, falls foul of the principles of natural justice. The High Court's view that the appellant may proceed against the customs broker fails to address the statutory entitlement which accrues to the exporter under the scheme. Administrative technology must aid, not obstruct, the implementation of the law.*
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> *15. In light of the above discussion, the appeal deserves to be allowed. The judgment of the High Court dated 02.08.2021 is set aside. The rejection by the Policy Relaxation Committee is quashed. The respondents are directed to process the appellant's claim for MEIS benefit on the basis of the amended shipping bills and to pass appropriate orders in accordance with law within a period of twelve weeks from the date of this judgment.*
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> *16. While we refrain from imposing costs, we cannot but observe that the recurrence of such disputes, despite authoritative pronouncements in Portescap, Technocraft Industries and Larsen and Toubro Limited, underscores the need for systemic correction. The Union of India, action through the Directorate General of Foreign Trade and the Central Board of Indirect Taxes and Customs, must take appropriate measures, whether by issuing comprehensive instructions or by suitable technological adjustments, to ensure that genuine exporters are not driven to needless litigation on account of inadvertent procedural lapses which have been rectified in accordance with law."*

5. The petitioner also further places a Public Notice being No. 30/2023 issued by the Commissioner of Customs, NS-II, JNCH dated 11.04.2023 pertaining to transmission of Shipping Bills from Systems' backend to

DGFT for MEIS benefits in certain cases and places paragraph nos. 5 to 7, which are reproduced below:

> *"5. Since this is an inter-ministerial matter (CBIC, MoF and DGFT, DoC), such amendment may be routed through Drawback Division of C?BIC along with a copy to this Directorate for necessary action. As per existing practice with DGFT, such cases shall be transmitted to DGFT from backend without any change in the self-declaration of the exporter i.e., such cases will be transmitted with "N" flag only without any modification to the original declaration of the exporter.*
> *6. In addition, an e-mail correspondence shall be sent to the nodal officer of DGFT who handles the technical wing for necessary action at their end.*
> *7. The records shall be transmitted from the ICEGATE to the DGFT as per the normal protocol of exchange of data between ICEGATE and DGFT. As agreed by DGFT, their system will accept such records even with "N" flag and thereafter handling at Systems end shall be complete."*

6. Learned counsel Mr. Uday Sankar Bhattacharya, appearing for the DGFT Authority strenuously argued and submitted as follows:-

a. The petitioner has already been informed with regard to the allowance of MEIS benefit. The concerned Shipping Bills have not been uploaded and transmitted by the Customs Authorities to the DGFT Authorities. Issuance of MEIS is totally online and unless and until the shipping Bills are transmitted to the DGFT, no further action is possible at the end of the DGFT authorities and accordingly, the request was rejected.

b. The petitioner ought to have approached the Policy Relaxation Committee citing hardship for proper Examination of the issue on merits, instead of filing the instant writ petition under Article 226 of the Constitution of India.

c. The petitioner has not challenged the decision taken by the Committee. Moreover, the petitioner has also not made the Committee a party to the array of the parties in the present proceedings.

d. The Circular dated 11.4.2023 issued by the Commissioner of Customs is merely a public notice and has no binding effect upon the authority concerned.

7. Learned counsel appearing for the Customs Authorities submits that pursuant to the application made by the petitioner for amendment of 17 numbers of EDI Shipping Bills, the declaration had been manually amended from 'N' to 'Y' as is evident from the communication dated 29.1.2020. Thus, the allegation of non compliance with regard to amendment of the EDI Shipping Bills is denied and not accepted.

8. After hearing the rival contentions of the parties and upon perusing the materials on record, this Court is satisfied that a prima facie case has been made out by the petitioner, warranting interference at this stage.

9. This Court has taken a judicial notice of all relevant documents annexed to the writ petition, including the judgment of the Hon'ble Supreme Court in the case of **M/s Shah Nanji Nagsi Exports Pvt. Ltd –Versus- Union of India and Ors (supra)** and the public notice no. 30/2023 dated 11.04.2023 issued by the Commissioner of Customs.

10. It is noted that public notice issued by the Commissioner of Customs Authorities has been issued much after the filing of the writ petition.

11. However, to balance the equities and for the ends of justice, this Court is of the considered view that since the issue involved herein is an inter-ministerial matter between the Customs and the DGFT Authorities, such amendments shall be carried out as per Clauses 5 to 7 of Public Notice dated 11.4.2023.

12. It is no longer res integra that the administration must aid and not obstruct the implementation of the law.

13. The DGFT authorities must take appropriate measures, whether by issuing comprehensive instructions or by suitable technological adjustments, to ensure that genuine exporters are not driven to needless litigation on account of inadvertent procedural lapses which can be rectified in accordance with law.

14. In view of the above, the writ petition is disposed of directing inter alia, the DGFT Authorities and the Customs Authorities to allow the amendment of the Shipping Bills in question with respect to column "Reward" and to substitute 'N' with the letter 'Y' within a period of four weeks from the date of communication of this order, in the light of the public notice dated 11.04.2023 and the judgment in **M/s Shah Nanji Nagsi Exports Pvt. Ltd –Versus- Union of India and Ors (supra)**.

15. The Customs Authorities shall allow the amendment within a period of four weeks and accordingly the same shall be transmitted to the DGFT Authorities for necessary implementation within a period of four weeks thereafter.

16. The entire exercise shall be completed on or before 31st December, 2026.

17. Since the Customs Authorities have already made amendments manually, the Customs Authorities shall also carry out such correction in the mode of EDI.

18. The writ petition being W.P.A. 4721 of 2023 along with connected applications are disposed of.

19. Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)