

2025 LiveLaw (SC) 842

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
ARAVIND KUMAR; J., N.V. ANJARIA; J.
August 19, 2025

CIVIL APPEAL NO. OF 2025 (@ Special Leave Petition (C) No. 14919 of 2021)
M/S SHAH NANJI NAGSI EXPORTS PVT. LTD. *versus* UNION OF INDIA AND ORS.

Merchandise Exports from India Scheme (MEIS) - Inadvertent clerical error in filing shipping bills - Whether such an error, once rectified under Section 149 of Customs Act, can defeat a claim for MEIS benefits – Held, an inadvertent clerical error in shipping bills, once permitted to be corrected under Section 149 of the Customs Act, cannot defeat an exporter’s substantive entitlement to MEIS benefits - Procedural mistakes, once corrected, cannot extinguish substantive rights - Beneficial schemes should be construed liberally and administrative technology should aid, not obstruct, the implementation of the law - PRC’s rejection was arbitrary and violated the principles of natural justice because no reasons were given and no hearing was granted - Directed respondents to process the appellant’s claim for MEIS benefits based on amended shipping bills and pass appropriate orders within 12 weeks - Emphasized the need for systemic correction by the Union of India, DGFT and the Central Board of Indirect Taxes and Customs to prevent genuine exporters from being forced into litigation over rectified procedural lapses - **Appeal allowed. [*Relied on Portescap India Private Limited v. Union of India & Others* 2021 SCC OnLine Bom 285; *Technocraft Industries (India) Limited v. Union of India & Others* 2023 SCC OnLine Bom 280; *Larsen and Toubro Limited v. Union of India and Others* 2024 SCC OnLine Bom 3565; *Paras* 11- 16].**

[Arising out of impugned final judgment and order dated 02-08-2021 in WP No.4095/2019 passed by the High Court of Judicature at Bombay at Nagpur]

For Petitioner(s): Mr. Gagan Sanghi, Adv. Mrs. Farah Hashmi, Adv. Mr. Rameshwar Prasad Goyal, AOR

For Respondent(s): Mr. Raj Bahadur Yadav, AOR Mr. S Dwarakanath, A.S.G. Mr. Gurmeet Singh Makker, AOR Mr. Rohit Khare, Adv. Mr. Digvijay Dam, Adv. Mr. Navanjay Mahapatra, Adv. Mr. Ishaan Sharma, Adv. Mr. Raghav Sharma, Adv. Rajat Vaishnav, Adv. Abhyudey Kabra, Adv.

ORDER

1. Leave granted.
2. This appeal calls in question the judgment of the High Court of Judicature at Bombay, Nagpur Bench, rendered on 02.08.2021 in Writ Petition No. 4095 of 2019, by which the writ petition instituted by the appellant was dismissed. The High Court took the view that the error which had crept in while filing of shipping bills was attributable to the customs broker, and that the appellant, if so advised, could pursue his remedies against the broker but no relief could be granted in exercise of writ jurisdiction.
3. The facts are largely undisputed. The appellant is a private company engaged in the export of corn starch. During the period between 22.07.2017 to 05.10.2017, the appellant effected 54 (fifty-four) shipping bills under Serial No. 467 of Appendix 3B to the Foreign Trade Policy (FTP) 2015–20 and was eligible for incentive under the Merchandise Exports from India Scheme (hereinafter referred to as “MEIS”) contained in Chapter 3 of the Policy.

4. For each of these consignments, shipping bills were filed electronically on the ICEGATE platform through the appellant's customs broker. It so happened that in the column requiring a declaration of intent to claim reward, the default entry "No" which was to be altered as "Yes" was not done by Customs broker. This inadvertent omission, though clerical in nature, prevented the shipping bills from being transmitted to the repository of the Directorate General of Foreign Trade (DGFT). The consequence was that the appellant's claim for MEIS reward could not be processed electronically.

5. On discovering the error, the appellant addressed a representation dated 13.03.2018 to the Regional Authority of DGFT. At the same time, an application was made before the Deputy Commissioner of Customs, Mundra, invoking Section 149 of the Customs Act, 1962. By an order dated 08.06.2018, the Deputy Commissioner allowed the amendment of all shipping bills, so that the declaration "No" was substituted by "Yes". The fact of this correction is not in dispute.

6. Despite the correction, when the appellant pursued the matter with DGFT, it was informed that the system permitted no manual intervention and that unless the shipping bills were originally transmitted with the entry "Yes", they could not be processed. The appellant as a consequence, was compelled to approach the Policy Relaxation Committee (hereinafter referred to as "PRC") on 05.12.2018. The PRC, however, by a cryptic email dated 15.03.2019, rejected the claim, stating merely that no merit or hardship was made out. No reasons were assigned, nor was the appellant afforded an opportunity of being heard.

7. Aggrieved thereby, the appellant instituted Writ Petition No. 4095 of 2019 before the Nagpur Bench of the Bombay High Court. During its pendency, a Division Bench of the Bombay High Court delivered its judgment in **Portescap India Private Limited v. Union of India & Others**¹ on 02.03.2021, dealing with an identical issue. A pursis was filed by the appellant bringing the judgment to the notice of the Court. Nonetheless, by its judgment dated 02.08.2021, the High Court dismissed the writ petition.

8. We have heard Learned Counsel, Mr. Gagan Sanghi, appearing for the Appellant and Shri S. Dwarakanath, Additional Solicitor General, appearing for the Respondents. Learned counsel for the appellant submitted that the exports were genuine, covered under the notified products in Appendix 3B, and that the intention to claim MEIS was evident from the invoices. It was urged that once the Customs authority had corrected the shipping bills under Section 149, the bills stood regularised in law and were required to be acted upon. Further it was contended that the rejection by the PRC was arbitrary and violative of the principles of natural justice as no reasons were assigned nor hearing granted. Further it was submitted that the High Court, erred in relegating the appellant to pursue remedies against the broker, when the entitlement arose under the statutory scheme. Reliance was placed upon **Portescap India Private Limited** (supra), which had attained finality.

9. Per contra, learned Additional Solicitor General appearing for the respondents submitted that the FTP and Handbook of Procedures required a declaration of intent to be made on the shipping bill at the time of export. Unless "Yes" was so marked, the DGFT system could not accept the claim or process the claim, and no manual over-writing was permissible. It was urged that MEIS is a policy incentive, and strict compliance with

¹ (2021) SCC OnLine Bom 285

procedure is mandatory. The PRC, being the competent authority, considered the matter and rejected it. The High Court was, therefore, correct in declining to grant relief.

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?

11. This issue has received judicial consideration in a line of decisions of the Bombay High Court. In **Portescap India Private Limited (supra)**, the Bombay High Court dealt with a similar situation where an exporter had inadvertently marked "N" (for No) instead of "Y" (for Yes) while filing shipping bills. The High Court held that such a mistake was purely procedural and, once corrected, could not extinguish substantive entitlement. The Court directed the authorities to process the claim, emphasising that the purpose of Chapter 3 of the FTP is to incentivise exports and that this object would be frustrated if inadvertent mistakes were treated as insurmountable. The ratio of **Portescap (supra)** is squarely applicable to the present case.

12. The principle was reiterated in **Technocraft Industries (India) Limited v. Union of India and Others**², where the Bombay High Court again considered denial of MEIS benefits despite the shipping bills having been corrected under Section 149. The High Court noted the hardship faced by exporters and directed the Customs and DGFT authorities to take appropriate steps to prevent recurrence of such disputes, observing that systemic rigidity cannot be allowed to defeat substantive rights. The facts of the present case furnish an illustration of the very mischief which **Technocraft (supra)** sought to remedy.

13. In **Larsen and Toubro Limited v. Union of India and Others**³, the Bombay High Court dealt with a similar rejection of MEIS claims despite amendment under Section 149. The High Court deprecated the rejection, holding that technical or systemic constraints cannot override statutory entitlements. The High Court went to the extent of imposing costs upon the DGFT. While we do not consider it necessary to adopt that course, we find ourselves in respectful agreement with the principle enunciated that beneficial schemes must be construed liberally and that procedural lapses, once rectified, cannot be allowed to defeat substantive rights.

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.

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

² (2023) SCC OnLine Bom 280

³ (2024) SCC OnLine Bom 3565

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.

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, acting 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.

17. The appeal is allowed in the above terms. There shall be no order as to costs.

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