

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 848 of 2022

M/s Pran Beverages (India) Pvt. Ltd.
Industrial Growth Centre, Bodhjung Nagar, RK Nagar,
PS: Bodhjung Nagar, District: West Tripura,
Represented by its authorized signatory Shri Jayanta Das Gupta.
---Petitioner(s)

Versus

- 1. Union of India**
Represented by its Secretary,
Ministry of Commerce and Industry, Department of Industrial Police &
Promotion (DIPP), New Delhi: 110001
- 2. The State of Tripura,**
Represented by the Secretary, Department of Industries and Commerce,
Government of Tripura, New Capital Complex, PO: & PS: NCC, Agartala,
West Tripura 799010.
- 3. The Director of Industries and Commerce,**
Government of Tripura,
Office of the Directorate of Industries and Commerce, Shilpodyog
Bhavan, PS: Kunjaban, PS: NCC Agartala, District: West Tripura.
- 4. Deputy Director,**
Department for Promotion of Industry and Internal Trade,
Ministry of Commerce and Industry, NEPS Section,
Udyog Bhavan, New Delhi: 110011.
- Respondent(s)**

For Petitioner(s)	: Mr. B.N. Majumder, Sr. Advocate. Mr. DJ Saha, Advocate.
For Respondent(s)	: Mr. B. Majumder, Deputy SGI. Mr. P. Gautam, Advocate.
Date of hearing and date of judgment and order	: 24.11.2023
Whether fit for reporting	: No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

This is a petition under Article 226 of the Constitution of
India filed by the petitioner seeking the following relief:

- (i) *Issue Rule*
- (ii) *Issue Rule calling upon the respondents or each one of them to show cause as to why a Writ in the nature of Mandamus shall not be issued*

mandating/commanding/directing/ the State Respondents to accept the claim of the petitioner for Central Investment Subsidy scheme under NE Industrial Investment Promotion Policy, 2007 and to release the amount of the claim submitted by the petitioner dated 26.02.2018;

- (iii) Issue Rule calling upon the respondents or each of them to show cause as to why a Writ in the nature of Certiorari shall not be passed quashing/cancelling/setting aside the impugned communication dated 3rd September, 2021;*
- (iv) Issue any other appropriate writ or writs shall not be passed for giving full reliefs to your petitioner and to pass such other order/orders as to your Lordships may deem fit and proper to give full reliefs to your humble petitioner;*
- (v) In case the respondent show caused or not your Lordships may be pleased to make the Rule absolute in terms of the prayer made in Sl. i and ii as above.*

[2] It is the case of the petitioner that the petitioner's company is dealing with manufacturing and sale of various food items like Noodles, Bakery products etc. The respondent No.1 had introduced a policy towards the promotion of Industries, for subsidy, in the year 2007, effective from 01.04.2007. The policy was subsequently suspended from 01.12.2014 to 22.11.2016 and again w.e.f. 15th December, 2016, the policy was resumed. The petitioner from 01.04.2014 to 31.03.2016 made major expansion and had invested huge capital by way of installation of most advanced plant and machineries and had started its production on 01.04.2016 in large scale. The petitioner obtained pre-registration certificate for the subsidy on 15.02.2017 and applied for subsidy on 26.02.2018. Field verification inspected the firm on 8th August, 2019 and recommended for any amount of Rs.13,10,37,643.69 out of an amount of Rs.15,69,77,272.69 as claimed. The respondent No.3 vide communicated dated 3rd September, 2021 rejected the claim on the ground that the date of receipt of the claim is after one year from the date of registration under North East Industrial and Investment Promotion Policy (NEIIPP), 2016 or date of commencement of commercial promotion. Hence, this writ petition.

[3] It is contended by Mr. B N Majumder, learned senior counsel assisted by DJ Saha, learned counsel appearing for the petitioner that although the commercial production of the expanded industry of the petitioner had started on 01.04.2016 and application for expansion registration was submitted in the year 2015 the registration certificate was received on 15.02.2017. However, as per the scheme, the claim was to be submitted within one year from the date of receipt of the pre-registration certificate for expansion of the industry on 15.02.2018.

[4] It is also represented by the counsel for the appellant that the respondent No.3 had not responded to the prayer dated 21.10.2021 of the petitioner showing the reason that they have nothing to do unless the respondent No.4 considers the claim of the petitioner. The petitioner ultimately made a representation before the respondent No.4 for reconsideration of the claim of the petitioner on 01.07.2022. The respondent No.4 has also not responded the prayer of the petitioner till date.

[5] On the contrary, Mr. B. Majumder, learned Deputy SGI refers to the clause (vii) of the North East Industrial and Investment Promotion Policy, 2007. The Clause (vii) of the said policy is extracted herein below:

(vii) The claims for subsidy under CCIS Scheme of NEIIPP, 2007 have to be submitted to the concerned DIC in the prescribed Application. Forms within one year from the date of commencement of commercial production. Cases of delayed registration will be dealt as per the clarification provided vide DIPP letter No.10(5)/2008-DBA-II/NER dated 25th August, 2008 and letter No.10/6/2008-DBA-II/NER dated 15th March, 2012. In case of units which do not get themselves registered by 27.07.2007/21.09.2007 due to delayed notifications of the scheme and have subsequently got themselves registered latest by 31.12.2008, claims submitted by these units within one year of registration could be deemed admissible, if State Level Committee (SLC) deems the case fit for condoning the delay. Any other case for subsequent waiver will be dealt on case specific basis by DIPP after the SLC recommends such relaxation, subject to strict proof of commencement of operation/commercial production. In such cases, final decision rests with DIPP.

[6] Stating the above clause, Mr. B. Majumder, learned Deputy SGI has submitted before this court that the government has decided against the petitioner indicating that the claim was made by him after one year. The petitioner was supposed to make an application within one year. Since there is a delay of 11 days and thus the decision taken by the government is correct, the petitioner is not entitled for any relief. He further contended that there is no specific yardstick with regard to condoning the delay for how many days and in absence of the same, the respondents have retained to their decision as contemplated under the scheme.

[7] Mr. P Gautam appearing for the state respondents adopted and supported the argument of Mr. B. Majumder, learned Deputy SGI

[8] Without expressing any opinion on the merits of the case, this present writ petition is disposed of directing the respondents to take pragmatic view in view of the North East Industrial and Investment Promotion Policy, 2007 and 2016. Moreover, at the time of deciding representations as submitted by the petitioner, the respondents shall bear in mind with regard to the North-eastern state and more particularly, the state of Tripura, where development is essential and which also includes providing of employment to the unemployed youth, skilled and non-skilled workers. On technical reasons, it is evident that promotional subsidy was rejected by the respondents solely on the ground that the claim was submitted after 11 days beyond the period of one year. Such rejection from the side of the respondents would have an impact upon the development of the state in terms of industrial business and commerce. Hence, the decision of the respondents should be reconsidered and the representations of the petitioner be considered with

a pragmatic view keeping in mind the development of the state. It is made absolutely clear that the said decision shall be taken within a period of two months from the date of receipt of the copy of this order.

[9] In view of the above, the instant writ petition stands disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE



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