

GAHC010233252017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1291/2017

M/S ISHWAR FOOD PRODUCTS PVT. LTD.
PATIA PATHAR GAON, T.H. ROAD, TINSUKIA-786125, ASSAM.
REPRESENTED BY ITS DIRECTOR, SRI SANWAR MAL AGARWAL, S/O. LT.
CHET RAM AGARWAL, R/O. SIDING BAZAR, TINSUKIA-786125.

VERSUS

THE UNION OF INDIA and 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF COMMERCE and INDUSTRIES, DEPTT. OF INDUSTRIAL POLICY and
PROMOTION, DBA II/NER SECTION, UDYOG BHAWAN, NEW DELHI-110011.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF INDUSTRIES AND COMMERCE
P.O. DISPUR
GHY.-06
ASSAM.

3:THE COMMISSIONER OF INDUSTRIES and COMMERCE
ASSAM

UDYOG BHAWAN
BAMUNIMAIDAN
GHY.-21
ASSAM.

4:THE GENERAL MANAGER

DISTRICT INDUSTRIES and COMMERCE CENTRE
TINSUKIA
BORGURI

TINSUKIA-786125
ASSAM.

5:NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD. NEDFI

REP. BY THE ASSTT. GENERAL MANAGER B.D.
NEDFI HOUSE
G.S. ROAD
DISPUR
GHY.- 781006
ASSAM

Linked Case : WP(C)/1287/2017

M/S ISHWAR FOOD PRODUCTS PVT. LTD.
PATIA PATHAR GAON
T.H. ROAD
TINSUKIA-786125
ASSAM. REPRESENTED BY ITS DIRECTOR
SRI SANWAR MAL AGARWAL
S/O. LT. CHET RAM AGARWAL
R/O. SIDING BAZAR
TINSUKIA-786125.

VERSUS

THE UNION OF INDIA and 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF COMMERCE and INDUSTRIES
DEPTT. OF INDUSTRIAL POLICY and PROMOTION
DBA II/NER SECTION
UDYOG BHAWAN
NEW DELHI-110011.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF INDUSTRIES AND COMMERCE
P.O. DISPUR
GHY.-06
ASSAM.

3:THE COMMISSIONER OF INDUSTRIES and COMMERCE
ASSAM

UDYOG BHAWAN
BAMUNIMAIDAN

GHY.-21
ASSAM.
4:THE GENERAL MANAGER

DISTRICT INDUSTRIES and COMMERCE CENTRE
TINSUKIA
BORGURI
TINSUKIA-786125
ASSAM.

5:NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD. NEDFI

REP. BY THE ASSTT. GENERAL MANAGER B.D.
NEDFI HOUSE
G.S. ROAD
DISPUR
GHY.- 781006
ASSAM.

Linked Case : WP(C)/1286/2017

M/S ISHWAR FOOD PRODUCTS PVT. LTD.
PATIA PATHAR GAON
T.H. ROAD
TINSUKIA-786125
ASSAM. REPRESENTED BY ITS DIRECTOR
SRI SANWAR MAL AGARWAL
S/O. LT. CHET RAM AGARWAL
R/O. SIDING BAZAR
TINSUKIA-786125.

VERSUS

THE UNION OF INDIA and 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF COMMERCE and INDUSTRIES
DEPTT. OF INDUSTRIAL POLICY and PROMOTION
DBA II/NER SECTION
UDYOG BHAWAN
NEW DELHI-110011.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF INDUSTRIES AND COMMERCE
P.O. DISPUR
GHY.-06
ASSAM.

3:THE COMMISSIONER OF INDUSTRIES and COMMERCE
ASSAM

UDYOG BHAWAN
BAMUNIMAIDAN
GHY.-21
ASSAM.
4:THE GENERAL MANAGER

DISTRICT INDUSTRIES and COMMERCE CENTRE
TINSUKIA
BORGURI
TINSUKIA-786125
ASSAM.

5:NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD. NEDFI

REP. BY THE ASSTT. GENERAL MANAGER B.D.
NEDFI HOUSE
G.S. ROAD
DISPUR
GHY.- 781006
ASSAM.

Linked Case : WP(C)/1304/2017

M/S ISHWAR FOOD PRODUCTS PVT. LTD.
PATIA PATHAR GAON
T.H. ROAD
TINSUKIA-786125
ASSAM. REPRESENTED BY ITS DIRECTOR
SRI SANWAR MAL AGARWAL
S/O. LT. CHET RAM AGARWAL
R/O. SIDING BAZAR
TINSUKIA-786125.

VERSUS

THE UNION OF INDIA and 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF COMMERCE and INDUSTRIES
DEPTT. OF INDUSTRIAL POLICY and PROMOTION
DBA II/NER SECTION
UDYOG BHAWAN
NEW DELHI-110011.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM

DEPTT. OF INDUSTRIES AND COMMERCE
P.O. DISPUR
GHY.-06
ASSAM.
3:THE COMMISSIONER OF INDUSTRIES and COMMERCE
ASSAM

UDYOG BHAWAN
BAMUNIMAIDAN
GHY.-21
ASSAM.
4:THE GENERAL MANAGER

DISTRICT INDUSTRIES and COMMERCE CENTRE
TINSUKIA
BORGURI
TINSUKIA-786125
ASSAM.

5:NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD. NEDFI

REP. BY THE ASSTT. GENERAL MANAGER B.D.
NEDFI HOUSE
G.S. ROAD
DISPUR
GHY.- 781006
ASSAM.

Linked Case : WP(C)/1295/2017

M/S ISHWAR FOOD PRODUCTS PVT. LTD.
PATIA PATHAR GAON
T.H. ROAD
TINSUKIA-786125
ASSAM. REPRESENTED BY ITS DIRECTOR
SRI SANWAR MAL AGARWAL
S/O. LT. CHET RAM AGARWAL
R/O. SIDING BAZAR
TINSUKIA-786125.

VERSUS

THE UNION OF INDIA and 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF COMMERCE and INDUSTRIES
DEPTT. OF INDUSTRIAL POLICY and PROMOTION
DBA II/NER SECTION

UDYOG BHAWAN
NEW DELHI-110011.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF INDUSTRIES AND COMMERCE
P.O. DISPUR
GHY.-06
ASSAM.
3:THE COMMISSIONER OF INDUSTRIES and COMMERCE
ASSAM

UDYOG BHAWAN
BAMUNIMAIDAN
GHY.-21
ASSAM.
4:THE GENERAL MANAGER

DISTRICT INDUSTRIES and COMMERCE CENTRE
TINSUKIA
BORGURI
TINSUKIA-786125
ASSAM.

5:NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD. NEDFI

REP. BY THE ASSTT. GENERAL MANAGER B.D.
NEDFI HOUSE
G.S. ROAD
DISPUR
GHY.- 781006
ASSAM.

Linked Case : WP(C)/1307/2017

M/S ISHWAR FOOD PRODUCTS PVT. LTD.
PATIA PATHAR GAON
T.H. ROAD
TINSUKIA-786125
ASSAM. REPRESENTED BY ITS DIRECTOR
SRI SANWAR MAL AGARWAL
S/O. LT. CHET RAM AGARWAL
R/O. SIDING BAZAR
TINSUKIA-786125.

VERSUS

THE UNION OF INDIA and 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF COMMERCE and INDUSTRIES
DEPTT. OF INDUSTRIAL POLICY and PROMOTION
DBA II/NER SECTION
UDYOG BHAWAN
NEW DELHI-110011.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF INDUSTRIES AND COMMERCE
P.O. DISPUR
GHY.-06
ASSAM.
3:THE COMMISSIONER OF INDUSTRIES and COMMERCE
ASSAM

UDYOG BHAWAN
BAMUNIMAIDAN
GHY.-21
ASSAM.
4:THE GENERAL MANAGER

DISTRICT INDUSTRIES and COMMERCE CENTRE
TINSUKIA
BORGURI
TINSUKIA-786125
ASSAM.
5:NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD. NEDFI

REP. BY THE ASSTT. GENERAL MANAGER B.D.
NEDFI HOUSE
G.S. ROAD
DISPUR
GHY.- 781006
ASSAM.

Linked Case : WP(C)/1301/2017

M/S ISHWAR FOOD PRODUCTS PVT. LTD.
PATIA PATHAR GAON
T.H. ROAD
TINSUKIA-786125
ASSAM. REPRESENTED BY ITS DIRECTOR
SRI SANWAR MAL AGARWAL
S/O. LT. CHET RAM AGARWAL
R/O. SIDING BAZAR

TINSUKIA-786125.

VERSUS

THE UNION OF INDIA and 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF COMMERCE and INDUSTRIES
DEPTT. OF INDUSTRIAL POLICY and PROMOTION
DBA II/NER SECTION
UDYOG BHAWAN
NEW DELHI-110011.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF INDUSTRIES AND COMMERCE
P.O. DISPUR
GHY.-06
ASSAM.
3:THE COMMISSIONER OF INDUSTRIES and COMMERCE
ASSAM

UDYOG BHAWAN
BAMUNIMAIDAN
GHY.-21
ASSAM.
4:THE GENERAL MANAGER

DISTRICT INDUSTRIES and COMMERCE CENTRE
TINSUKIA
BORGURI
TINSUKIA-786125
ASSAM.

5:NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD. NEDFI

REP. BY THE ASSTT. GENERAL MANAGER B.D.
NEDFI HOUSE
G.S. ROAD
DISPUR
GHY.- 781006
ASSAM.

Linked Case : WP(C)/1284/2017

M/S ISHWAR FOOD PRODUCTS PVT. LTD.
PATIA PATHAR GAON
T.H. ROAD

TINSUKIA-786125
ASSAM. REPRESENTED BY ITS DIRECTOR
SRI SANWAR MAL AGARWAL
S/O. LT. CHET RAM AGARWAL
R/O. SIDING BAZAR
TINSUKIA-786125.

VERSUS

THE UNION OF INDIA and 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF COMMERCE and INDUSTRIES
DEPTT. OF INDUSTRIAL POLICY and PROMOTION
DBA II/NER SECTION
UDYOG BHAWAN
NEW DELHI-110011.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF INDUSTRIES AND COMMERCE
P.O. DISPUR
GHY.-06
ASSAM.
3:THE COMMISSIONER OF INDUSTRIES and COMMERCE
ASSAM

UDYOG BHAWAN
BAMUNIMAIDAN
GHY.-21
ASSAM.
4:THE GENERAL MANAGER

DISTRICT INDUSTRIES and COMMERCE CENTRE
TINSUKIA
BORGURI
TINSUKIA-786125
ASSAM.

5:NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD. NEDFI

REP. BY THE ASSTT. GENERAL MANAGER B.D.
NEDFI HOUSE
G.S. ROAD
DISPUR
GHY.- 781006
ASSAM.

Linked Case : WP(C)/1298/2017

M/S ISHWAR FOOD PRODUCTS PVT. LTD.
PATIA PATHAR GAON
T.H. ROAD
TINSUKIA-786125
ASSAM. REPRESENTED BY ITS DIRECTOR
SRI SANWAR MAL AGARWAL
S/O. LT. CHET RAM AGARWAL
R/O. SIDING BAZAR
TINSUKIA-786125.

VERSUS

THE UNION OF INDIA and 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF COMMERCE and INDUSTRIES
DEPTT. OF INDUSTRIAL POLICY and PROMOTION
DBA II/NER SECTION
UDYOG BHAWAN
NEW DELHI-110011.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF INDUSTRIES AND COMMERCE
P.O. DISPUR
GHY.-06
ASSAM.

3:THE COMMISSIONER OF INDUSTRIES and COMMERCE
ASSAM

UDYOG BHAWAN
BAMUNIMAIDAN
GHY.-21
ASSAM.

4:THE GENERAL MANAGER

DISTRICT INDUSTRIES and COMMERCE CENTRE
TINSUKIA
BORGURI
TINSUKIA-786125
ASSAM.

5:NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD. NEDFI

REP. BY THE ASSTT. GENERAL MANAGER B.D.
NEDFI HOUSE
G.S. ROAD

DISPUR
GHY.- 781006
ASSAM.

For the Petitioner(s)	: Dr. B. P. Todi, Sr. Advocate
For the Respondent(s)	: Mr. A. Kalita, Standing Counsel, Industries
Department	: Mr. S. S. Roy, Government Advocate
	: Mr. R. K. D. Choudhury, Dy. S.G.I.

Date of Hearing : 22.11.2023

Date of Judgment : 22.11.2023

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT AND ORDER (ORAL)

1. The instant batch of writ petitions are taken up for disposal by this common judgment and order taking into account the similarity of the facts and the common issues involved.

2. The Petitioner herein is a company incorporated under the provisions of the Companies Act, 1956. The Petitioner is in the business of manufacturing of grain mills products, starches, starch products and prepared animal feeds. In the year 1997, the Department of Industrial Policy and Promotion, Government of India had launched an Industrial Policy dated 24.12.1997 known as the North East Industrial Policy (for short "NEIP 1997"). The said Policy covered the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura. Various incentives were provided to the industries which were set up pursuant to the said industrial policy as well as

also to the existing units going for substantial expansion, for a period of 10 years w.e.f from the date of their commercial production. Amongst the various incentives, one of such incentive was the Central Comprehensive Insurance Scheme, 1997 (for short "CCIS, 1997) which was notified by the notification bearing No.17/1/98-DBA-I dated 14.07.1999. As per the said Scheme, it was made applicable to new industrial units set up in the North Eastern Region after 24.12.1997. To come within the scope of an industrial unit and avail the scheme, the Industries have to be included in the Fire Policy "C" as per the All India Fire Tariffs. The manner in which the scheme would be worked out is stipulated in Clause 6 of the said notification dated 14.07.1999 which mandated that the insured i.e. the Industrial Unit shall pay the initial premium which shall be reimbursed by the nodal insurance company (National Insurance Corporation) out of the revolving fund maintained by that company. The funds for the said revolving fund shall be contributed by Ministry of Industry of Industrial Policy and Promotion.

3. As could be seen from a perusal of the writ petitions that the Petitioner herein was registered under the CCIS, 1997 and was allotted the Registration bearing No.DI&CC/CIS/TSK-29 dated 10.03.2005 vide a letter No.TDICC(CCIS'97)33/2004-05/1606-07 dated 11.03.2005 which was issued by the General Manager (In-charge), District Industries & Commerce Centre, Tinsukia. On the basis of being registered, the Petitioner submitted its claim for the various periods. The claims were duly forwarded by the General Manager, District Industries & Commerce Centre, Tinsukia to the Commissioner of Industries & Commerce of the State of Assam. The writ proceedings, details of the claims of the Petitioner, the period, the amount so claimed as well as the date on which the claims were forwarded to the Commissioner, Industries,

Government of Assam are enumerated hereinbelow in the table.

ISHWAR FOOD PRODUCTS			
WP(C) No.	Period	Amount	Claim Forwarded
1307 of 2017	14.7.2005 - 13.7.2006	79,344.00	10.05.2007
1304 of 2017	14.7.2006 - 13.7.2007	1,13,300.00	07.08.2008
1301 of 2017	14.7.2007 - 13.7.2008	93,680.00	27.01.2010
1298 of 2017	14.7.2008 - 13.7.2009	93,680.00	21.10.2010
1295 of 2017	14.7.2009 - 13.7.2010	81,071.00	21.10.2010
1291 of 2017	14.7.2010 - 13.7.2011	81,071.00	13.08.2013
1287 of 2017	14.7.2011 - 13.7.2012	81,071.00	13.08.2013
1286 of 2017	14.7.2012 - 13.7.2013	59,160.00	13.08.2013
1284 of 2017	14.7.2013 - 13.7.2014	63,905.00	30.01.2015

4. The Petitioner though submitted its claim and the said claims were duly forwarded but the entitlements of the Petitioner were not disbursed for which the instant 9 (nine) writ petitions have been filed seeking for appropriate directions upon the Respondent Authorities for disbursing the amounts payable to the Petitioner as per the CCIS, 1997 as well also have sought for interest @1.5% per month on the said claims.

5. The record reveals that notices were issued by this Court making it returnable by 6 (six) weeks. None of the Respondents except the Respondent No.5 who is the North Eastern Development Finance Corporation Ltd. (NEDFi)

have filed the affidavit-in-opposition. The records reveals that on 05.10.2023, when the matter was taken up, the learned Standing counsel for the Industries Department, Government of Assam submitted that though the Petitioner's claims along with various other claims of other industries were forwarded pertaining to the Central Insurance Subsidy Scheme under NEIP, 1997 but the said claims could not be recommended by the State Level Committee for disbursement in view of fact that the National Insurance Corporation which was the nodal agency as per the CCIS, 1997 ceased to exist with the coming into effect of the North East Industrial and Investment Promotion Policy, 2007 as well as the Central Comprehensive Insurance Scheme, 2007 (for short "CCIS, 2007") whereby the modality for verification and disbursement of the insurance, previous incentive were changed and thereby it was the State Level Committee so constituted who was empowered for the purpose of making necessary verification and thereupon to recommend for the purpose of disbursement of the premiums. The learned Standing counsel for the Industries Department submitted that taking into account the above, there has been various correspondences between the Commissioner, Industries and Commerce, Assam with the Department of Promotion of Industry and Internal Trade of the Union of India so that appropriate instructions could be given for the purpose of verification and thereupon making recommendation for disbursal of the amounts pertaining to the insurance claims under the CCIS, 1997. The learned counsel further stated that apart from the 9 (nine) claims of the Petitioner, there are also another 102 claims which are pending in respect to the CCIS, 1997 which could not be disbursed on account of not finalizing the modalities by the Department of Promotion of Industry and Internal Trade, Government of India. The learned counsel had placed before this Court a

communication dated 10.08.2023 issued by the Commissioner of Industries & Commerce, Assam wherein the details have been mentioned and also requesting that certain clarification be issued for the purpose of making necessary verification and recommending the insurance claims so that the said claims could be settled at the earliest.

6. This Court vide an order dated 05.10.2023 directed Mr. R. K. D. Choudhury, the learned Dy. SGI to obtain instructions on the communication dated 10.08.2023 on the next date so that the matters could be decided. This Court further fixed the matter on 15.11.2023. On 15.11.2023, when the matter was listed, it was informed by the learned C.G.C. appearing on behalf of the Union of India that as per the directions contained in the order dated 05.10.2023, due communication was made on 13.11.2023 to the Secretary to the Government of India, Ministry of Commerce & Industry, Department of Industrial Policy and Promotion but there was no instruction received. This Court further gave a final opportunity to the Union of India to apprise this Court in respect to the clarification sought by the communication dated 10.08.2023 failing which the instant batch of writ petitions would be taken up on merits and disposed of. Today, when the matter has been taken up, Mr. R. K. D. Choudhury, the learned Dy. SGI submitted that the order dated 05.10.2023 as well as the order dated 15.11.2023 have been duly communicated to the Secretary to the Government of India, Ministry of Commerce & Industry, Department of Industrial Policy and Promotion but there has been no instructions received. Taking into account the above, this Court therefore takes up the matters for final disposal on merits.

7. This Court have duly heard the learned counsels for the parties and have

perused the materials on record. This Court finds it relevant to take note of that although the North East Industrial Policy, 1997 as well as the CCIS, 1997 are not part of the records but during the course of hearing, the learned counsel appearing on behalf of the Petitioner has placed the same.

8. From a perusal of North East Industrial Policy, 1997 which was announced on 24.12.1997, it reveals that in view of the continuing backwardness of the North Eastern Region, the need for a new and synergetic incentive package was widely felt to stimulate for development of industries. It is under such circumstances, the Prime Minister had made a statement at Guwahati on 27.10.1996 that new incentives would be announced for the industrial development of the North Eastern Region. Expert groups/committees were constituted by the Ministry of Industry and Planning Commission to concretize the initiatives. The said Industrial Policy of 1997 granted various incentives. Amongst the various incentives, one of such incentives was Comprehensive Insurance Scheme for Industrial Units in the North East and would be designed in consultation with the General Insurance Corporation of India Ltd. and 100% premium for a period of 10 years would be subsidized by the Central Government.

9. On the basis of the said Industrial Policy of 1997, the CCIS, 1997 was announced vide the notification bearing No.17/1/98-DBA-I dated 14.07.1999. The said CCIS, 1997 stipulated that the Industrial Units set up in the North Eastern Region after 24.12.1997 would be eligible to the benefit of the said Scheme. The mode of operation of the said Scheme as already stated hereinabove was that the insured shall pay the initial premium which shall be reimbursed by the nodal insurance company (National Insurance Corporation)

out of the revolving fund maintained by that company. Funds for this revolving fund shall be contributed by Ministry of Industry of Industrial Policy & Promotion.

10. The Petitioner herein on the basis of the promises so made in the Industrial Policy, 1997 and also taking into account the various notifications issued on the basis thereof, set up its industrial unit in the year 2005. The Petitioner thereupon got itself registered as could be seen from the communication issued by the General Manager, (In-charge), District Industries & Commerce Centre, Tinsukia whereby the Petitioner was informed that the Petitioner's Unit was registered under the said CCIS, 1997 vide No.DI&CC/CIS/TSK-29 dated 10.03.2005. This Court further finds it relevant to take note of that the Petitioner herein on the basis of being registered duly submitted the said claims, the details of which have already been mentioned in the tabulated form supra. It is also seen that upon the claims being submitted by the Petitioner, the said claims upon being verified by the General Manager, (In-charge), District Industries & Commerce Centre, Tinsukia were forwarded to the Commissioner of Industries & Commerce, Assam.

11. At this stage, this Court further finds it relevant to take note of another development which ensued thereupon in the year 2007. On 01.04.2007, the Ministry of Commerce & Industry, Department of Industrial Policy and Promotion had issued an Office Memorandum whereby a new Industrial Policy namely the North East Industrial and Investment Promotion Policy (NEIIPP), 2007 was announced. In the said Industrial Policy, various incentive schemes similar to the schemes as was there in the North East Industrial Policy, 1997 were also announced. Amongst the many, it was also stipulated that the new

units as well as the existing units on their substantial expansion, would be eligible for re-imbursement for 100% insurance premium. On the basis of the said Industrial Policy of 2007, a notification was issued by the Ministry of Commerce & Industry, Government of India dated 27.07.2007 bearing No.10(3)/2007-DBA-II/NER whereby the CCIS, 2007 was notified. As per the said Scheme of 2007, the Designated Agency for disbursement of the subsidy was the North Eastern Development Finance Corporation (NEDFi) (Respondent No.5 herein). It was stipulated in Clause-6 of the said Scheme of 2007 that the NEDFi who shall be the designated agency for disbursement of insurance premium shall do so on the basis of the recommendations of the State Level Committee (SLC) of the concerned State Government. The mode of operation which was stipulated as per the 2007 Insurance Scheme was that the insured party shall pay the initial premium which shall be reimbursed by the nodal agency i.e. NEDFi out of the revolving fund maintained by it. Funds for this revolving fund shall be distributed by the Ministry of Commerce & Industry, Department of Industrial Policy & Promotion. Insurance Policies issued by all general insurance companies (private as well as PSU) registered with Insurance Regulatory and Development Authority (IRDA) will be treated as eligible for the benefit under the Scheme. In Clause 8 of the said Scheme of 2007, it was mentioned that in respect of all units to whom the subsidy is disbursed by the NEDFi/State Government, Certificate of Utilization of subsidy for the purpose for which it was given shall be furnished to the Central Ministry of Industry (Department of Industrial Policy and Promotion) by the financial Institution/State Government concerned within a period of one year from the date of receipt of last installment/full amount.

12. From the submissions made by the learned counsel appearing on behalf

of the parties as well as the communication dated 10.08.2023 which was kept on record and marked with the letter "X", it transpires that with the coming into effect of the CCIS, 2007, the National Insurance Corporation who was the nodal insurance company to disburse the entitlement as per the CCIS, 1997 was done away with and under such circumstances, a question arose as to how the mode of operation and the disbursement of the amount pertaining to those entitled under the North East Industrial Policy 1997 and the CCIS, 1997 would be dealt with. It is under the said backdrop, this Court finds it relevant to take note of communication dated 10.08.2023 which was kept on record and marked with the letter "X".

13. It reveals from the said communication dated 10.08.2023 issued by the Commissioner of Industries & Commerce, Assam that the Department of Industrial Policy and Promotion had vide a letter dated 15.02.2008 addressed to NEDFi had instructed to consider claims relating to period from 01.04.2007 under the Scheme of 2007 which would be disbursed on the recommendation of SLC in which NEDFi besides others, would also be a member. As regards the claims under the Scheme upto 31.03.2007, the existing policy procedure would be followed for disbursement. Subsequent thereto vide another letter dated 23.05.2008 addressed to NEDFi from the Department of Industrial Policy and Promotion regarding procedure for processing the claims under the Scheme of 2007 mentioning that claims relating to the period from 01.07.2007 under CCIS, 2007 would be disbursed on the recommendations of the State Level Committee of the respective State Government, in which NEDFi, besides others would also be a member. As regards claims pertaining to the period ending 31.03.2007 or before, the procedure of disbursement prevailing as on 31.03.2007 may be followed. It is under such circumstances, the NEDFi

returned 106 numbers of CCIS, 1997 claims relating to the period ending prior to 31.03.2007 for recommendation of the SLC. Thereafter, the first SLC was held on 07.08.2009 for consideration of Central Comprehensive Insurance Subsidy claim and opined that in the light of the instructions given by Department of Industrial Policy and Promotion vide letter dated 15.02.2008, the CCIS, 1997 proposals under the North East Industrial Policy, 1997 be brought under consideration of SLC for claim pertaining to the period from 01.04.2007 and accordingly, CCIS claims under North East Industrial Policy, 1997 along with claims under NEIIPP, 2007 were processed for approval upto the 5th SLC dated 01.02.2011. However, during the discussion in the 6th SLC held on 14.09.2011, the Chairman raised the question on the authority of the SLC to consider the claims under CCIS, 1997 of NEIP, 1997 as (i) the policy had already ceased to operate w.e.f. 31.03.2007. The 6th SLC dated 14.09.2011 decided that the Department should take clarification on the matter through DIPP through the State Government. Further, a letter dated 12.07.2012 was sent to Dy. Secretary to the Government of India, Department of Industrial Policy and Promotion for seeking clarification. Thereupon, a reply was received from the Department of Industrial Policy and Promotion vide a communication dated 23.07.2013 which provided that para 2 of the Notification No.17/1/98-DBA-I dated 14.07.1999 to be followed but they did not mention anything regarding the procedure for processing the CCIS, 1997 claim prior to 31.03.2007 under North East Industrial Policy, 1997. Under such circumstances, the SLC decided to process the claims of the CCIS, 1997 under North East Industrial Policy, 1997 only after obtaining proper clarification from Department of Industrial Policy and Promotion. Thereupon, on 05.05.2014, a communication was sent to the Additional Chief Secretary to the Government

of Assam requesting to provide guidance for suitable measures to be adopted for disposing the pending proposals of Central Comprehensive Insurance Scheme, under the North East Industrial Policy, 1997. Later, a query was received from the Deputy Secretary to the Government of Assam vide letter dated 14.07.2014 regarding the Committee and the procedure. A reply to the same was also provided vide letter dated 02.08.2014. It is under such circumstances, another letter was sent to the Principal Secretary to the Government of Assam dated 04.03.2022 requesting for obtaining clarification from the Department for Promotion of Industry and Internal Trade so that the pending 111 numbers of claims of the Comprehensive Insurance Subsidy under North East Industrial Policy, 1997 can be settled. However, there was no clarifications received from the Department for Promotion of Industry and Internal Trade. It is under such circumstances, this Court passed orders on 05.10.2023 as well as on 15.11.2023. However, the Union of India have failed to respond to the said instructions sought for.

14. It reveals that the Petitioner made claims in respect to the periods from 14.07.2005 to 13.07.2014 i.e. a period of 9 years before the General Manager, District Industries and Commerce Centre so that the same could be placed before the SLC and thereupon, the amount upon necessary verification and recommendation could be disbursed to the Petitioner. Dr. B. P. Todi, the learned Senior counsel appearing on behalf of the Petitioner submitted that taking into account that at that relevant point of time, the mode stipulated in the CCIS, 2007 mentioned that it will be the SLC who would make the recommendation, the Petitioner on advise had therefore filed all the claims before the General Manager, District Industries and Commerce Centre and thereupon, the same were duly forwarded on the various dates.

15. This Court upon perusal of the materials and also taking into account the Annexure "X" is of the opinion that if the Petitioners are entitled to the said amounts as claimed in the 9 writ petitions for the period as stated in the tabulated form, the Respondent Authorities cannot deny the said entitlement or delay the entitlement merely on the basis that there has been no authorization by the Department of Industrial Policy and Promotion of the Government of India or the Department for Promotion of Industry and Internal Trade, Government of India. This opinion is based on the principle that pursuant to a policy decision, those incentives were announced and the Petitioners on the basis thereof have changed their position and as such Respondent Authorities cannot deny the entitlement of the Petitioner. More so, it is also pertinent to note that it is nobody's case that the Petitioner is entitled to. It is on account of lack of mechanism evolved by the concerned Department of the Government of India that the Petitioner had been deprived of its entitlement.

16. This Court have also perused both the CCIS, 1997 as well as the CCIS, 2007. It is also an admitted fact that at present, the National Insurance Corporation before whom the claims under the CCIS, 1997 were to be made is no longer in existence. Under such circumstances, it was the duty as well as an obligation which is cast upon the Department of Industrial Policy and Promotion to set out the modalities by which the said claims which were under the North East Industrial Policy, 1997 and more particularly the CCIS, 1997 could be settled at the earliest.

17. Under such circumstances, this Court therefore disposes of the instant batch of the writ petition thereby directing the Secretary to the Government of

India, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion to formulate the mode of operation for the purpose of verification, recommendation as well as disbursal of the entitlement under the CCIS, 1997 as per the North East Industrial Policy, 1997 so that the said amounts to which the Petitioner or other persons who are entitled to could be verified, recommended and disbursed at the earliest.

18. Accordingly, this Court therefore directs the Secretary to the Government of India, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion to carry out the necessary exercise as per the aforementioned directions, within a period of 3 months from today. This Court further directs that upon the mode of operation finalized and intimated, the Authority/Agency who have been entrusted to recommend and thereupon disburse the said recommended amounts, shall do so within a period of 3 (three) months thereafter.

19. Dr. B. P. Todi, the learned Senior counsel appearing on behalf of the Petitioners further submitted that the Petitioners herein would also be entitled to an interest in view of the fact that it was on account of the laxity on the part of the Respondent Authorities, the amounts have not been disbursed to the Petitioner. He however submitted that the question as to whether any interest could be claimed on the subsidy amount is presently sub-judice before the Supreme Court in the case of the ***State of Assam Vs. M/S Ishwar Food Products Pvt. Ltd and Others*** in SLP No.11056/2020 wherein the Supreme Court had directed maintenance of the status quo pursuant to the order passed by the Division Bench of this Court for payment of interest on the subsidy amount. Taking into account that the specific question as regards the interest on

subsidy is pending before the Supreme Court and there being a status quo order, this Court is of the opinion that it would not be in the interest of justice to pass any directions for payment of any interest at this stage. However, this Court grants the liberty to the Petitioner to approach the Respondent Authorities to seek interest in the eventuality it is found that the Petitioner is entitled to the amounts after due verification and recommendation and further upon Supreme Court deciding that interest can be awarded upon the subsidy amount.

20. With above observations and directions, the instant batch of writ petitions stands disposed.

21. The Registry is directed to furnish a copy of the instant judgment to Mr. R. K. D. Choudhury, the learned Dy. SGI for effective compliance.

JUDGE

Comparing Assistant