

GAHC010263612019



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

Case No. : WP(C)/7969/2019

M/S. MODI TEA AND INDUSTRIES PVT. LTD.
A PRIVATE LIMITED COMPANY INCORPORATED UNDER THE COMPANIES
ACT 1956, HAVING ITS REGISTERED OFFICE AT JALAN NAGAR,
DIBRUGARH, ASSAM AND IS REPRESENTED BY ITS DIRECTOR SHRI
SUNIL MODI, AGED ABOUT 57 YEARS, SON OF LATE RAM GOPAL MODI,
RESIDENT OF KHALIAMARI, BORPUKHURI, DIBRUGARH- 786001 IN THE
DISTRICT OF DIBRUGARH, ASSAM.

VERSUS

UNION OF INDIA AND 4 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF COMMERCE AND INDUSTRY, DEPARTMENT OF INDUSTRIAL
POLICY AND PROMOTION, UDYOG BHAWAN, NEW DELHI.

2:STATE LEVEL COMMITTEE (SLC)
REPRESENTED BY ADDITIONAL DIRECTOR (FP) AND MEMBER
SECRETARY
SLC OFFICE OF THE COMMISSIONER OF INDUSTRY AND COMMERCE
UDYOG BHAWAN
BAMUNIMAIDAN
GUWAHATI-21.

3:THE COMMISSIONER OF INDUSTRY AND COMMERCE
ASSAM CUM MEMBER SECRETARY TO THE STATE LEVEL COMMITTEE
(SLC)
OFFICE OF THE COMMISSIONER OF INDUSTRY AND COMMERCE UDYOG
BHAWAN
BAMUNIMAIDAN
GUWAHATI-21.

4:THE GENERAL MANAGER

DISTRICT INDUSTRY AND COMMERCE CENTRE
SIVASAGAR
OFFICE OF THE GENERAL MANAGER DISTRICT INDUSTRY COMMERCE
CENTRE
SIVSAGAR
ASSAM.

5:TEA BOARD OF INDIA
14 B T M
SARANI
KOLKATA REPRESENTED BY ITS CHAIRMAN
TEA BOARD OF INDIA
14 B T M
SARANI
KOLKATA

Advocate for the Petitioner : MR. G N SAHEWALLA

Advocate for the Respondent : MR. S C KEYAL (A.S.G.I, (R-1))

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

04.01.2023

Heard Shri GN Sahewalla, learned Senior Counsel along with Shri K. Agarwal, learned Senior Counsel assisted by Ms. P. Neog, learned counsel for the petitioner. Also heard Shri K. Gogoi, learned CGC for the respondent no. 1 whereas Shri A. Kalita, learned Standing Counsel for the Industries and Commerce Department, Government of Assam.

2. The petitioner has put to challenge the minutes of meeting held on 25.01.2018 whereby their claim for the benefits under the North East Industrial and Investment Promotion Policy 2007 (hereinafter called NEIIPP) has been rejected. The petitioner claims to have fulfilled the requirement to avail the benefits of the said policy and has invested more than 25% in plant and machinery, however, by the impugned decision, in a cryptic manner, the claim has been rejected.

3. Before going to the merits of the dispute and the respective cases of the rival parties, this Court is informed that in the meantime, a series of similar cases were taken up by this Court wherein the said matters have been remanded to the competent authority to take a fresh decision in view of certain developments.

4. To state the facts of the case in brief, the petitioner is in the business of manufacturing black tea and has its unit at Bagmorial Gaon, Charaideo in the district of Sivasagar which was established in the year 1985. Pursuant to the aforesaid policy, the petitioner company had made substantial expansion meeting the requirement by which the benefits of the said policy was to be availed. In this connection, the petitioner had filed its detail claim in Form 1-C which was received on 16.03.2017. However, as mentioned above, vide the minutes of meeting dated 25.01.2018 the claim of the petitioner has been rejected. While making the rejection, it has been stated that though the unit has claimed to have invested more than 25% in plant and machinery for expansion, it is not corroborated and supported by the increase of Production, Power, Annual Turnover and Production return, as submitted to the Tea Board. The learned Senior Counsel submits that such considerations are wholly irrelevant as the scheme stipulates that expansion by 25% of plant and machinery itself would be enough to avail the benefits of the said scheme.

5. On the other hand, Shri Kalita, learned Standing Counsel, Industries & Commerce Department has submitted that the factors which have been taken into consideration are germane and relevant by which the actual assessment of the expansion can be made. Be that as it may, the learned counsel for the parties have submitted that similar situated entities had approached the Central Government as the policy was of the Central Government. In those representations, a direction for re-consideration has been made pursuant to which orders have been passed by this Court remanding the matters for fresh consideration in accordance with law.

6. In view of the above, while setting aside the impugned decision dated

25.01.2018, the matter is remanded to the appropriate authority, namely, the respondent no. 3, the State Level Committee represented by the Commissioner of Industry and Commerce, Assam cum Member Secretary to reconsider the claim of the petitioner. While doing so, the State Level Committee would strictly abide by the guidelines of the Policy of 2007. The aforesaid consideration may be made in the next sitting of the State Level Committee and the same be disposed of by speaking order to be informed to the petitioner.

7. Writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant