

**HIGH COURT OF TRIPURA
AGARTALA
WA No.296 of 2021**

- 1. The State of Tripura,**
Represented by the Secretary,
Government of Tripura,
Department of Industries & Commerce,
Government of Tripura, Khejurbagan,
P.O. Agartala, District: Tripura (W)
- 2. Director of Industries and Commerce,**
Government of Tripura,
Khejur Bagan, Kunjaban,
District: West Tripura, Pin: 799 006

---- **Petitioner(s)**

-VERSUS-

Mutha Industries Private Limited,
A company registered under the Companies Act,
1956, having the registered office at 51, Advent,
12-A, Gen Jagannathrao Bhosale Marg,
Nariman Point, Mumbai-400021,
India represented by Power of Attorney,
Sri Rabin Bose

---- **Respondent(s)**

For Petitioner(s)	:	Mr. D. Sharma, Addl. G.A.
For Respondent(s)	:	Ms. S. Deb Gupta, Advocate
Date of hearing and delivery of judgment and order	:	05.03.2024
Judgment & order	:	
Whether fit for reporting	:	YES/NO

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Judgment & Order (Oral)

Heard Mr. D. Sharma, Learned Addl. G.A. appearing for the appellants and Ms. S. Deb Gupta, Learned counsel appearing for the respondent.

02. This present writ appeal has been filed under Article 226 of the Constitution of India against the judgment and order dated

12.01.2021 passed by the Learned Single Judge in WP(C) No. 1403 of 2019.

03. The brief fact is that the petitioner in the writ petition had set up their manufacturing unit and had started industrial operation on 08.04.2014. They are engaged in production of bamboo-wood materials. The said petitioner has stated that TIDC had allotted the land required for setting up their unit on 23.03.2012. According to them, they were under impression that they would be able to avail 30% subsidy on civil work from the State Government under their incentives scheme-12 and 30% subsidy on the plant and machinery under the NEIIPP, 2007 scheme, as the two schemes were complementing each other. But for the revision in the scheme, they will not be able to avail the capital investment subsidy for civil work under TIIPIS-2012 as they are not eligible to receive the amount more than Rs.50 lakha from the State Government under the TIIPIS, 2012. In the writ petition, they have urged for directing the respondents to act in conformity with the scheme in terms of the NEIIPP Scheme, 2007 which has come into effect from 01.04.2007 and had remained in force till 31.03.2017. The said petitioner has further urged that by an appropriate direction, the respondents are asked to release the incentives or the benefits to the petitioner in terms of the notification No.F.DI/TIS/SUB/4-2(21)/2006/P-III/13165-274 dated 23.07.2015 under the Tripura Industrial Investment Promotion Incentive Scheme, 2012.

04. According to the respondent-petitioner he is covered by the aforesaid scheme of 2012 for getting the incentives or benefits on the fixed capital investment inasmuch as the said scheme provides

that all eligible enterprises will be entitled to an incentive at the rate of 30% (subsequently modified to 25%) of the fixed capital investment, subject to an aggregate ceiling of Rs.50 lacs in each enterprise. The sole proprietorship units belonging to ST, SC and Women individuals or the partnership business where all the partners belong to ST, SC and women will be eligible for an additional subsidy at the rate of 2.5% on fixed capital investment, subject to an aggregate ceiling of Rs.50 lacs per enterprise provided that wherever on when an enterprise is eligible for the capital investment subsidy under NEIIPP-2007, the amount of subsidy to be provided under this clause shall stand reduced to the extent of subsidy entitlement under NEIIPP-2007. But this provision has been modified subsequently by publishing a notification. The enterprise shall have to mandatorily apply for the subsidy under NEIIPP-2007.

05. The contention of the respondents in writ petition (the petitioner in WA) by filing their reply that the petitioner unit had started commercial production on 08.04.2014, i.e prior to the date of modification notified and received Central Capital Investment Subsidy on plant and machineries of Rs.2,41,68,000/- under NEIIPP, 2007 which is more than the prescribed ceiling of Rs.50.00 lakhs under TIIPIS, 2012. Therefore, the unit is not eligible to receive any further amount of capital investment subsidy under Scheme, 2012 and modified Scheme Notification dated 23.07.2015. The petitioner is guilty of delay and laches. Filing of representations alone would not save the period of limitation. The maximum subsidy limit under the Scheme, 2012 is Rs.50 lakhs. Since the

petitioners have received their subsidy under the NEIIPP, 2007 more than Rs.50 lakhs, they are not entitled to get any further subsidy.

06. It is seen from the record that earlier writ petition was filed before the impugned notification dated 23.07.2015. The Learned Single Judge allowed the writ petition directing the respondents i.e the petitioners herein to make the due inquiry for determining the quantum of subsidy within the framework of the NEIIPP and the Scheme, 2012 and release the incentive/benefit to the petitioners in two instalments.

08. Learned counsel for the appellant have urged before this court that as per scheme incentive is available on capital investment as on the date of commercial production started. Eligibility of an unity for availing subsidy is bounded by the guidelines and conditions stipulated under the scheme, 2012. Allowing of subsidy in fulfillment of conditions attached to provisions under the scheme and the operational guideline thereof.

09. Learned counsel for the appellant submitted that the Learned Single Judge has wrongly interpreted and urged for Clause 18.2 is applicable to the industrial enterprises which commenced commercial production prior to 01.04.2012 and come under the purview of previous incentive scheme of 2007.

10. The modifications made under the scheme of 2012 while providing 25% subsidy on investments made in land and civil works with an overall claim of Rs.50 lakhs to manufacturing sectors was given effect from the date of notifying such modifications i.e.23.07.2015 that means set up of the industrial enterprises after

the date as narrated above shall be entitled to receive capital investment subsidy as per the modified provisions as because the petitioner's unit had started its commercial production on 20.09.2013 which is prior to the date of modification notified and it is not entitled to receive the benefit under the modified provisions of the scheme, 2012. Therefore, the notification issued on 23.07.2015 does not have any relevancy in respect of operation of the unit.

11. In view of the order passed by the Learned Single Judge dated 12.01.2021 passed in WP(C) No. 1403 of 2019 is set aside and the matter is remanded back to the respondents authority i.e. the appellants herein is directed to consider the case of the petitioner i.e the respondent herein in accordance with law within a period of 3(three) month from the date of receipt of a copy of this order.

With this observation and direction, this writ appeal stands disposed of.

JUDGE

JUDGE

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