



**Serial No.29**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP(C). No. 148 of 2023

Date of Decision: 09.12.2024

Dalmia Cement (Bharat) Limited.

...Petitioner

-Versus-

1. Union of India  
Represented by the Secretary to the  
Government of India, Ministry of  
Commerce and Industry (Deptt. of  
Industrial Policy and Promotion),  
Udyog Bhawan, New Delhi-110011.
2. The Under Secretary to the  
Government of India  
Ministry of Commerce and Industry  
(Deptt. Of Industrial Policy and Promotion),  
Udyog Bhawan, New Delhi-110011.
3. The Deputy Secretary to the  
Government of India,  
Ministry of Commerce and Industry  
(Deptt. Of Industrial Policy and Promotion),  
Udyog Bhawan, New Delhi-110011.
4. Joint Secretary  
Department for Promotion of  
Industry and Internal Trade,  
Udyog Bhawan, New Delhi-110011.
5. The State of Meghalaya



Represented by the Commissioner  
and Secretary to the Government of  
Meghalaya, Directorate of Commerce  
and Industries, 2<sup>nd</sup> Floor, Lower Lachumiere,  
Shillong, Meghalaya 793001.

6. Principal Secretary (Industries)  
Directorate of Commerce  
and Industries, 2<sup>nd</sup> Floor, Lower Lachumiere,  
Shillong, Meghalaya 793001.
7. Director of Commerce and Industries  
Directorate of Commerce  
and Industries, 2<sup>nd</sup> Floor, Lower Lachumiere,  
Shillong, Meghalaya 793001.

...Respondents

---

**Coram:**

**Hon'ble Mr. Justice H.S.Thangkhiew, Judge**

---

**Appearance:**

|                                   |                                                                                                                     |
|-----------------------------------|---------------------------------------------------------------------------------------------------------------------|
| For the Petitioner/Applicant(s) : | Dr. A.Saraf, Sr. Adv.                                                                                               |
| For the Respondent(s) :           | Dr. N.Mozika, DSGI with<br>Ms. M.Myrchiang, Adv. for R 1-4.<br>Mr. A.Kumar, AG with<br>Ms. A.Thungwa, GA for R 5-7. |

---

- |     |                                                        |        |
|-----|--------------------------------------------------------|--------|
| i)  | Whether approved for reporting in<br>Law journals etc: | Yes/No |
| ii) | Whether approved for publication<br>in press:_         | Yes/No |
- 

**JUDGMENT AND ORDER (ORAL)**

1. The writ petitioner by way of the instant writ petition has assailed the action of the respondents in short sanctioning the claim of the petitioner company on account of transport subsidy under the Transport



Subsidy Scheme, 1971, for the period 01-11-2011 to 31-03-2013. Further challenge is also made to the inaction of the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India in not issuing necessary clarification as sought for by the Government of Meghalaya.

2. It is the case of the petitioner that the short sanctioning of the claim was on the basis of a letter dated 04-10-2013, which was subsequently withdrawn and therefore, the petitioner was entitled to the full amount of transport subsidy as per the claim submitted.

3. Dr. A.Saraf, learned Sr. counsel on behalf of the petitioner has submitted that the claim of the company for the period 01-11-2011 to 31-03-2013 was considered by the 70<sup>th</sup> State Level Committee and vide letter dated 30-09-2013, the claim of the petitioner was sanctioned, though with a shortfall of ₹ 4.61 crores. The reason he submits, was ascribed to a letter dated 04-10-2023, which had stipulated that subsidy is not admissible for transportation cost incurred for interstate movement of finished goods within the North Eastern States beyond the railway station nearest to the destination. It is then submitted that the petitioner company had then vide letter dated 05-12-2013, addressed to the respondent No. 7 pointed out that the date of claim application as well as the date of the 70<sup>th</sup> State Level



Committee meeting was prior to the letter dated 04-10-2013 and as such, there was no reason for the shortfall in payment.

4. It is further submitted that vide letter dated 04-07-2014, the earlier letter dated 04-10-2013, was withdrawn and the cost of transportation beyond the railway head nearest to the destination point of delivery was allowed. The petitioner company, it is then submitted on 04-05-2016, addressed a letter to the respondent No. 7, requesting the sanction of the balance amount and that on the basis of this representation, the respondent No. 7 vide letter dated 28-02-2019, had written to the respondent No. 2 seeking response and clarification. The petitioner company he submits, thereafter, pursued the matter as also the respondent No. 7 till the year 2022, which however, met with no response. It is contended that there being no impediment to the sanctioning of the shortfall in payment, in view of the changed circumstances brought about by the letter dated 04-07-2014, the action of the respondent Nos. 1 to 4 in not issuing the clarification for the same, amounts to the violation of the vested rights of the petitioner company, which calls for interference by this Court in exercising powers under Article 226 of the Constitution.

5. Dr. N.Mozika, learned DSGI assisted by Ms. M.Myrchiang, learned counsel for the respondent Nos. 1 to 4, has at the outset submitted that the



writ petition is hopelessly delayed, and on this ground alone deserves no consideration. The learned DSGI then submits that the writ petitioner has preferred the instant writ petition only in 2023, when the matter in fact relates to payments that were made in 2013 and had culminated in the Notification dated 04-07-2014, wherein it had been given in para 5 thereof, that the claims which had already been settled need not be re-considered/reopened. Learned DSGI then contends that there is no question of any further clarification as sought to be made out by the petitioner and in fact, the instant case has been filed to circumvent the inescapable delay that the petitioner would face if resort to civil remedy was taken. It is submitted that the instant matter being a stale claim, it deserves no consideration and is liable to be dismissed.

6. Mr. A.Kumar, learned AG assisted by Ms. A.Thungwa, learned GA for the respondent Nos. 5 to 7, has also concurred to the submissions made by the learned DSGI and has further added that in the final analysis, no relief would be admissible to the petitioner in view of the fact of the case itself. With regard to the representation made by the petitioner and the letters issued by the respondent Nos. 5 to 7, it is submitted that mere representation will not amount to curing a delay in approaching the Court. In this context, the learned AG has placed reliance on the case of ***Surjeet***



***Singh Sahni vs. State of Uttar Pradesh & Ors. reported in (2022) 15 SCC 536.***

7. Having heard learned counsel for the parties, it is noted that the points in issue for determination by the Court is only with regard to the maintainability of the writ petition on the point of delay and right of the petitioner to be allowed payment of the shortfall as claimed.

8. Before deliberating on the issues in question, it may be stated herein that the Transport Subsidy Scheme, 1971, was notified by the Government of India for grant of subsidy on the transport of raw materials and finished goods to and from selected areas with the view to promoting the growth of industries in hilly, remote and inaccessible areas. For the North Eastern States, subsidy was pegged at 50%, admissible on the inter-state movement of finished goods, but however, there being uncertainties with regard to the actual cost of transportation, or the cost of movement from the location of the industrial units to the nearest destination by road, the same was clarified vide letter dated 04-10-2013, that subsidy was not admissible for the transportation cost incurred for inter-state movement of finished goods within the North Eastern States beyond the railway station nearest to the final destination. This restriction was however withdrawn by letter dated 04-07-2014, reconfirming the eligibility of the transportation cost by road



from the railway station to the location where finished goods have been received. A rider however was given in this letter which mentioned that already settled claims need not be re-considered/reopened.

9. Coming to the case at hand, it is first to be noted that the claim of the petitioner pertains to the period from 01-11-2011 to 31-03-2013, and the petitioner's claims had been considered in the 70<sup>th</sup> Meeting of the State Level Committee held on 12<sup>th</sup> and 13<sup>th</sup> September, 2013, wherein the petitioner's claims amongst others, was then computed and approved for sanction. As such, from a plain understanding, as the disbursement has also happened, the claims of the petitioner would have been considered to be settled in line with the letter dated 04-10-2013. The letter dated 04-07-2014, however, as observed earlier, had changed this position and allowed the actual cost of transportation to be taken into consideration, which the petitioner now seeks to take benefit of, which would entitle it to claim payment for the alleged shortfall. This, in the considered view of this Court, in view of the express direction contained in the letter dated 04-07-2014, would not be open for consideration. The letter dated 04-07-2014, being relevant for the purposes of this discussion is reproduced herein below:



*“No.15(7)2011-DBA-II/NER-Vol-II  
Government of India  
Ministry of Commerce & Industry  
(Deptt. Of Industrial Policy & Promotion)  
Udyog Bhawan, New Delhi-110 001*

*Dated: 04<sup>th</sup> July, 2014*

*To,*

*Principal Secretary (Industries),  
Government of Meghalaya,  
Myntdu (Additional Secretariat)  
building,  
Shillong-793 001, Meghalaya.*

*Subject: Transport Subsidy Scheme, 1971 –  
applicability to North Eastern Region  
(NER).*

*Sir,*

*The undersigned is directed to invite reference to notification dated 24<sup>th</sup> May, 1988 on TSS, 1971, thereby amending para 1 (i) of order dated 17<sup>th</sup> March, 1987 and allowing Transport Subsidy on inter-state movement of finished goods within North Eastern Region and also to this Department's letter dated 04.10.2013 wherein it has been clarified that as per the provision of Transport Subsidy Scheme, 1971, subsidy is not admissible for the transportation cost incurred for inter-state movement of finished goods within North East States beyond the railway station nearest to the final destination. Subsequently, several representations have been received in this Department, wherein requests have been made to review the decision relating to admissibility of finished goods for transport subsidy under Transport Subsidy Scheme (TSS), 1971 on its inter-state movement within the NER.*

*2. The matter has since been examined in this Department in consultation with the*



*Integrated Finance Wing (IFW) and the office of Chief Controller of Accounts, DIPP and after careful examination, it has now being clarified that in case of inter-state movement of finished goods within the NER, the cost of transportation beyond the railway head nearest to the delivery point, where finished goods is being delivered, is also to be taken into account for subsidy under Transport Subsidy Scheme, 1971.*

*3. In such cases, the actual cost of transportation, or the cost of movement from the location of the industrial unit to the nearest Railway Station by road and thereafter by rail to the railway station nearest to the location where the finished goods is to be received and subsequently by road from that railway station to the location where finished goods has been received, whichever is less, will be taken into account.*

*4. Accordingly, this Department's earlier letter of even number dated 04.10.2013, stands withdrawn.*

*5. It has also been decided that the claims which have already been settled need not be re-considered/reopened.*

*Yours faithfully,*

*Sd/-*

*(Arun Kumar)*

*Under Secretary to the Government of India  
Tel.No. 2306 3096."*

10. As can be seen from the above quoted letter, though concessions had been made and the earlier letter dated 04-10-2013 stood recalled and the transport subsidy allowed in the manner provided above, the fact that the



claims of the petitioner had been settled much before even both the letters had been issued, the seeking of clarification on this aspect of the matter therefore appears to be futile.

11. The other aspect which had been strongly argued by the respondents also proves disadvantageous to the petitioner's case, inasmuch as, from the materials present on record itself, the first representation had been preferred only on 4<sup>th</sup> May, 2016, after considerable time had elapsed from the issuance of letter dated 04-07-2014, and the instant writ petition had been preferred only as recently as in 2023. The other communications annexed to the writ petition which are letters by the respondents No. 5 to 7 seeking clarification, to the mind of this Court, in view of the laches and delay on the part of the petitioner are of no consequence and are disregarded.

12. Accordingly, in view of the discussions made herein above, there is no merit in the instant writ petition and the same is dismissed, however, with no order as to costs.

**Judge**