

GAHC010217912023



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

Case No. : WP(C)/6036/2023

KAKO TEA PVT. LTD.
REP. BY ITS DIRECTOR,
AJAY AGARWAL,
S/O- OM PRAKASH AGARWAL, AGED ABOUT 47,
R/O- PARBATIA MAIN ROAD,
P.O AND P.S- PARBATIA,
DIST- TINSUKIA, ASSAM,
PIN-786125

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY , MINISTRY OF COMMERCE AND INDUSTRY,
GOVT. OF INDIA, NEW DELHI

2:THE COMMISSIONER
GOVT. OF ASSAM
INDUSTRIES AND COMMERCE DEPARTMENT
AND CHAIRMAN OF STATE LEVEL COMMITTEE
DISPUR
GUWAHATI

3:THE DIRECTOR
INDUSTRIES AND COMMERCE DEPARTMENT
AND GOVT. OF ASSAM
BAMUNIMAIDAM
GUWAHATI
ASSAM

4:NORTH EASTERN DEVELOPMENT FINANCE CORPORATION LTD
(NEDFI) REP. BY ITS CHAIRMAN AND MANAGING DIRECTOR
NEDFI

NEDFI BHAWAN
DISPUR
GUWAHATI-06

5:THE GENERAL MANAGER
DISTRICT INDUSTRIES AND COMMERCE DEPARTMENT
TINSUKIA
DIST- TINSUKI

Advocate for the Petitioner : MS N SAIKIA, MRS. R MAHANTA,MS A JHA

Advocate for the Respondent : DY.S.G.I., MR. R K BHATRA (r-4),MS P HUJURI (r-4),MR. A SAIKIA (r-4),SC, NEDFI,SC, INDUSTRIES AND COMMERCE

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

06.09.2024

Heard Ms. N. Saikia, learned counsel for the petitioner. Also heard Shri A. Kalita, learned Standing Counsel, Industries & Commerce Department and Ms. A. Biyani, learned counsel appearing on behalf of the respondent no. 4.

2. Considering the facts and circumstances and as agreed to by the learned counsel for the parties, the writ petition is taken up for disposal at the admission stage.

3. The issue involved is with regard to the Central Capital Investment Subsidy Scheme, 2007 under the North East Industrial and Investment Promotion Policy (NEIIPP). It is the case of the petitioner which is a registered company that pursuant to a notification dated 27.07.2007 which was issued in accordance with the said scheme, the petitioner had applied in the standard format for availing such subsidy. The proposal of the petitioner was forwarded and was put before

the State Level Committee for approval. The Committee had however approved an amount of Rs.1,14,41,547/- instead of Rs.1,48,90,000/-. The balance claim was rejected in a subsequent meeting held on 11.11.2021.

4. The petitioner had earlier approached this Court by filing WP(C)/2228/2014 in which this Court had passed an order dated 07.01.2014 directing release of the admissible 30% of the CCIS amounts. However, the respondent had only released part payment of the recommended amount. Accordingly, the present petition has been filed with a prayer for release of the recommended amount which was reduced.

5. Ms. Saikia, the learned counsel for the petitioner has submitted that the deduction was wrongfully done and the entitlement of the petitioner has not been given. It is also submitted that the crucial date for making the calculation is 09.04.2008. However, a different date was taken into consideration for which many of the plants and machinery were not taken into account for calculating the amount which would be entitled to by the petitioner under the aforesaid scheme.

6. Shri Kalita, the learned Standing Counsel, by referring to the affidavit-in-opposition filed on 24.07.2024 has however fairly submitted that in the initial exercise, due to some inadvertent error, few of the plants and machineries were kept outside the purview of assessment as those were deemed to have been installed before the date i.e., 09.04.2008. However on a re-verification, it was found that such machinery was in fact installed after the crucial date i.e., 09.04.2008 which is the date of registration under the NEIIPP. By drawing the attention of this Court to the averments made in paragraph 10 of the affidavit-in-opposition and the enclosures made therein, the learned Standing Counsel has submitted that the Statement of plants and machineries purchased by the

petitioner along with the registration certificate and clarification letter have also been enclosed.

7. Ms. Biyani, the learned counsel for the NEDFI submits that the *lis* is between the Department and the petitioner and NEDFI only plays a nodal role of being the disbursing agency.

8. After hearing the parties, this Court is of the opinion that in view of the clarification given by the Department in its affidavit referred above, the writ petition is disposed of by directing reconsideration and release of the entitlement of the petitioner by taking into account the stand of the Department as would reflect from paragraph 10 of the affidavit-in-opposition. It is clarified that the amount which has been calculated is to be released without any further delay.

9. At this stage, Ms. Saikia, the learned counsel for the petitioner has prayed for a direction for payment of interest.

10. However, Shri Kalita, the learned Standing Counsel has submitted that interest is not leviable and in any case, the issue regarding entitlement for interest is presently pending in the Hon'ble Supreme Court.

11. In view of the above, the aspect of claim for interest is left open which would be subject to the views that may be taken by the Hon'ble Supreme Court.

JUDGE

Comparing Assistant