

GAHC010269292018



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

Case No. : WP(C)/8637/2018

CARBON RESOURCES PVT. LTD.

A PRIVATE LIMITED COMPANY HAVING ITS REGISTERED OFFICE AT 55B, MIRZA GHALIB STREET, KOLKATA- 700016 AND ITS FACTORY AT VILLAGE, KUKURMARI, DHALIGAON, P.O. DHALIGAON IN THE DIST. OF CHIRANG (BTAD), PIN - 783385, ASSAM, REP. BY MR. MAHENDRA SHARMA AGE ABOUT 47 YEARS, VICE PRESIDENT- FINANCE AND ACCOUNTS OF THE COMPANY.

VERSUS

THE UNION OF INDIA AND 5 ORS.

REP. BY THE SECRETARY TO THE GOVT OF INDIA, MINISTRY OF COMMERCE AND INDUSTRY, DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION, UDYOG BHAWAN, NEW DELHI- 110011.

2:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF INDUSTRIES AND COMMERCE
ASSAM SECRETARIAT
DISPUR GUWAHATI - 781005.

3:THE COMMISSINER OF INDUSTRIES AND COMMERCE

DEPARTMENT OF INDUSTRIES AND COMMERCE
GOVT. OF ASSAM UDYOG BHAWAN
BAMUNIMAIDAM GUWAHATI - 781021.

4:THE GENERAL MANAGER

DISTRICT INDUSTRIES AND COMMERCE CENTRE
CHIRANG KAJALGAON.

5:THE UNDER SECRETARY TO THE GOVT. OF INDIA

MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF INDUSTRIAL AND POLICY AND PROMOTION
UDYOG BHAWAN NEW DELHI- 110011.

6:THE DIRECTOR
GOVT. OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION
UDYOG BHAWAN
NEW DELHI- 110011

Advocate for the Petitioner : DR. ASHOK SARAF, MR. P BARUAH,MR. P DAS,MR. Z ISLAM,MR. S P SHARMA,MR. N N DUTTA

Advocate for the Respondent : ASSTT. S.G.I., MR. S C KEYAL,DR. B AHMED,MR. A KALITA, (SC, INDUSTRIES AND COMMERCE DEPTT.)

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 23.09.2024

Heard Dr. A. Saraf, learned Senior counsel assisted by Mr. N. N. Dutta, learned counsel for the petitioner. Also heard Mr. R. K. D. Choudhury, learned Deputy SGI for the respondent Nos. 1, 5 & 6 and Mr. N. Kalita, learned counsel appearing on behalf of Mr. A. Kalita, learned counsel for the respondent Nos. 2, 3 & 4.

2. The petitioner's case is that the petitioner's claim for transport subsidy for the period from 01.07.2015 to 31.09.2015 and 01.10.2015 to 31.12.2015 had been arbitrarily rejected on the ground that the same was time barred.

3. The petitioner's counsel submits that the time period of 1 year prescribed by the authorities for making an application for grant of transport subsidy is not an inflexible rule and the same is capable of suitable relaxation, if the claim is genuine, as held by this Court in the case of ***Ishwar Food Products (P) Ltd. Vs. Union of India and Ors***, reported in ***(2013) 1 GLR 359*** and in the

judgment and order dated 29.08.2023 passed in WP(C) 329/2014 (***Emami Ltd. and another vs. The Union of India and others***).

4. The petitioner's counsel submits that as the present case is a covered case in terms of the above two decisions of this Court, a direction should be issued to the respondent No. 3, to reconsider the case of the petitioner, in terms of the judgments passed by this Court, as the claims of the petitioner is genuine.

5. Mr. R. K. D. Choudhury, learned Dy. SGI and Mr. N. Kalita, learned counsel appearing on behalf of the Industries and Commerce Department submit that the time limit prescribed by the State respondents for making applications for grant of transport subsidy under the Transport Subsidy Scheme, 1971 is 1 year and in terms of the orders passed by this Court, suitable relaxation can be made only in appropriate cases, which would have to be done by the respondent authorities if the cases are genuine.

6. I have heard the learned counsels for the parties.

7. The judgments cited by the petitioner's counsel show that the time limit of 1 year, for submission of the claims for transport subsidy under the Transport Subsidy Scheme, 1971 cannot be an inflexible rule and that the same can be capable of suitable relaxation in appropriate situations, where the claims are genuine.

8. Para 18 of the judgment of this Court in ***Ishwar Food Products (P) Ltd. (supra)*** and para 25 of the ***Emami Ltd. and another (supra)*** are reproduced herein below as follows:-

“18. The Transport Subsidy Scheme is a part of the Government initiative to encourage industrialisation in what are called lesser developed regions of the country and thereby accelerate economic development of such areas. Objective of such scheme being beneficial, reasonable and liberal approach is required to be taken while implementing such scheme. Of course, the implementing agencies have to be alert to ensure that bogus or stale claims are not entertained. This Court understands that the time limit of one year prescribed by the authorities for grant of transport subsidy is for administrative convenience and to eliminate belated claims or claims which are not genuine. This time limit of one year, as prescribed, is not an inflexible rule and is capable of suitable relaxation in appropriate situations.”

“25. The object behind framing of the Transport Subsidy Scheme, 1971 is primarily beneficial. It was for providing incentives to the interested entrepreneurs, industries, etc. to set up industrial units in the industrially less developed regions like the North Eastern Region. A legitimate claim made by an industrial unit for transport subsidy under the Transport Subsidy Scheme, 1971 is to be rejected only on merits and is not to be rejected on the ground like the ones assigned by the respondent authorities in the case in hand. The Court is of the considered view that a genuine claim of an applicant for transport subsidy under the Transport Subsidy Scheme, 1971 should not be rejected for a reason, which is not attributable to the applicant. As the Transport Subsidy Scheme, 1971 was framed for the purpose of giving incentives in setting up industrial units in the lesser developed regions like the North Eastern Region, the respondent authorities are duty bound to adopt a reasonable and liberal approach in processing to the claim of such an applicant. In such view of the matter, this Court is of the view that the claims of the petitioner for the transport subsidy under the Transport Subsidy Scheme, 1971 for the afore-

mentioned 5 [five] quarterly periods deserve re-consideration at the end of the respondent authorities. Accordingly, the writ petition is disposed of directing the respondent authorities, more particularly, the respondent nos. 2 – 4 to process the claim of the petitioner strictly on merits in terms of the provisions contained in the Transport Subsidy Scheme, 1971 in an expeditious manner and if after processing the claims of the petitioner, the amounts claimed in respect of the 5 [five] quarterly periods found entitled to the petitioner company, the matter shall be decided and thereafter, necessary steps for its disbursement are to be undertaken in consultation with the Department of Industrial Policy and Promotion, the Ministry of Commerce and Industry, Government of India. Considering the preceding events and taking into account the object and purport behind framing of the Transport Subsidy Scheme, 1971, it is observed that the entire process shall be completed within a period of 4 [four] months from the date of receipt of a certified copy of this order at the office of the respondent no. 3.”

9. In the case of ***Ishwar Food Products (P) Ltd. (supra)***, there was a delay in submission of the claim for transport subsidy of about one and half months. In the case of ***Emami Ltd. and another (supra)***, the delay in filing the claim for transport subsidy was more than a year. In the present case, there is a delay of approximately one year in making the submission for transport subsidy.

10. In view of the fact that the similar writ petitions have been disposed of with a similar facts situations, as in the present case, this Court is of the view that there should be a reconsideration of the petitioner’s case for grant of transport subsidy even though there has been a little bit of delay in making the claim for transport subsidy. The reconsideration for the delay is being allowed

only because the delay is around 1 year. However, this case cannot be used as a precedent, when there can be claims for payment of transport subsidy involving more than 2 years delay.

11. In view of the decisions of this Court, quoted above, which has attained finality, as on date, the respondent authorities are directed to reconsider the case of the petitioner for grant of transport subsidy in terms of the Transport Subsidy Scheme, 1971. If the petitioner's claim is genuine, the respondent authorities shall take necessary steps for relaxing the time limit and grant transport subsidy as per its entitlement. The entire process should be concluded within a period of four months from the date of receipt of a certified copy of this order by the respondent No. 3.

12. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant