IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6680 OF 2013

AKSHAY COMPONENTS PVT LTD THROUGH DIRECTOR
VERSUS
UNION OF INDIA AND OTHERS
...
Advocate for Petitioner : Mr. P.P.Uttarwar
Advocate for Respondents: Mr. Aniruddha S. Pathak, Advocate for respondent No.2.
Advocate for respondent No.3 : Mr. Girish Rane
Advocate for respondent Nos. 1,2,and 4 : Mr. S.B. Deshpande, ASG

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 7TH JUNE , 2016.

PER COURT:

1] Mr. Uttarwar, learned counsel for the petitioner submits that petitioner runs a small scale industry. The petitioner had availed Credit/ Loan facility from the respondent No.3 on or about December, 2010. The petitioner was entitled for the benefit of Capital Subsidy Scheme of the Ministry of Micro, Small and Medium enterprise. The petitioner submitted a proposal to the respondent No.3 in the month of April, 2011. The proposal was forwarded by the respondent Bank in June 2011 Vide separate Certificate dated 26.6.2011. Same was returned back by the respondent No.4 on the ground of deficiencies. Respondent No.4 - Bank, after making good the deficiencies re-submitted the proposal to the respondent No.4 again returned the said proposal. For the third time, the bank submitted proposal in the month of June 2012 after complying all the deficiencies.

Same was rejected on 24.8.2012, on the ground that the release date is 5.4.2011 and the proposal is submitted after the due date.

3] Learned counsel for the petitioner submitted that the petitioner had submitted the proposal well within time. It was for the bank to submit the same after complying with all the deficiencies. The petitioner cannot be faulted with. The petitioner was sanctioned loan considering the benefits under the Credit Loan Capital Subsidy Scheme. Petitioner had a legitimate expectation of the subsidy scheme being sanctioned. The loan is availed in the year 2011. Petitioner is also deprived of the interest on the amount of subsidy to which the petitioner was entitled to under the scheme. The respondents be directed to pay the amount of subsidy alongwith interest.

4] Mr. Pathak, learned counsel for respondent No.2 submits that the scheme itself lays down the date within which the proposal is to be submitted through the bank. The implementing authority has to implement the scheme strictly in compliance with the terms and conditions of the scheme. Deviation thereof is not permissible No error has been committed by the respondent No.2 in returning the application.

5] Learned counsel for the respondent No.3 submits that the proposal submitted by the petitioner was not complete in all respects. It was only after the compliance was made by the petitioner the proposal was submitted. Respondent No.3 cannot be faulted.

6] We have also heard the respondent Nos. 1 and 4.

7] There is no dispute amongst the parties that the petitioner had availed the credit facility and that the Credit Loan Capital Subsidy Scheme is applicable to the petitioner and the petitioner would be entitled to the benefits of the said scheme, as is applicable, on compliance of all the terms and conditions. It is also not disputed that the petitioner had submitted the proposal upon sanction of the loan amount in December, 2010. The proposal was submitted. The deficiencies in the proposal were to be got rectified and cleared by the bank. The petitioner cannot be faulted for the same. Petitioner is running a small scale industry. Naturally, the capital subsidy scheme is an incentive to the small scale industries being run in this region. Petitioner cannot be deprived of the said incentive scheme on the technical ground, that too when the petitioner cannot be said to be solely at fault. Respondent has taken a very hyper-technical approach. Time was lost in compliance of the deficiencies as were pointed out. It is not that the initial proposal itself was belated at the behest of the petitioner.

8] Considering the aforesaid aspects of the matter, it would be appropriate for the respondent authority to consider the proposal of the petitioner for the benefit of the Credit Loan Capital Subsidy Scheme afresh, afresh, on its own merits, in accordance with law. In the result, the impugned order returning the application of the petitioner is quashed and set aside. Respondent Nos. 1 and 2 shall reconsider the proposal of the petitioner submitted earlier, on its own merits, in accordance with law expeditiously and preferably within a period of six months from today. In case, the petitioner is held entitled for the said benefit, the amount be created to his account expeditiously. Writ petition is accordingly disposed of. No costs.

[K.K. SONWANE] **[S.V. GANGAPURWALA]**
JUDGE **JUDGE.**

grt/-