IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6139/2016

M/s. Shweta Stones through its Partner Shri Hargovind s/o Radhakisan Kabra
...Versus...
The State of Maharashtra, through Secretary, Ministry of Industries, Energy and Labour Department, Mantralaya, Mumbai – 32 and others

WITH
WRIT PETITION NO.6143/2016

M/s. Shweta Industries through its Proprietor Shri Nilkant s/o Madhukarrao Awghate
...Versus...
The State of Maharashtra, through Secretary, Ministry of Industries, Energy and Labour Department, Mantralaya, Mumbai – 32 and others

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Shri R.M. Tahliyani, Advocate for petitioner in both petitions
Mrs H.N. Prabhu, AGP for respondent nos.1 & 3 in both petitions

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.
DATE : 05.12.2016

Since the issue involved in these petitions is identical and similar prayers are made therein, they are heard together and are decided by this common order.

By these petitions, the petitioners seek a direction against the respondents to release the royalty refund as per the claim of the petitioners under the Package Scheme of Incentives.

According to the petitioners, they are governed by the Package Scheme of Incentives and as per the said scheme, royalty was liable to be refunded to the petitioners, in view of Clause 5.5 thereof. It is stated that a Circular was brought into force on 17.6.2011, thereby making it mandatory for the firms that were governed by the Package Scheme of Incentives to make a claim for royalty refund within six months before completion of the financial year. According to the petitioners, though the petitioners made the claim in the Month of September, 2011, the claim was not decided. It is stated that the action on the part of the respondents of not granting the claim of the petitioners for royalty refund on the ground that the petitioners had not applied within the time prescribed by the Government Circular, dated 17.6.2011, is illegal.

The learned Assistant Government Pleader appearing for the respondent nos.1 and 3 has opposed the prayers made in the writ petitions. It is stated that since the petitioners have not applied for royalty refund, as per the limitation prescribed by the Government Circular, dated 17.6.2011, the petitioners would not be entitled for royalty refund.

The writ petitions are liable to be dismissed for more reasons than one. The petitions are filed in the year 2016 with a prayer for a direction against the respondents to refund the royalty refund in favour of the petitioners for the period before 17.6.2011. The said monetary claim would be barred by the provisions akin to the provisions of limitation. If the applications made by the petitioners for release of royalty refund were not decided by the respondents within a reasonable time from September, 2011, the petitioners ought to have approached this Court within a short time. The petitioners have filed the writ petitions in August, 2016, i.e., more than 5 years from the date of making of the applications. Also, we find that the respondents were justified in not releasing the royalty refund in favour of the petitioners, in view of the Circular dated, 17.6.2011, as the petitioners had not made the applications within the time prescribed by the Government Resolution. In the circumstances of the case, the writ petitions are liable to be dismissed.

Hence, the writ petitions are dismissed as such, with no order as to costs.

JUDGE **JUDGE**

Wadkar