In the High Court of Judicature at Madras

Dated : 13.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.17455 of 2014

M/s.Poppys Plastics rep.by
its Partner R.Subramani ...Petitioner

Vs

1.The Principal Secretary/Industries,
Commissioner & Director of
Industries & Commerce, Chennai-28.

2.The Tamil Nadu Industrial Investment
Corporation Limited, Tirupur.

3.The Chairman & Managing Director,
TIIC Limited, Chennai-35. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in connection with the letter dated 28.6.2013 in L.Dis.No. 5184/LC3/2013, quash the same as illegal, arbitrary and prejudicial and consequently direct the first respondent to forthwith sanction the capital subsidy of Rs.30 lakhs to the petitioner unit.

For Petitioner : Ms.Ananda Gomathy

For Respondent-1 : Mr.Mohamed Mushtak, GA
For Respondents 2 & 3 : Mr.I.Sathish

ORDER

The petitioner, which is a partnership firm, has filed this writ petition seeking to quash the order passed by the first respondent dated 28.6.2013. By the said order, the first respondent examined the petitioner's representation dated 30.1.2013 and rejected the request made by the petitioner for sanction of capital subsidy for flexographic printing machinery under Thrust Sector category. The reason being that the petitioner is engaged in printing and the unit, which they have purchased, is a flexographic printing machinery unit.

2. Though the impugned order is a brief order, from the counter affidavit, in paragraph 6 it is seen that from the audited balance sheet as on 31.7.2010 as produced by the petitioner, 50% of the raw materials i.e poly bags were purchased by the petitioner and their unit was carrying on only printing work on poly bags.

3. Learned counsel for the petitioner submitted that the petitioner is registered with the Department of Industries and Commerce, Government of Tamil Nadu as a manufacturing enterprise and the line of activity being manufacturing of printed poly bags, poly rolls and poly sheets.

4. By placing reliance on the certificate dated 23.7.2010, which has been renewed from time to time, it is submitted by the learned counsel for the petitioner that the petitioner is a manufacturing industry and therefore, subsidy ought to have been sanctioned. The communication sent by the second respondent has been pressed into service to show that the first respondent had actually granted subsidy by proceedings dated 21.11.2011. But, only as an after thought, they sought clarification from the first respondent, resulting in the impugned order.

5. It may be true that the petitioner is a registered manufacturing unit and the registration certificate has been given by the Department of Industries and Commerce. This registration certificate serves several purposes and not only for the purpose of obtaining a subsidy from the Government, which is in the nature of a concession. Though the petitioner might have been registered as a manufacturing unit, yet, the question would be whether they are engaged in the manufacture of poly bags and other articles. The first respondent came to the conclusion that the petitioner is not engaged in the manufacture of such poly bags, but procures the material from the market and engaged only in printing, as evidenced from the books of accounts and the audited balance sheet produced by the petitioner. Therefore, the petitioner, having not able to produce any substantial material to show that they are in fact manufacturing such a product, cannot, as a matter of right, claim for grant of subsidy.

6. As already pointed out, subsidy is in the nature of a concession extended to certain class of industries or activities with a view to promote such an activity and to encourage setting up of industries in backward areas. Hence, to claim such a concession or benefit, the petitioner has to necessarily satisfy all conditions, which are imposed by the first respondent. Therefore, the impugned order cannot be faulted with.

7. However, this Court does not want to foreclose the petitioner's right, but would observe that it is always open to the petitioner to produce necessary records before the first respondent to satisfy their nature of activity and if records along with other

documents are produced, the first respondent can also direct an inspection to be conducted in respect of the petitioner's unit, so that the first respondent can assess the nature of activity carried on by the petitioner.

8. In the light of the above, while dismissing the writ petition, liberty is granted to the petitioner to submit a representation to the first respondent along with necessary materials regarding the activities conducted in their unit and the first respondent shall direct an officer to inspect the petitioner's unit, preferably a surprise inspection and thereafter pass orders afresh on merits and in accordance with law. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1.The Principal Secretary/Industries,
Commissioner & Director of
Industries & Commerce, Chennai-28.

2.The Tamil Nadu Industrial Investment Corporation Limited, Tirupur.

3.The Chairman & Managing Director,
TIIC Limited, Chennai-35.

1 cc to Government Pleader, Sr.31927
1 cc to Ananda Gomathy, SR. 31986

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