

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 14858 of 2016

DATE OF DECISION : 28.07.2016

M/s Vital Casting, New Delhi

.... PETITIONER

Versus

State of Haryana and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Vishal Munjal, Advocate,
for the petitioner.

* * *

RAMENDRA JAIN , J.

1. On an application dated 31.08.2006 (Annexure P-1) along with requisite fee, submitted by the petitioner Company for allotment of an industrial shed at ROZ-KA-MEO, Gurgaon, Haryana State Industrial and Infrastructure Development Corporation Limited (hereinafter referred to as 'the respondent HSIIDC') allotted industrial shed No. 19 measuring 1000 square meter to it, vide allotment letter dated 01.08.2007 (Annexure P-4). An agreement dated 22.08.2007 (Annexure P-6) was executed between the petitioner and the respondent HSIIDC. Physical possession of the industrial shed was handed over to the petitioner by the respondent HSIIDC on 22.10.2007. However, the petitioner did not adhere to the terms and conditions of the allotment qua construction of building and commencement of commercial production. Therefore, a show cause notice dated 15.10.2010

was issued to the petitioner by the respondent HSIIDC, which according to

the petitioner was never received by it. The petitioner wrote a letter to the respondent HSIIDC informing that it has already spent ₹ 25-27 lacs towards civil work. Boundary wall and the flooring had been completed to instal the machinery, but due to some unforeseeable circumstances, it had liquidity problems. It would instal the machinery and start production by April, 2011 and would clear all the remaining dues in the financial year 2011-12. In spite of the above facts having been brought to the notice of the respondent HSIIDC, resumption order dated 28.02.2011 (Annexure P-15) was passed in respect of the said allotment, which was challenged by the petitioner by way of appeal before the Appellant Committee headed by Additional Chief Secretary, Department of Industry and Commerce. The said appeal was dismissed vide order dated 30.01.2014 (Annexure P-16).

2. The stand of the petitioner is that the said order of dismissal of its appeal was never communicated to it and was only communicated in response to its letter dated 27.01.2016. Hence, by way of present writ petition under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari to quash the resumption order dated 28.02.2011 (Annexure P-15) passed by respondent No.3, which was confirmed in appeal. Further issuance of a writ of mandamus has also been prayed to restrain the respondents from re-allotting the said shed, earlier allotted to the petitioner, to some other person, till final disposal of the writ petition.

3. Learned counsel for the petitioner contended that before 15.12.2010, the petitioner had already spent a sum of ₹ 31,74,411/- on the civil work upon the shed allotted to it, besides depositing huge amount with the respondents, therefore, the impugned order resuming its industrial shed

is bad in law. The production activities could not be started by the petitioner, because of recession in the market, which was beyond its control, as its several projects had got hampered, which fact was overlooked by the respondents while passing the impugned resumption order. The petitioner is ready and willing to pay the requisite penalties/fee for extension of time in making its unit operational. Therefore, the impugned resumption order, which was passed without affording any personal hearing to the petitioner, may be set aside.

4. After giving our thoughtful consideration to the submissions made by learned counsel for the petitioner, we find no merit in the present writ petition for the reasons to follow.

- (i) Admittedly, the petitioner was allotted industrial shed in the year 2007. However, perusal of the photographs annexed with the present writ petition shows that construction on the industrial shed is still incomplete and there are no production activities. According to condition No.4 of the agreement executed by the petitioner, it had to implement the project, i.e. including the commencement of commercial production, within a period of three years from the date of offer of possession, which admittedly was handed over to the petitioner on 22.10.2007. Undisputedly, the petitioner has also not installed machinery to start commercial production till date.
- (ii) Since the petitioner defaulted in implementation of the project within stipulated time and also in payment of ₹ 15,91,117/-, calculated till the date resumption order was passed, therefore, it was issued a show cause notice dated 15.10.2010. However,

it did not respond to the same. Thereafter, an opportunity of personal hearing was afforded to it on 16.12.2010 before passing of the impugned resumption order. The petitioner appeared and requested for grant of extension of time for a period of one year, in which too, he could not fulfill the terms and conditions of the agreement executed by it, rather sought further extension of time.

(iii) Since the petitioner did not adhere to the terms and conditions of the agreement qua implementation of the project/start of commercial production etc. therefore, the action of the resumption of industrial site of the petitioner can not be termed as illegal.

5. After examining the material produced on record, we find no fault in the action of the respondents for resuming the industrial shed of the petitioner. Resultantly, we are not inclined to set aside the impugned resumption order dated 28.02.2011 and appellate order dated 30.01.2014 (Annexure P-16) dismissing the appeal filed by the petitioner.

6. Petition is, accordingly, dismissed.

(RAMENDRA JAIN)
JUDGE

July 28, 2016
ndj

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No