

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Letters Patent Appeal No. 1793 of 2014 (O&M)
Date of decision: 28.4.2016

State of Haryana and others

.. Appellants

v.

COSCO (India) Limited

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Ravi Dutt Sharma, Deputy Advocate General, Haryana.
Mr. Harsh Aggarwal, Advocate for the respondent.

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Rajesh Bindal J.

The writ petition filed by the respondent having been allowed by the learned Single Judge, the order has been challenged by filing the present intra-court appeal.

The relief claimed by the respondent was that it was entitled to freight subsidy in terms of the policy notified by the Government on 21.1.2006. The issue sought to be raised by the appellants is that as per the policy, the respondent was required to produce change of land use certificate. The same having not been produced by it, it was not entitled to any relief. Though its case was filed on account of non-furnishing of requisite documents, it availed of remedy of appeal quite belatedly and so the revision, hence, the learned Single Judge had travelled beyond his

jurisdiction and allowed the writ petition.

On the other hand, learned counsel for the respondent submitted that unit of the respondent is located within the municipal area. It was set up way back in the year 1979 after getting permission from the local authorities. Change of land use as such was not required in that area at that time as it was not converted from agricultural or the land defined for any other use to industrial use. There was no condition in the policy for production of change of land use certificate. In fact, the case of the respondent was recommended for grant of subsidy, however, for the reasons best known to the authorities, the same was declined. The respondent had produced all the requisite certificates from the Municipal Council/ Corporation, Gurgaon. The case pertains to the year 2005-06. Even for the subsequent thereto, the subsidy was sanctioned and paid to the respondent on the basis of same documents.

After hearing learned counsel for the parties, we do not find any reason to interfere in the present appeal. No doubt, there is no condition in the policy regarding production of change of land use certificate, however, as per the policy, application has to be filed on prescribed Form F(a). One of the documents to be attached in terms thereof is either change of land use certificate or 'No Objection Certificate' from the competent authority. In fact, the respondent had produced 'No Objection Certificate' dated 14.6.2007 from Municipal Council, Gurgaon, which was stated to be not from the competent authority without assigning any reason, once admittedly the unit of the respondent falls within the municipal limits. The licence granted by Municipal Corporation, Gurgaon, under Section 330 of the Haryana Municipal Corporation Act, 1994 was also produced. The case of the respondent was even recommended for grant of subsidy by the General Manager, District Industries Centre, Gurgaon to Director of Industries, Haryana, however, the same was not approved on legally non-existent reasons. In fact, the respondent is even paying house tax to the Municipal Council/Municipal Corporation, Gurgaon as the unit is stated to be within the municipal limits. It was set up way back in the year 1979. It is also not in dispute that for the period subsequent thereto, the respondent

was granted subsidy with no change in circumstances. Meaning thereby the respondent fulfilled all the conditions.

Once that is so, we do not find any reason to interfere with the impugned order passed by the learned Single Judge. There is no merit in the present appeal. The same is, accordingly, dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

28.4.2016
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