

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

CWP No.11885 of 2016
Date of decision : 21.03.2017

M/s Shivam Industrial Tools Company

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. L.M. Gulati, Advocate for the petitioner.

Ms. Monica Chhibber Sharma, DAG, Punjab.

AMIT RAWAL, J. (Oral)

The petitioner has approached this Court with following relief:-

“Civil Writ petition under Article 226/227 of the Constitution of India for the issuance of a writ of mandamus directing the respondents to release the assured and sanctioned capital subsidy of Rs.13,25,000/- along with interest @ 6% p.a. in view of the order dated 20.5.2011 passed by Hon'ble High Court in CWP No.19007 of 2002 i.e. Investment Incentive to the petitioner strictly according to the seniority list prepared by the department as the funds are now available with the respondents and the same has been released to some of the units in super-session.”

Objection raised by the State is that present petitioner is not the original claimant for subsidy as unit has been sold, in essence, being a

transferee.

Mr. L.M. Gulati, learned counsel appearing on behalf of petitioner has relied upon judgment rendered by this Court in *M/s Prerna Strips Vs. State of Punjab and others*, decision dated 06.05.2009 passed in *CWP No.18520 of 2006* to contend that in similar circumstances, original owner had come forward for claiming the subsidy but this Court declined on the premise that it is only transferee.

In case of subsequent transferee, respondent i.e. State has been directed to determine afresh as to whether he would be entitled to subsidy or not as case of the original firm and had availed the remedy of incentives given by the Government i.e. M/s Majestic Metaliks Ltd. which was declined by this Court on 19.09.2016 in CWP No.16168 of 2013.

I deem it appropriate to dispose of the present writ petition with direction to respondent to determine afresh as to whether or not the petitioner is entitled to the subsidy. If the respondents themselves of the view that petitioner is entitled to subsidy, the same shall be released without insisting any bank guarantee, subject to other relevant condition.

Writ petition stands disposed of.

Decision be taken within a period of three months failing which the interest at the rate of 12% p.a. shall prevail.

21.03.2017

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No