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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11647/2018

APNA AGRO COLD PVT. LTD. Petitioner

Through: Ms Ruchi Gupta, Advocate.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr Anil Soni, CGSC with Mr
Abhinav Tyagi, Advocate for R-1 and
R-2.
Ms Deepika Raghav, Advocate for R-
5.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **29.10.2018**

CM No.44997/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 11647/2018 & CM No.44996/2018

2. Issue notice. The learned counsel appearing for the respondents accepts notice.

3. The petitioner has filed the present petition, *inter alia*, impugning an order dated 07.08.2018, whereby the petitioner's claim for credit linked back ended subsidy was rejected by respondent no.2 (National Horticulture Board' – hereafter 'NHB'). The petitioner also impugns an order dated 27.09.2018, whereby the petitioner's representation against the impugned

order dated 07.08.2018 was also rejected.

4. The NHB had rejected the petitioner's claim for subsidy in respect of the cold storage unit set up in Village Verishala, Sadabad, Mursan Road, District Mahamaya Nagar, Uttar Pradesh. The said claim was made in terms of the "Capital Investment Subsidy for construction/expansion/modernization of the cold storage and storage for horticulture produce. The petitioner's claim has been rejected on the ground that that the project was not complete within the period of two years from the date of sanction of the loan as was mandated in terms of the said scheme. The term loan was sanctioned to the petitioner on 08.02.2013 and, therefore, the project was required to be completed on or before 07.02.2015. A Joint Inspection Team had inspected the project facilities on 24.05.2017 and had found certain deficiencies. In view of the same, the NHB concluded that the project was incomplete.

5. The petitioner had filed a representation against the said decision. It is the petitioner's case that project was completed way back in 2014. The first inspection of the cold storage unit was conducted by the technical team of NHB on 13.04.2013 and the said team had found the status of the project to be satisfactory. It is also asserted that the cold storage is functional and the same was also observed by the Joint Inspection Team during the course of inspection conducted on 24.05.2017.

6. The learned counsel appearing for the petitioner has also drawn the attention of this Court to the communication dated 05.06.2017 indicating the deficiencies found by the inspection team of the NHB during the inspection conducted on 24.05.2017.

7. The said deficiencies are set out below:-

Sl.No.	Missing Components	Observation	Remarks
1	Fire Fighting System	Water based fire fighting system not installed	Advised to install the same.
2	Density of insul, Mat	16kg/M as per DPR	Test Certificate awaited
3	Lightning Arrestor	Not provided	Advised to provide
4	Water tan/tap/basin near plant room	Not provided	Advised to provide
5	Safety instruction display in plant room	Display very small sized display on the gate	Advised to display safety instruction quite visible in plant room
6	Push buttons in cold rooms for alarms	Provided in one floor only	Advised to provide on each door
7	Emergency lighting	Provided electric bulbs	Advised to replace with LED bulb

8. *Prima facie*, it appears from the said observations that although the inspection team has recommended further steps to be taken, the same are not material to conclude that the project itself was not completed. The petitioner further states that it had installed a fire fighting system, however, that was not water based as advised by the NHB.

9. It is also material to note that the Joint Inspection Team had found that the cold storage unit was operational and potatoes were stored at the relevant point of time.

10. The impugned order dated 27.09.2018 rejecting the petitioner's representation does not indicate that the NHB had considered any of the contentions as advanced by the petitioner, in its representation. In the

circumstances, this Court does not consider it necessary to examine the matter in further detail, as the Court is of the view that the same should be examined by the NHB in the first instance.

11. In view of the above, the present petition is allowed and the impugned order dated 27.09.2018 is set aside. NHB shall examine the contentions and the explanations provided by the petitioner in its representation and pass a speaking order. NHB shall specifically examine whether the deficiencies pointed out by the Joint Inspection Team are material to conclude that the project was in fact not completed. Let the speaking order be filed within a period of six weeks from today.

12. The petition is disposed of in the aforesaid terms. The pending application stands disposed of.

13. Order *dasti* under signatures of the Court Master.

OCTOBER 29, 2018
MK

VIBHU BAKHRU, J