IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12364 of 2018

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M/s Kanodia Infratech Limited, A Company registered under Indian Companies Act, 1956 having its registered office at Flat No. 102, Mahalaxmi Apartment, Navodit Nagar Tulsipur, Mahmoorganj, Varanasi 221010, through its Director Saurabh Lohia, Son of Chiranjeev Lohia, Resident of 104, Mahalaxmi Apartment, Tulsipur, Varansi, District- Varansi, Uttar Pradesh-221010.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The Development Commissioner-cum-Chairman State Investment Promotion Board, Bihar, Patna.
3. The Principal Secretary, Industries Department, Government of Bihar, Patna.
4. The Director Industries, Department of Industries, Government of Bihar, Patna.
5. The Director (Technical) Development, Department of Industries, Government of Bihar, Patna.
6. The State Investment Promotion Board, Bihar, Patna.
7. The Commissioner cum Principal Secretary, Department of Commercial Taxes, Bihar, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Adv.
		Mr. Prince Kumar Mishra, Adv.
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

5 16-08-2019 Heard Mr. Mrigank Mauli, learned counsel appearing for the petitioner and Mr. Vikash Kumar, learned SC-11 for the State.

The petitioner filed this writ petition with the following reliefs:

"a) For issuance of writ in the nature of mandamus

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directing the respondent authorities to reimburse the petitioner Company subsidy under the heading of Value Added Tax (for brevity "VAT")/ Central Sales Tax (for brevity "CST")/ Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (for brevity "Bihar Entry Tax Act") in terms of Clause 3(i) of the Industrial Incentive Policy, 2011 (hereinaftr referred to as "Industrial Policy"), for the period of 01.04.2017 to 30.06.2017 to the tune of Rs.3,05,65,985/-.

b) For issuance of writ in the nature of Mandamus directing the respondents to admit the petitioner to the benefit of reimbursement of the VAT/CST/ET in terms of Clause 3(i) of the Industrial Policy- as the same is being denied for legally unsustainable purported reason of non-approval of investment proposal by the "Competent Authority" and for no other apparent reason- for a period of 10 years from the date of coming into Commercial Production, i.e. 29.06.2016 and in terms of the approval granted by the authorities prescribed under Memo No. 2446 dated 15.07.2011.

c) For holding that the inordinate delay in reimbursement of VAT/CST/Entry Tax in terms of the Bihar Industrial Incentive Policy, 2011 to the petitioner Company even after making the entire investment as well as grant of approval of State Investment Promotion Board (for brevity "SIPB"), Bihar, Patna is unjust, illegal and arbitrary.

d) For issuance of order/orders, direction/directions

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or writ/writs in the nature of mandamus directing the respondent authorities to admit the petitioner to the benefit of subsidy on the purchase of Diesel Generating Set, exemption from AMG and MMG Charges.

e) For issuance of writ in the nature of mandamus directing the Respondent authorities to grant the incentive of Capital Subsidy in terms of Clause 2(v), (vi) & (vii) respectively of the Industrial Incentive Policy, 2011, to the petitioner Company."

It appears that the claim was disposed of by the Principal Secretary, Industries Department which is circulated vide Memo No. 519 dated 28.3.2018, impugned at Annexure P/1 to I.A.No. 9411/2018, which is filed for modification of the relief so prayed to incorporate the relief for quashing of the decision in so far as it concerns the petitioner by issuance of writ of Certiorari. We are persuaded to allow the interlocutory application because it is consequential in nature.

I.A.No. 9411 of 2018 is allowed.

Mr. Mrigank Mauli, learned counsel for the petitioner, in reference to the judgment of this Court rendered in the case of **M/s Sunny Stars Hotels Pvt. Ltd. vs. the State of Bihar & ors.** arising from C.W.J.C.No. 12104/2018 which was heard analogous with some other writ petitions submits that the issue is fully covered by the judgment of this Court because even in

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the case of the petitioner while the proposal has approval of the State Investment Promotion Board, the objection raised to deny the benefits/ incentives to the petitioner under the Industrial Incentive Policy, 2011 is solely on grounds that it does not have the approval of the competent authority.

Mr. Vikash Kumar, learned SC-11 tries to invite our attention to the issues which finds noted in the counter affidavit to canvass that there were other issues as well occurring in the case of the petitioner but the argument has been contested by Mr. Mauli to submit that the submissions do not find place in the order impugned which is passed solely on grounds that it does not have approval of the competent authority.

We have heard learned counsel for the parties and have perused the records and we are persuaded to record that the issue raised in the present writ petition is squarely covered by the judgment rendered in the case of **M/s Sunny Stars Hotels Pvt. Ltd.** (supra). We accordingly allow this writ petition on the same terms and on the same directions as present in the judgment to quash the order bearing Memo No.519 dated 28.3.2018 of the Committee chaired by the Principal Secretary, Industries Department in so far as it concerns the petitioner whose case is discussed at Item No.3 of the proceedings.

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Let the relief/ incentives/ subsidies as found admissible reach the petitioner within the same stipulated time as present in the judgment of this Court rendered in the case of **M/s Sunny Stars Hotels Pvt. Ltd.** (supra).

The writ petition is allowed with directions above.

(Jyoti Saran, J)

(Partha Sarthy, J)

Surendra/-

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