

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 10029 of 2021

M/S Balajee Annapurna Private Limited, A Company registered under the Indian Companies Act, 1956 having its registered office at A-302, City Centre, Hajiganj, P.S.- Chowk, Patnacity, Patna-800008, through its Director Nitin Kumar Bagla, Gender-Male, Aged about- 42 years, Son of-Raj Kumar Bagla, Resident of A-302, City Centre, Hajiganj, P.S.- Chowk, Patnacity, District-Patna, PIN-800008

..... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Industries Department, Government of Bihar, Patna.
3. The Director Industries, Department of Industries, Government of Bihar, Patna.
4. The Director (Technical) Development, Department of Industries, Government of Bihar, Patna

..... Respondents

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Advocate Mr. Chandan Kumar, Advocate Mr. Sanjay Kumar Sanket, Advocate Mr. Vinay Mistry, Advocate
For the Respondent/s	:	Mr. Subhash Pd. Singh, G.A. 3

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 07-07-2021



Petitioner has prayed for the following relief(s):

a) For issuance of order/orders, direction/directions or writ/writs in the nature of *Mandamus* directing the Respondent State to admit the Petitioner Company to the benefit of reimbursement of the admissible Value Added Tax/Central Sales Tax/Entry Tax ('VAT/CST/ET' for short) in terms of Clause 3 (i) of the Industrial Incentive Policy-2011 (hereinafter referred to as 'the Policy') - from the date of coming into Commercial Production, i.e. 01.09.2015 and in terms of the approval granted by the authorities prescribed under Memo No. 2446 dated 15.07.2011 and be further pleased to direct the Respondent State to allot and disburse appropriate fund to the Commercial Taxes Authorities for its onward disbursement to the Petitioner Company for the period of 01.09.2015 to 30.06.2017 to the tune of Rs. 10,42,216/- (Rs. Ten Lakhs Forty two Thousand and two hundred and sixteen Only).

b) For issuance of writ in the nature of *Mandamus* directing the Respondent State to admit the Petitioner Company to the benefit of the Capital Subsidy (to the tune of Rs. 12,42,038/- against the capital invested on Plant & Machinery) in terms of Clause 2 (vii) of the Industrial Incentive Policy-2011, as the claim of the Capital Subsidy in terms of Clause 2-(vii), to the petitioner company has been denied -

for the unsustainable reason of non-approval of investment proposal by the "Competent Authority" - even after making the entire investment as well as grant of approval of State Investment Promotion Board [for brevity "SIPB"], Bihar, Patna.

c) For issuance of order/orders, direction/directions or writ/writs in the nature of *Mandamus* directing the Respondent State to admit the Petitioner to the benefit of grant of Interest Subvention @ 2% of the rate of interest payable by the Industrial Units on the term loan from



Banks/Financial Institutions – for a period of 7 years – in terms of Clause 4 (vi) of the Industrial Incentive Policy – 2011 – as revised and incorporated by Clause 8 of the Industrial Incentive (Amendment) Policy, Bihar, 2014 (hereinafter referred to as the "Revised Policy").

d) For issuance of writ in nature of Mandamus to respondents to reimburse the Incentives on Land (50% of the Amount invested on development of land i.e. to the tune of Rs. 7,82,021/-) contained in terms of Clause 2 (iii) of the Industrial Policy-2011, as the petitioner fulfill the prescribed criteria.

e) For issuance of writ in the nature of Mandamus directing the respondents to reimburse the Petitioner Company the amount of VAT/CST/ET in terms of Clause 3 (i), the Capital Subsidy in terms of Clause 2 (vii), grant of Interest Subvention @ 2% and the incentive for investment on land in terms of Clause 2 (iii) of the Industrial Incentive Policy-2011 and in terms of the Judgment dated 29.07.2019 passed by the Hon'ble Division Bench of this Hon'ble Court in CWJC No. 12104 of 2018 (reported in 2020(2) BLJ 55) which has been upheld and confirmed by the order of Hon'ble Supreme Court passed in the Special Leave Petition(Civil) Diary No. 43744 of 2019 dated 17.01.2020.

f) For issuance of such other order/orders, direction/directions, writ/writs which the Petitioner may be entitled to.

Shri Mrigank Mauli, learned counsel for the petitioner points out that in the cases of similarly situated petitioners, the State has already processed the application and taken necessary consequential action, including that of remitting the amount under and in terms of the industrial policy framed by the State.



Shri Subhash Prasad Singh, learned G.A. 3 seriously does not dispute such fact. In fact, he states that the petitioner's case shall be considered on its own merit and appropriate action taken, including payment of the amount, if any, within a period of six months from today.

As such, we dispose of the present petition in the following mutually agreeable terms:-

(a) Petitioner's application shall be processed and his case for refund of the amount in terms of and under the Industrial Policy of the State shall be considered and decided positively within a period of six months from today;

(b) Appropriate consequential action shall be taken within the same period;

(c) Liberty reserved to the petitioner to revive the petition, if the need so arises subsequently on the same and subsequent cause of action;

(d) Needless to add, there shall be no discrimination in the petitioner's case and the same shall be decided similarly to the one which already stands considered and decided by the Government;

(e) Liberty reserved to the petitioner to challenge the order, if required and desired;

(f) Equally, liberty reserved to the parties to take



recourse to such other remedies as are otherwise available in accordance with law;

(g) We are hopeful that as and when petitioner takes recourse to such remedies, before the appropriate forum, the same shall be dealt with, in accordance with law, with a reasonable dispatch;

(h) We have not expressed any opinion on merits and all issues are left open;

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/PKP-

AFR/NAFR	
CAV DATE	
Uploading Date	14.07.2021
Transmission Date	

