IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.No. 6658 of 2019
and
W.M.P.Nos. 7483 & 7484 of 2019

M/s.Zuha Leather Private Limited.,
Rep. By one of its Director,
Having office at No.22,
VV Koil Street, Periamet,
Chennai - 600 003. ...Petitioner

Vs.

1.Government of India,
rep. By its Under Secretary,
Ministry of Commerce and Industry
Department of Industrial Policy and Promotion
(Leather Section)
Udyog Bhawan, New Delhi - 110 011.

2.The Managing Director,
Footwear Design & Development Institute (FDDI)
A-10/A Sector - 24, Noida - 201 301. ..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus, calling for the records on the file of the 1st respondent namely, the order bearing F.No.09/112/2015- Leather dated 25.08.2017 rejecting the subsidy sanctioned vide letter No. 9/112/2015 dated 29.01.2015 and quash the same consequently direct the respondents to release the subsidy sanctioned vide letter dated 29.01.2015 amounting to Rs.45,21,099/-.

For Petitioner : Mr.Jayesh B.Dolia for
Aiyar and Dolia

For Respondents : Mr.K.B.Arul, ACGSC for R1
R2 - No Appearance

ORDER

The petitioner firm, doing the business of manufacture and exports of finished leathers has come up with this writ petition, aggrieved by the non-release of subsidy sanctioned to them vide sanction letter dated 29.01.2015 by the 1st respondent.

2. The first respondent announced a scheme namely, Integrated Development of Leather Sector (IDLS) scheme for providing assistance for modernisation, upgradation and overall development of leather industries. The petitioner had also applied under the said scheme for purchasing new machineries for upgradation and for modernisation of his leather industry. The steering committee appointed by the first respondent has also approved the request of the petitioner under the Integerated Development of Leather Sector scheme for grant of assistance amounting to Rs.45,21,099/- by its sanction letter dated 29.01.2015 subject to certain conditions. The first respondent had appointed the Canara Bank, SME Branch, Vellore as Nodal Bank for implementation of the scheme and the Nodal Bank has also visited the petitioner's unit on 07.16.2016, inspected the machineries purchased and installed in the unit and verified the machinery purchase invoices and the payments made therefor. Thereafter, the petitioner also executed an agreement with the Nodal Bank on 17.06.2016 for disbursal of subsidy.

3. The petitioner has obtained a term loan from the State Bank of India, Leather and International Branch, Chennai and after sometime the petitioner has closed the account by paying the entire dues to the City Bank. By referring the same, the second respondent by their letter dated 29.09.2016 informed the petitioner that since the petitioner has closed their loan account, the subsidy cannot be disbursed. Subsequently, the 1st resondent by their letter bearing F.No.09/112/2015 – Leather dated 25.08.2017 informed the petitioner that since the petitioner has closed the loan account with their bank namely, State Bank of India, Leater and International Branch, Chennai, the subsidy cannot be disbursed to the petitioner's firm. Aggrieved over the same, the petitioner preferred this present writ petition.

4. Mr.Jayesh B.Dolia representing Aiyar and Dolia, learned counsel for the petitioner submits that this term loan has been availed from the State Bank of India has been settled and the closure of the account with the State Bank of India cannot be a ground for denying the subsidy amount, which has been already approved by the screening commitee of the first respondent. The learned counsel for the petitioner has also relied upon the judgment of the Hon'ble Supreme Court in C.A.No. 3176 of 2018 in the matter of M/s.Prachi Leathers(Pvt) Ltd., Vs. Union of India

& Others wherein, the Hon'ble Supreme Court has held that the disbursement of subsidy could not be withheld on the ground that the appellant shifted from Bank finance category to self-finance category as the scheme applied to both categories.

5. Mr.K.B.Arul, learned Assistant Solicitior General appearing for 1st respondent made his submissions by referring the impugned order that the subsidy amount cannot be disbursed due to the closure of the approved loan account.

6. This Court paid its anxious considerations to the rival submissions made.

7. The first respondent has announced Integrated Development of Leather Sector (IDLS) scheme as an incentive to provide assistance for modernisation, upgradation and overall development of leather industries. The petitioner had applied under the scheme and the screening committee appointed by the first respondent has also considered the various parameters and approved the application of the petitioner by granting assistance of subsidy to the petitioner's company as Rs.45,21,099/- by their proceedings dated 29.01.2015. Thereafter, the petitioner has also entered into an agreement with the Nodal Agency namely, Canara Bank, Vellore Branch. In the meantime, the petitioner cleared the loan account with the State Bank of India and doing his project on 'self-finance' whereas, the respondents simply stopped the subsidy by stating that since the petitioner has closed the approved loan account, the subsidy cannot be disbursed to the petitioner's bank account.

8. On the very same issue, the Hon'ble Supreme Court in M/s. Prachi Leathers (Pvt) Ltd., Vs. Union of India & Others had held that the disbursement of the subsidy cannot be withheld on the ground that the appellant shifted from 'bank finance' category to 'self-finance' category. The said judgment is extracted as under:-

> "The claim of the appellant under the Integrated Development of Leather Sector ("IDLS") Scheme has been rejected mainly on the ground that it had applied in Self Finance category but it availed loan and it had also purchased machinery before 1.01.2011.
>
> "We find that disbursement of subsidy could not be withheld only on the ground that the appellant shifted from 'Bank finance' category to 'self finance' category as the Scheme applied to both categories. Since the appellant had applied prior to coming into force of 12th Plan, purchase of machinery prior to 1.01.2011 was no disqualification. It is Signature Not

> Verified not disputed that subsidy has already been sanctioned.
>
> Accordingly, we set aside the impugned order and direct that the subsidy be disbursed to the appellant within one month."

9. In view of the judgment of the Hon'ble Supreme Court in M/s.Prachi Leathers (Pvt) Ltd., Vs. Union of India & Others, this writ petition is allowed, the first respondent shall disburse the subsidy amount to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkn

To:-

1.The Secretary, Government of India,
Ministry of Commerce and Industry
Department of Industrial Policy and Promotion
(Leather Section)
Udyog Bhawan, New Delhi - 110 011.

2.The Managing Director,
Footwear Design & Development Institute (FDDI)
A-10/A Sector - 24, Noida - 201 301.

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PMK(CO)
RMP(09/04/2021)