

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2021

CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NO.19642 OF 2018

AND

W.M.P.NOS.23075 & 23076 OF 2018

M/s.Pakkar Leather Export Co.,
A registered Partnership Firm,
Represented by one of its Partner,
Office No.8, 2nd Floor,
New No.23, Old No.11, Vepery High Road,
Periamet, Chennai - 600 003. Petitioner

Vs

1. Government of India,
Represented 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 General Manager,
Small Industries Development Bank of India,
Government Schemes Cell,
No.15, Ashok Marg, Lucknow - 226 001.
3. The General Manager,
Small Industries Development Bank of India,
Overseas Towers,
No.756-L, Anna Salai, Chennai - 600 002.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the 1st respondent namely the order File.No.09/284/2007-Leather dated 31.08.2017 rejecting the subsidy granted vide letter dated 11.07.2011 and quash the same and consequently direct the respondents to release the balance subsidy granted vide letter dated 11.07.2011 amounting to Rs.27,82,867/-.

For Petitioner : Mr.Jayesh Dolia
for M/s.Aiyar and Dolia
For R1 : Mr.K.S.Jeyaganesh (SPC)
For R2 & R3 : Mr.Shivakumar

ORDER

This writ petition has been filed for a writ of Certiorarified Mandamus to quash the letter dated 31.08.2017 bearing Ref.No.9/284/2007 rejecting the request of the petitioner for payment of the balance subsidy of Rs.27,82,687/-.

2. The case of the petitioner is that the petitioner was granted an approval for subsidy for an amount of Rs.37,10,489/-. This subsidy was granted to the petitioner during the 11th plan, which was in force between 2007-2012. The 1st installment of Rs.9,27,622/- was also paid to the petitioner on 28.02.2013 by which time the 12th plan had come in to force and the guidelines were revised.

3. According to the 1st respondent, the application of the petitioner was received by the office of the 1st respondent belatedly and therefore the application of the petitioner cannot be processed. The facts are not in dispute as is evident from the typed set of documents filed by the petitioner and the counter filed on behalf of the 2nd and 3rd respondent.

4. The revised application of the petitioner was routed through the office of the 3rd respondent for being submitted to the 1st respondent. The application of the petitioner under the revised guidelines was received by the office of the 3rd respondent on 04.07.2014.

5. However, after the application was received, there was some delay in transmission of the application by the office of the 3rd respondent to the 1st respondent.

6. The application of the petitioner for partial disbursement of the balance subsidy of Rs.27,82,867/- has been rejected only on the ground that the application/claim was not filed in time on 10.07.2014. The impugned communication of the 1st respondent reads as under:-

"I am directed to refer to this Department's letter of even no. dated 21.09.2016 on the subject mentioned above and to say that the Steering Committee in its 41st meeting held on 16.08.2017 reviewed the status of disposal of grants approval under IDLS sub-scheme during 11th Plan period

including the case of M/s.Pakkar Leather Export Co., and observed that the funds could not be disbursed as the claim was not lodged within the timeline, i.e. 10/07/2014, fixed by the Steering Committee in its 36th meeting held on 20th June 2014. Hence, the Committee decided to close the case.

2. The Steering Committee comprised of all stakeholders in the Leather, Footwear and Accessories Sector including Industry representatives viz Chairman & Vice-chairman, Council for Leather Export and Chairman, Council for Footwear Leather & Accessories.

3. No further representation shall be accepted/considered by the Department in respect of this case."

7. That being the case, I find no merits in the reasons given in the impugned communication of the 1st respondent that the claim was not lodged within the timeline. The 1st respondent having granted part of the subsidy earlier cannot deny the same to the petitioner by citing the alleged delay for which the petitioner was not responsible. In any event, such delay was not fatal to lapse the subsidy already sanctioned to the petitioner under the earlier plan.

8. It is also no part of the duty of the 1st respondent to arbitrarily frustrate legitimate subsidy given to an applicant like the petitioner merely because of non-receipt of the application in time from the office of the 2nd and 3rd respondent.

9. Under these circumstances, the impugned order passed by the 1st respondent is hereby quashed. Consequently, the 1st respondent is directed to release the balance subsidy amount to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

10. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

arb

To

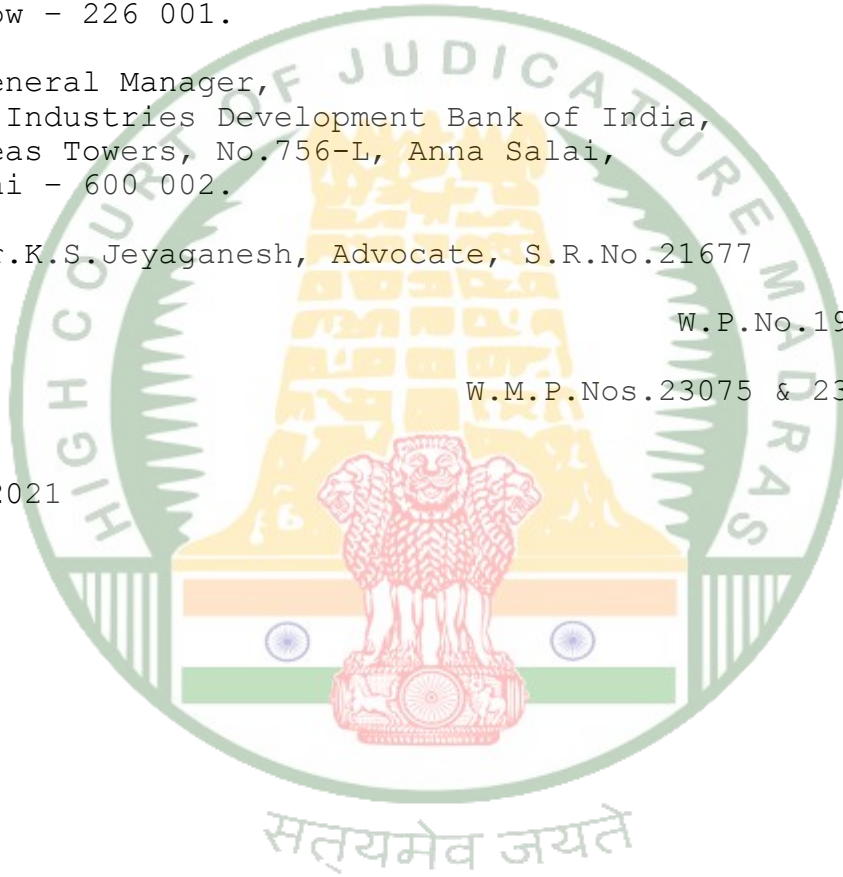
1. The Secretary,
Government of India,
Ministry of Commerce and Industry,
Department of Industrial Policy and Promotion,
(Leather Section), Udyog Bhawan,
New Delhi - 110 011.
2. The General Manager,
Small Industries Development Bank of India,
Government Schemes Cell, No.15, Ashok Marg,
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+1cc to Mr.K.S.Jeyaganesh, Advocate, S.R.No.21677

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AJB (CO)
CS/23/06/2021



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