



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2021

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

W.P. (MD)No.13862 of 2011

WEB COPY

M/s.Nizam Matches,
Rep by its Proprietor Mr.N.Mohamed Sali
No.2/90-A, Kalugumalai Kayathar Road,
Pazhancottai-628 552,
Kalugumalai,
Tirunelveli District.

... Petitioner

Vs.

1.The State of Tamil Nadu
Represented by its Secretary to the Government,
Industries Department,
Fort St.George,
Chennai-9.

2.The General Manager,
District Industries Centre,
Tirunelveli-11.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2nd respondent, dated 03.11.2011 in OO.Mu.No.5173/A4/2011 and quash the same and to direct the respondents to sanction and disburse capital subsidy as per the application dated 29.09.2011.

For Petitioner : Mr.A.Vadivelu
For Respondents : Mr.M.Muthugeethayan
Special Government Pleader

O R D E R

This writ petition is filed challenging the order passed by the second respondent, dated 03.11.2011 in OO.Mu.No.5173/A4/2011 and quash the same and to direct the respondents to sanction and disburse the capital subsidy, as per the application, dated 29.09.2011.

2.The case of the petitioner is that the petitioner is a manufacturer of Matches. Due to the development of science, the machinery has been introduced for the process of dipping the splints and therefore, the petitioner has imported the machinery, for that

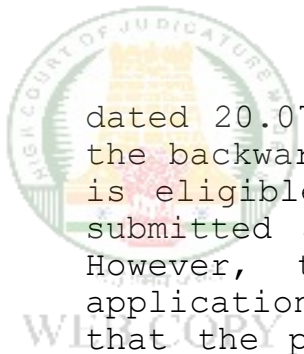


purpose, from Korea for a value of Rs.70,00,000/-. The petitioner has installed the machinery and commenced the production with effect from 29.01.2007. Whiles, the first respondent, by issuing G.O.Ms.No.37, Industrial Department, dated 20.07.2000, has introduced the capital investment subsidy for the backward areas. As per the said G.O., the petitioner is eligible for the said subsidy and hence, the petitioner has submitted an application on 24.05.2007 to the second respondent to issue necessary application for availing the said subsidy. After receiving the petitioner's application on 25.05.2007, the second respondent has not issued the requisite application to the petitioner. Again the petitioner has submitted an application for the sanction and disbursement of 15% capital investment subsidy as per G.O. After receiving the said application, the second respondent has not issued the requisite application to the petitioner. Aggrieved over the same, the petitioner has filed a writ petition in W.P.No.8139 of 2007 before this Court. The said writ petition was allowed by this Court on 17.08.2011 with a direction to the respondents to supply the application form to the petitioner, for filing necessary application to avail the benefit of subsidy. In compliance with the said order, the second respondent has passed the impugned order stating that as per G.O.Ms.No.37, the benefit is not extended to the petitioner and further at the time of application, there is no G.O providing subsidy to the petitioner. Challenging the same, the present writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that the petitioner is entitled to get subsidy as per G.O.Ms.No.37, dated 20.07.2000. However, the respondent has mechanically rejected the petitioner's application without assigning any valid reasons, which is an unsustainable one. Hence, he prays for allowing the present writ petition.

4.The learned Special Government Pleader appearing for the respondents submitted that the petitioner, without knowing to his eligibility condition, had submitted an application, which was rightly returned by the second respondent, for the reason that the same could not be considered and the petitioner was not eligible for any subsidy, as per the present G.O.Ms.No.14, Micro Small Medium Enterprises(B) Department, dated 07.05.2008. Hence, he prays for dismissing the present writ petition.

5.The facts in the present case are not in dispute. Admittedly, the petitioner is the manufacturer of matches, which were manufactured by undergoing several process. Due to the development of science, the machinery has been introduced for the process of dipping the splints and therefore, the petitioner has imported the machinery, for that purpose, from Korea for a value of Rs.70,00,000/-. The petitioner has installed the machinery and commenced the production with effect from 29.01.2007. Whiles, the first respondent, by issuing G.O.Ms.No.37 Industrial Department,



dated 20.07.2000, has introduced the capital investment subsidy for the backward areas. Admittedly, as per the said G.O., the petitioner is eligible for getting the subsidy and hence, the petitioner has submitted an application, on 24.05.2007 to the second respondent. However, the second respondent had not issued the requisite application to the petitioner and rejected the same on the ground that the petitioner was not eligible for any subsidy, as per the present G.O.Ms.No.14, Micro Small Medium Enterprises (B) Department, dated 07.05.2008. As per the said G.O., only those industries started after 22.02.2008, are eligible to avail the said subsidy and this order was effected only during February 2008. Since the petitioner unit has created the assets and commenced the production only in the year 2007, he is not eligible to avail such a subsidy. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Secretary to the Government,
State of Tamil Nadu
Industries Department,
Fort St.George,
Chennai-9.

2.The General Manager,
District Industries Centre,
Tirunelveli-11.

+1 CC to M/s.SPL GP (SR-5917[F] dated 18/02/2021)

+1 CC to M/s.A.S.MUJIBUR RAHMAN, Advocate (SR-5860[F] dated 18/02/2021)

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KB(18.06.2021) 3P 5C