IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4253 of 2021

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M/s. Jyoti Moulders Private Limited a Private Limited Company incorporated under the provisions of Companies Act, 1956, having its registered office at 4th Floor, 95-97, Khetan Super Market, Birla Mandir Road, Town and District Patna and having its production unit at Mohammadpur, Gyanchak, P.O.-Kothi, Didarganj, Patna through its authorized representative, namely, Rajesh Ranjan, aged about 43 years, Male, son of Shri Kapileshwar Mandal, Resident of 96 C, Naya Tola, Kumharar Talab Par, Bahadurpur Housing Colony, Kankarbagh, District Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Commercial Taxes, Government of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Government of Bihar, Patna.
4. The Director of Industries, Department of Industry, Government of Bihar, Patna.
5. The Deputy Commissioner of State Taxes, Patna City East Circle, Patna.
6. The General Manager, District Industry Centre, Patna.
7. The Union of India through the Secretary (Revenue), Govt. of India, North Block, New Delhi- 110001.
8. The Secretary (Revenue), Government of India, North Block, New Delhi 110001.
9. The Chairman, Central Board of Indirect Taxes and Customs, North Block, New Delhi 110001.
10. The Chief Commissioner of Central GST and Central Excise, Ranchi Zone, Patna, 1st Floor, Kendriya Rajaswa Bhawan (Annexe Building), Beer Chand Path, Patna 800001.
11. The Commissioner of Central GST and Central Excise, Ranchi Zone, Patna 1, Kendriya Rajaswa Bhawan (Annexe Building), Beer Chand Path, Patna 800001.
12. The Joint Commissioner (Headquarter) of Central GST and Central Excise, Ranchi Zone, Patna, 1st Floor, Kendriya Rajaswa Bhawan (Annexe Building), Beer Chand Path, Patna 800001.
13. The Joint Commissioner of Central GSt and Central Excise, Ranchi Zone, Patna, Kendriya Rajaswa Bhawan (Annexe Building), Beer Chand Path, Patna 800001.

14. The Additional Commissioner of Central GST and Central Excise, Ranchi Zone, Patna 1, Kendriya Rajaswa Bhawan (Annexe Building), Beer Chand Path, Patna 800001.
15. The Deputy Commissioner of Central GST and Central Excise, Ranchi Zone, Patna 1, Division, Patna Kendriya Rajaswa Bhawan (Annexe Building), Beer Chand Path, Patna 800001.
16. The Assistant Commissioner of Central GST and Central Excise, Ranchi Zone, Patna 1, Patna Division, Kendriya Rajaswa Bhawan (Annexe Building), Beer Chand Path, Patna 800001.
17. The Superintendent of Central GST and Central Excise, Ranchi Zone, Patna 1, Patna Division, Patna Kendriya Rajaswa Bhawan (Annexe Building), Beer Chand Path, Patna 800001.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mohit Agarwal, Advocate
For the Respondent/s	:	Dr. K. N. Singh, ASG
		Mr. Anshuman Singh, Sr. Standing Council
		Mr. Abhijeet Gautam, JC to ASG
		Mr. Amarjeet JC to ASG

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

i] For issuance of an appropriate writ or direction upon the Respondent Commissioner of Commercial Taxes now known as Commissioner of State Taxes as also the

Deputy Commissioner of Commercial Taxes now known as Joint Commissioner of State Taxes/ Director of Industries to reimburse 80% of the admitted State Goods and Service Tax (hereinafter referred as 'SGST') deposited by the Petitioner, as promised to be granted, after implementation of the Bihar State Goods and Services Tax Act, 2017 (hereinafter referred as BSGST Act) (in the GST regime), by the Respondent State in terms of the Industrial Policy Resolution, 2011 (hereinafter referred as 'Policy, 2011'), as the same has been abruptly not being reimbursed in most arbitrary and illegal manner;

ii] For a declaration that the Respondents cannot deny the reimbursement of 80% of the amount of admitted SGST (State Tax) deposited under the BSGST Act in terms of the promise made by the Respondent State under Clause 3 read with Note at the foot of the Clause 3 of Policy, 2011;

iii] For quashing of the impugned Resolution bearing No. 108 dated 20.01.2020 issued by the Respondent Department of Industries, Government of Bihar whereby procedure for grant of SGST reimbursement under the Bihar Industrial Investment Promotion Policy, 2016 (hereinafter referred as 'Policy, 2016') was laid down by making amendments in the Policy, 2016, which has been further resolved to be made applicable upon the industries entitled for grant of 80% reimbursement of admitted SGST under promises made in the Policy, 2011 as the;

iv] For issuance of direction upon the Respondent Department of Industries to issue a guidelines in terms of the Policy, 2011 laying down procedure for grant of 80% reimbursement of the admitted SGST deposited by the Petitioner Company in view of implementation of BSGST Act, as promised under Clause 3(i)(b) read with the Note at the foot of the said clause and Clause 4 (iv) of the Policy, 2011;

v] For a direction to the Respondents i.e. Department of Industry, Government of Bihar for grant of the Capital Subsidy on the capital investment made in 1st & 2nd modernization/expansion of the industrial unit of the Petitioner Company and other subsidies promised by the Respondent State of Bihar under the Policy, 2011;

vi] For a direction to the Respondents for grant of subsidies at the earliest to save the Petitioner's unit as it is suffering due to discontinuance of reimbursement of the amount of VAT deposited by the Petitioner and also for non grant of the amount of capital subsidy and other subsidies; and/or for any other relief[s] for which the Petitioner may be found entitled to in the facts & circumstances of the present case.

the Note at the foot of the said clause and Clause 4 (iv) of the Policy, 2011;

v] For a direction to the Respondents i.e. Department of Industry, Government of Bihar for grant of the Capital Subsidy on the capital investment made in 1st & 2nd modernization/expansion of the industrial unit of the Petitioner Company and other subsidies promised by the Respondent State of Bihar under the Policy, 2011;

vi] For a direction to the Respondents for grant of subsidies at the earliest to save the Petitioner's unit as it is suffering due to discontinuance of reimbursement of the amount of VAT deposited by the Petitioner and also for non grant of the amount of capital subsidy and other subsidies; and/or for any other relief[s] for which the Petitioner may be found entitled to in the facts & circumstances of the present case.

It is brought to our notice that the decision rendered by a co-ordinate Bench of this Court in CWJC No.12104 of 2018, titled as M/s Sunny Stars Hotels Private Limited, has attained finality, inasmuch as, the Special Leave Petition preferred by the State stands dismissed by Hon'ble the Apex Court vide order dated 17.01.2020, passed in SLP(Civil) No.

43744 of 2021.

Parties agree that the petition can be disposed of.

Learned counsel for the petitioner, states that certain amount in terms of the Bihar Industrial Incentive Policy, 2011 already stands paid to the petitioner. As such, petitioner shall be content if the petition is disposed of with liberty granted to the petitioner to approach the authority concerned by filing a representation within a period of four weeks, with a direction to the authority concerned to consider and decide the same within a period of four weeks from the date of its presentation.

Prayer allowed.

Without expressing any opinion on merits of the claim, petition is disposed of with the liberty aforesaid. All issues on facts and law are left open.

Needless to say that while considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

If aggrieved by the said order, the petitioner shall have liberty to approach this Court by way of separate petition(s), if so required and desired.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

The petition stands disposed of in the aforesaid terms.

Interlocutory application(s), if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	