IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5740 of 2021

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M/s. Shree Cement Limited (Its unit M/s. Bihar Cement) a Limited Company incorporated under the provisions of Companies Act, 1956, having its registered office at Bangur Nagar, Beawar, District- Ajmer (Rajasthan) and its Production Unit at Jasoiya More, P.S.- Aurangabad, District- Aurangabad through its Authorised Signatory namely Anil Kumar Talwar, Aged about 63 Years, Male, son of Late Shri Amar Nath Talwar, Resident of Flat No. F-2, Bandhu Vihar Apartment, Plot No. 11, Sector-10, Market, P.S.- Dwarika, District- New Delhi (Delhi-110075).

... ... Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary-cum- Commissioner Commercial Taxes Department now known as Department of Commercial Taxes (State), Government of Bihar, Patna.
3. The Principal Secretary Department of Industry, Government of Bihar, Patna.
4. The Principal Secretary Department of Energy, Government of Bihar, Patna.
5. The Director of Industries Department of Industry, Government of Bihar, Patna.
6. The Bihar State Power Holding Company Limited Through its Chairman-cum- Managing Director, Vidyut Bhawan, Bailey Road, Patna.
7. The Managing Director South Bihar Power Distribution Company Limited, 2nd Floor, Vidyut Bhawan, Bailey Road, Patna.
8. The Deputy Commissioner of Commercial Taxes now known as Joint Commissioner of State Taxes Patna Special Circle, Patna.
9. The General Manager Bihar Industrial Area Development Authority, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Sr. Advocate
		Mr.Mohit Agarwal, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 30-06-2022 Petitioner has prayed for the following relief(s):-

i] For issuance of direction upon the Respondent Commissioner of Commercial Taxes now known as Commissioner of Commercial State Taxes as also the Deputy Commissioner of Commercial Taxes now known as Joint Commissioner of State Tax, Patna Special Circle, Patna to disburse 80% Reimbursement of the amount of admitted VAT, for the period April 2017 to June 2017, deposited by the Petitioner Company in terms of the Industrial Policy Resolution, 2011 as the same has been abruptly discontinued after providing till March 2017 in most arbitrary and illegal manner by the Respondents;

ii] For a declaration that the Respondent cannot withhold the reimbursement of 80% of the amount of admitted VAT deposited by the Petitioner in view of the solemn promise made by the State in the Industrial Policy Resolution, 2011 after finding the Petitioner entitled for the same and extending the benefit for some time;

iii] For a direction to the Respondents i.e. Department of Industry, Government of Bihar for grant of the Capital Subsidy on the capital invested for expansion of the existing unit as promised and committed by the Respondent State of Bihar under the Industrial Incentive Policy, 2011;

iv] For a direction upon the respondents to grant 100% reimbursement of the Electricity Duty charged upon the petitioner on electricity bill as raised by the respondents i.e. M/s South Bihar Power Development Corporation Ltd. in terms of the promise made by the respondent State under the Industrial Incentive Police, 2011 as the same has been abruptly discontinued after providing for some time in most arbitrary and illegal manner by the Respondents,

v] For a declaration that the petitioner company is entitled for grant of all incentives promised by the respondents

State as the petitioner is eligible and entitled in terms of clause 4(iv) read with clause 2(vi), clause 3(i)(b) r/w definition at Sl. 7 of Annexure – 1 (duly amended) of the Industrial Incentive Policy, 2011;

vi] For a declaration that no approval from any competent authority was required before making any expansion in the existing unit to avail the benefits under the Industrial Incentive Policy, 2011 in terms of clause 14 r/w definition at Sl. 7 of the Annexure-1 (duly amended) to the Industrial Incentive Policy, 2011;

vii] For a direction to the Respondents for grant of incentives 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 incentives; 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 Vs. The State of Bihar & Ors., 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)

K.C.Jha/-DKS

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