IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2595 of 2022

==

M/s Green Polytubes Pvt. Ltd. a Private Limited Company incorporated under the provisions of Companies Act, 1956, having its registered office at 401 A, Narayan Plaza, Exhibition Road, Patna, through its Director Arun Kumar Rungta, aged about 63 years, male, son of Hari Ram Rungta, Resident of Flat No. 5-D, Durga Vihar Apartment, S.P. Verma Road, P.S. Gandhi Maidan, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary-cum-Commissioner, Department of Commercial Taxes (State) now known as Department of State Taxes, Government of Bihar, Patna.
3. The Principal Secretary, Department of Industry, Vikas Bhavan, Bailey Road, Patna.
4. The Director of Industries (Technical Development), Government of Bihar, Vikas Bhavan, Bailey Road, Patna.
5. The Deputy Commissioner of Commercial Taxes now known as Joint Commissioner of State Taxes, Patna Special Circle, Patna.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. S. D. Sanjay, Sr. Advocate Ms. Parul Prasad, Advocate Ms. Ananya Maitin, Advocate Mr. Akshat Agrawal, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP.-7

==

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

Date : 21-02-2022

Heard learned counsel for the parties.

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 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 periods October 2016 to December 2016, January 2017 to March 2017 and 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 September 2016 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 by the Respondents State as under the Industrial Incentive Policy, 2011;

iv] For a declaration that the Order of the Director of Industries, Bihar, Patna bearing No.3152 dated 30.10.2017 rejecting the claim of the Petitioner for grant of incentive under the Industrial Policy, 2011 as it does not have the approval of the competent authority is not applicable to the Petitioner as the above said order has been quashed by this Hon'ble Court in CWJC No.12104 of 2018, M/s Sunny Stars Hotels Pvt. Limited vs. State of Bihar and Ors. along with analogous cases and thereafter, the said Order was affirmed by the Hon'ble Supreme Court;

v] For a declaration that no approval from any competent authority was required before making any expansion in an existing unit in order to avail the incentives under the Industrial Incentive Policy, 2011 in terms of clause 4(iv) read with Definition at Sl. 7 of Annexure -1 (duly amended) to the Industrial Incentive Policy, 2011.

vi] 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/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 coordinate Bench of this Court in CWJC No. 12104 of 2018, titled 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 already stands paid to the petitioner. As such, petitioner shall be content if the petition is disposed of with liberty 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/direction 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 stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	24.02.2022
Transmission Date	