IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5684 of 2021

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M/s Shree Cement Limited, (Its Unit M/S Bihar Cement Plant) 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 Flar 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 Deputy Commissioner of Commercial Taxes Now Known as Joint Commissioner of State Taxes, Patna Special Circle, Patna.
7. 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.Lalit Kishore (AG)
Mr. Girijish Kumar, Advocate

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

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 30-06-2022 Petitioner has prayed for the following relief(s):-

i) For issuance of direction upon the Respondent Commissioner of State Taxes as also the Joint Commissioner of State Tax, Patna

Special Circle, Patna and any other competent authority responsible to release on behalf of respondent State of Bihar, to disburse 80% Reimbursement of the amount of admitted State GST for “expansion” of project, from the period July 2017 onwards 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 State GST deposited by the Petitioner by way of an aid or subsidy 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 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 read with the definition at Sl. 7 of the Annexure-1 (duly amended in the year 2015) to the Industrial Incentive Policy, 2011;

iv) 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 State GST deposited by the Petitioner; 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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