

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8889 of 2022

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M/s Om Shakti Polymers Limited a proprietorship firm through its sole proprietor, Dileep Kumar, aged about 52 years (male), Son of Sukhdeo Prasad, Resident of Uma Shankar Lane, Mogalpur Patna City, Near City Hospital, Sampatchak, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Patna.
2. The Principal Secretary, Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna - 800015.
3. The Principal Secretary, Department of Commercial Taxes, Government of Bihar, Patna.
4. The Additional Commissioner, Commercial Tax Department, Government of Bihar, Patna.
5. The Director, Technical Development, Department of Industries Bihar, Patna.
6. The General Manager, District Industries Centre, Udyog Bhawan, East Gandhi Maidan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Avinash Shekhar, Advocate
		Mr. Suraj Samdarshi, Advocate
For the Respondent/s	:	Mr.Abbas Haider, SC 6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 29-07-2022

Heard learned counsel for the parties.

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



- i) To issue an appropriate writ, order or direction in the nature of *mandamus* commanding the respondents to disburse VAT/GST reimbursement subsidy for which the petitioner is entitled to, in view of the promise made by the State Government under the Bihar Industrial Incentive Policy, 2011.
- ii) This Hon'ble Court may adjudicate and hold that the petitioner is entitled to receive VAT /GST subsidy in accordance with Bihar Industrial Incentive Policy, 2011.
- iii) This Hon'ble Court may adjudicate and hold that Bihar Industrial Incentive Policy, 2011, having been issued by the State Government after approval by the cabinet, cannot be diluted by any of the Departments of the State, to deny any incentive promised therein.
- iv) This Hon'ble Court may adjudicate and hold that non-issuance of VAT / GST subsidy is hit by the principle of promissory estoppel and legitimate expectation.
- v) This Hon'ble Court may award the cost of litigation on account of the illegal and arbitrary actions of the Respondent Authorities.
- vi) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the 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 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 senior 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 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 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)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	03.08.2022
Transmission Date	

