IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.255 of 2021

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M/s. Dina Metals Limited, a Company incorporated under the provisions of the Companies Act, 1956 having registered Office at Abdul Rahmanpur Road, Didarganj, Patna City, Patna - 800009, through its Managing Director, Anand Kumar Sinha, aged about 56 years (Male), Son of Late Sharda Nand Prasad, resident of N.T.P.C. Colony, Ramkrishna Nagar, P.S. Ramkrishna Nagar, P.O. New Jaganpura, District Patna - 800027.

... ... 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 Director of Industries, Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna - 800015.
4. The Director, Technical Development, Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna - 800015.
5. The General Manager, District Industries Centre, Udyog Bhawan, East Gandhi Maidan, Patna.
6. The Principal Secretary-cum-Commissioner of Commercial Taxes, Bihar, Patna.
7. The Commissioner, Goods and Service Tax, Bihar, Patna.
8. The Deputy Commissioner, State Goods and Service Tax, Patna City East Circle, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate

For the Respondent/s : Mr. Yogendra Prasad Sinha, AAG-7

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

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(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.)
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Date : 01-02-2022

The petitioner has prayed for the following relief/s :-

i) To issue an appropriate writ, order or direction in the nature of Certiorari for quashing of memo no. 3152 dated 13.10.2017 issued by the respondent Director of Industries, in so far as the claim of petitioner for grant of VAT /GST subsidy under the Bihar Industrial Incentive Policy, 2011 has been rejected at sl. no. 42, on the ground that the same is completely arbitrary, unreasonable and contrary to the Bihar Industrial Incentive Policy, 2011.

ii) To issue an appropriate writ, order or direction m the nature of Mandamus commanding the respondents to sanction and disburse VAT /GST 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.

iii) To adjudicate and hold that the petitioner is entitled to receive industrial subsidy in accordance with Bihar Industrial Incentive Policy, 2011.

iv) To adjudicate and hold that the 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.

v) To adjudicate and hold that apart from the approval granted by the State Investment Promotion Board there is no requirement of any further approval from any other authority, considering the fact that the term 'Competent Authority' has not been defined under the 'Industrial Policy, 2011 ', and the approval granted by the State Investment Promotion Board has been accepted.

vi) To adjudicate and hold that rejection of the claim of the petitioner for grant of industrial subsidy is hit by the principles of promissory estoppel and legitimate expectation.

vii) To adjudicate and hold that non-reimbursement of VAT /GST, in terms of the Industrial Policy, 2011, despite the issue having been settled upto the Hon'ble Apex Court, is illegal and unjustified.

viii) To award the cost of litigation on account of the illegal and arbitrary actions of the respondent authorities.

ix) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case."

From the latest affidavit dated 28th of January, 2022, it is apparent that the petitioner's claim for reimbursement of the amount of State Goods and Services Tax, is not disputed by the respondent Department of Industries. All that the respondents state is that reference has been to the Department of Goods and Service Tax, Bihar and upon receipt of the recommendation, the amount shall be reimbursed to the petitioner.

We see no reason as to why the two departments of Government must not work in cohesion for serving out the grievances of the petitioner emanating out of the non-disbursement of the benefits in terms of and under the Bihar Industrial Incentive Policy, 2011 (hereinafter referred to as “Policy”).

We also notice that petitioner has been made to run from pillar to post and despite the impugned order dated 13th of October, 2017, subject matter of the present petition, the government has now realized its mistake and accepting the petitioner's prayer has also released certain amounts in terms thereof. The only surviving issue is with respect to release of VAT / GST under the said policy.

As such, we direct the respondent No.2, namely, the Principal Secretary, Department of Industries, Government of Bihar, to immediately convene a meeting with all the stakeholders, including respondent No.6, namely, the Principal Secretary-cum-Commissioner of Commercial Taxes, Bihar, Patna; respondent No.7, namely, the Commissioner, Goods and

Service Tax, Bihar, Patna and respondent No.8, namely, the Deputy Commissioner, State Goods and Service Tax, Patna City East Circle, Bihar, Patna and positively take a decision with regard to the petitioner's entitlement for refund of the amount in terms of the Policy.

This the respondents shall positively do within a period of two months from today. Also, the amount due and payable to the petitioner, shall positively be released on or before 31st of July, 2022, failing which the petitioner shall be entitled to interest thereupon at the banking rate of interest.

Liberty is reserved to the petitioner to agitate the grievances afresh should the need so arise subsequently.

Petition is disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	02.02.2022
Transmission Date	