IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14603 of 2022

==

M/S Kalyani Poles A Partnership firm having its Head Office at K- 47/88- 89, Machhodari, Bisheshwarganj, Varanasi, PIN - 221001, and Manufacturing Unit at Sudini More, Village - Kasap, P.S. - Udwant Nagar, Ara, District - Bhojpur, PIN - 802206, through its one of the Partners Mrs. Hansha Agarwal, Wife of Abhishek Agarwal, Gender- Female, Age about - 44 years, Resident of B- 25/2-M-N- 104, Flat No. 4, Sri Krishna Apartment Hanumanpura, P.S. - Bhelupur, District- Varanasi, Uttar Pradesh, PIN - 221001.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Industries Department, Government of Bihar, Patna.
3. The Director Industries, Department of Industries, Government of Bihar, Patna.
4. The Director (Technical) Development, Department of Industries, Government of Bihar, Patna.
5. The General Manager, District Industry Centre, Bhojpur at Ara.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr.Yogendra Pd. Sinha (AAG 7)

==

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 01-11-2022 Heard learned counsel for the parties.

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

> "a) For issuance of order/orders, direction/directions or writ/writs in the nature of Certiorari for quashing the Letter No. 3153 dated 13.10.2017 issued by the Director, Department of Industries whereby the claim of the petitioner for grant of incentives of reimbursement of the VAT amount and the Capital Subsidy in terms of the Industrial Policy-2011 has been rejected for the reason that it has not been approved by the '*Competent Authority*'.

b) For issuance of order/orders, direction/directions or writ/writs in the nature of Mandamus directing the Respondent State to admit the Petitioner Company to the benefit of reimbursement of the admissible Value Added Tax/Central Sales Tax/Entry Tax ('VAT/CST/ET' for short) in terms of Clause 3 (i) of the Industrial Incentive Policy-2011 (hereinafter referred to as 'the Policy') -from the date of coming into Commercial Production, i.e. 02.05.2014 and in terms of the approval granted by the authorities prescribed under Memo No. 2446 dated 15.07.2011 and be further pleased to direct the Respondent State to allot and disburse appropriate fund to the Commercial Taxes Authorities for its onward disbursement to the Petitioner Company for the period from 02.05.2014 to 30.06.2017.

c) For issuance of writ in the nature of *Mandamus* directing the Respondent State to admit the Petitioner Company to the benefit of the Capital Subsidy (to the tune of Rs.6,71,065/- against the capital invested on Plant & Machinery) in terms of Clause 2 (vii)of the Industrial Incentive Policy-2011, as the claim of the Capital Subsidy in terms of Clause 2-(vii), to the petitioner company has been denied - for the unsustainable reason of non-approval of investment proposal by the "*Competent Authority*" - even after making the entire investment as well as grant of approval of District Level Single Window Clearance Committee, Ara on 09.01.2015.

d) For issuance of writ in the nature of Mandamus directing the respondents to reimburse the Petitioner Company the amount of VAT/CST/ET in terms of Clause 3 (i) and the Capital Subsidy in terms of Clause 2 (vii), of the Industrial Incentive Policy-2011 and in terms of the Judgment dated 29.07.2019 passed by the Hon'ble Division Bench of this Hon'ble Court in CWJC No. 12104 of 2018 M/s Sunny Star Hotels Private Limited versus The State of Bihar & Others(**reported in 2020(2) BLJ 55**) which has been upheld and confirmed by the order of Hon'ble Supreme Court passed in the

Special Leave Petition(Civil) Diary No. 43744 of 2019 dated Petition (Civil) No.17.01.2020.

e) For issuance of such other order/orders, direction/directions, writ/writs which the Petitioner may be entitled to.”

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 2019 titled as The State of Bihar & ors. Vs. M/s Sunny Stars Hotels Pvt. Ltd.

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)

(Partha Sarthy, J)

Spd/-

U			