14.09.2022
sayandeep
Sl. No. 08
Ct. No. 05

WPA 4853 of 2021

M/s. JSW Cement Limited
-Versus-
The State of West Bengal & Ors.

Mr. Ratnanko Banerjee
Mr. Rahul Dhanuka
Mr. Haresh Chowdhury
...... for the petitioner
Mr. Debasish Ghosh
Mr. Prantik Garai
.....for the State
Md. T. M. Siddiqui
.....for the WBIDC

The petitioner seeks a mandamus on the respondents to issue R.C.-II under West Bengal State Support for Industry Scheme, 2013.

Admittedly, the facts are that the petitioner obtained R.C.-I under the 2013 Scheme on 22nd June, 2017. The petitioner thereafter commenced commercial production on 31st January, 2018 and applied for R.C.-II on 28th February, 2018.

By an order dated 16th August, 2021, the coordinate Bench of this Court directed the respondents to file affidavit-in-opposition within four weeks from the date of said Order. However, till date, no affidavit-in-opposition has been filed by the respondents. This has also been recorded in the order dated 13th September, 2022.

The State respondents are represented.

Upon considering the West Bengal Support for Industry Scheme, 2013, it appears that the petitioner has crossed all the stages mentioned in the said Scheme till clause 5.3. Clause 5.3 requires the petitioner to submit an application in the recommended form and furnish certain documents. The petitioner has admittedly complied with all the requirements under Clause 5.3. Clause 5.3 however, puts the onus thereafter on the Director of Industries (DI) who is to conduct a joint inspection of the petitioner's factory with WBIDC and obtain the views of WBIDC after such enquiry and upon being satisfied with the information furnished by the unit, the WBIDC is then to issue the final Registration Certificate/RC-II. The Scheme further records in clause 15.2 that in the event, the Value Added Tax is replaced by any other Act, the provisions of the 2013 Scheme shall apply *mutatis mutandis* even after the new Act comes into force.

This clause makes it clear that any objection which may have been taken by the respondents for not issuing R.C.-II to the petitioner after the GST regime came into force on and from 1st July, 2017 cannot be sustained. The fact that the respondents have issued R.C.-II to another entity on 19th July, 2017 even after coming of the GST regime has been recorded in an earlier order of this Court passed in the matter of *M/s*

Nu Vista Limited vs. State of West Bengal and Ors.[WPA No. 5546 of 2022] on 8th August, 2022, which has been brought to this Courts attention. The respondents have admittedly not taken any steps in compliance with clause 5.3 in terms of conducting a joint inspection with WBIDC or the other steps, which are required to be taken in the later part of clause 5.3 till date.

This Court is hence of the view that the respondents do not have any further excuse to delay the process. WPA 4853 of 2021 is accordingly disposed of with a direction on respondent no. 2 being the Directorate of Industries, West Bengal, to duly comply with the steps stipulated in clause 5.3 of the Scheme and to conduct a joint inspection of the petitioner's factory and obtain the views of WBIDC within a period of six weeks from date.

Upon being satisfied of the eligibility of the petitioner for issuance of R.C.-II, the respondents shall issue the said certificate to the petitioner within a further period of six from the date on which the steps under clause 5.3 are completed. The respondents shall assess the eligibility of the petitioner for R.C.-II under the conditions of the said 2013 Scheme.

(Moushumi Bhattacharya, J.)