8th August, 2022
(D/L No.34)
(SKB)

W.P.A. 5546 of 2022

M/s. Nu Vista Limited
(Formerly Emami Cement Limited)
-Versus-
The State of West Bengal and others

Mr. Ratananko Banerjee,
Mr. Sabyasachi Chowdhury,
Mr. Rajarshi Dutta,
Mr. Rahul Dhanuka,
… for the petitioner.

Mr. T. M. Siddique
… for the WBIDC.

Mr. Nilotpal Chatterjee,
Mr. Robiul Islam
… for the State.

The petitioner seeks a mandamus on the respondents to issue R.C.-II under an incentive Scheme floated by the State Government and setting aside of an order dated 30th November, 2021 passed by the Director, The Directorate of Industries, West Bengal.

Admittedly, the facts are that the petitioner obtained R.C.-I under the 2013 Scheme on 28th June, 2017. The petitioner thereafter commenced commercial production on 30th November, 2017 and applied for R.C.-II on 28th December, 2017.

By an order dated 9th September, 2021, the coordinate Bench of this court directed the respondents to consider the application made by the petitioner for issuance of R.C.-II under the 2013 Scheme. The petitioner now is aggrieved by the result of the consideration namely, the impugned order of 30th November, 2021 by which the Director, The Directorate of Industries expressed his inability to consider the application of the petitioner until a direction is received from the Department of Industries, Commerce & Enterprises, Government of West Bengal in this regard.

The State respondents are represented.

Upon considering the West Bengal State 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 is also on record. 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. W.P.A.5546 of 2022 is accordingly disposed of with a direction on respondent no.2 being the Director, 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 three 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 three weeks 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.)