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ORDER SHEET

WPO/2308/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

PRIME COLD STORES PVT. LTD. AND ANR.
VERSUS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA
Date : September 21, 2022.

Appearance:
Ms. Sutapa Sanyal, Adv.
Mr. Debrup Bhattacharjee, Adv.
Mr. Pradeep Tulsyan, Adv.
...for the petitioners

Mr. Anirban Ray, Adv.
Mr. Debasish Ghosh, Adv.
Mr. Sayan Ganguly, Adv.
...for the State

Mr. T. M. Siddiqui, Adv.
Mr. Farooque Ali, Adv.
...for the WBIDC

The Court: The petitioner no.1 is a Cold Storage Unit and comes within a service related entity engaged in the food processing sector under The West Bengal State Support for Industries Scheme, 2008. The said Scheme was notified on 26th February, 2009. The petitioners are aggrieved by an order passed by the Managing Director of the WBIDC on 10.02.2022 by which the petitioners were considered to be ineligible for disbursement and sanction of incentive under the said Scheme.

The admitted fact is that the petitioners have not only been granted two registrations in levels I and II of the said Scheme but have also been granted a letter of sanction on 7th June, 2016 with regard to fixed capital investment subsidy under the 2008 Scheme. The sanction has been quantified in monetary terms – Rs.84.31 lakhs.

Under the Scheme, the only stage left for the incentive is release of the incentive on production of the certificate on commencement of commercial production. The petitioners have produced the concerned certificate. This document is also on record. Clause 13.7 provides that benefit from any other sources enjoyed by such units against the same investment shall be adjusted while determining the entitlement of such units to the benefits under the Scheme. Clause 19.2 of the Scheme provides that the Scheme shall adapt itself to future changes in law and also in the event the West Bengal Value Added Tax, 2003 is replaced by any other Act.

The reason given by the WBIDC of the Scheme not being GST compliant is hence without any basis and falls short of the intent of the Scheme. The respondents should have been ready with an alternative since the VAT regime was replaced by the GST regime on and from 1st July, 2017.

The respondents hence cannot have any further objection to disbursement of the incentive to the petitioners under the 2008 Scheme.

WPO/2308/2022 is accordingly allowed and disposed of with a direction upon the concerned respondents to disburse the incentive due to the petitioners under the 2008 Scheme on the petitioners fulfilling all other terms and conditions which the petitioners have to, if any, under the said Scheme.

The respondents shall accord the incentive to the petitioners only upon being satisfied of the eligibility of the petitioners and on an independent assessment of the same.

The respondents shall make an earnest effort to take the steps within a period of twelve (12) weeks from today.

(MOUSHUMI BHATTACHARYA, J.)

sp3