

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11746 of 2022

***M/s. Sagar Business Pvt. Ltd.,
BBSR***

.... Petitioner(s)

Mr. Y. Das,
Sr. Advocate being assisted by
Mr. S. Sourav,
Advocate

-versus-

State of Odisha & Ors.

.... Opposite Parties

Mr. S. Ghose,
Addl. Govt. Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
04.07.2022**

**Order No.
02.**

1. This writ petition involves the following prayer:

“Under the circumstances stated above, your petitioner most humbly prays that Your Lordship would graciously be pleased to issue;

- a) A writ of and/or in the nature of Mandamus commanding the Opp. Parties their men, agents and/servants, to disburse the VAT Reimbursement in favour of the petitioners;
- b) A writ of and/or in the nature of Certiorari directing the Opp. Parties and/or their men, agents, subordinates to transmit all relevant records pertaining to this case before The Hon’ble Court so that conscionable justice may be administered after going through the same;
- c) A writ in the nature of mandamus directing the Opp. Party and/or their men agents and servants not to give effect to the letter dated 24th July, 2017,

- d) Rule NISI in terms of prayers (a) and (b)
Ad-merum order in terms prayer (c) above;

AND further be pleased to issue any other appropriate writ / writs, rule/rules or order/orders, direction/directions as may be deemed fit and proper in the interest of justice;

AND for which act of kindness, the Petitioner as in duty bound shall ever pray.”

2. Taking this Court to the impugned order at Annexure-6 learned counsel for the Petitioner submitted that the determination of the date of commercial production is found to be wrong and contrary to the actual materials available on record. It is alleged that the order vide Annexure-6 has been passed mechanically and contrary to the admissible records. Further taking this Court to the documents at Annexure-7 more particularly at page 70 of the brief it has been claimed by Mr. Das, learned Senior Advocate appearing for the Petitioner that pursuant to such rejection involving Annexure-6 there is already a detailed representation with supporting documents by the Petitioner, which is yet to be attended to by the competent authority. Referring to the document at page 70 of the brief Mr. Das, learned Senior Advocate appearing on behalf of the Petitioner claimed that there has already been a representation to the competent authority i.e. the Secretary, MSME Department for taking a decision on the actual determination of the date of commercial production. Taking support of the document appended to therein it is alleged that even though such a request was made on 26.08.2015 there is no outcome on the same as of now. Brief discloses that there has been subsequent correspondence also at subsequent point of time at the instance of the Petitioner as appearing at page 72 onwards.

3. Considering that the claim of the Petitioner is pending with the competent authority i.e. the Secretary, MSME Department and it requires a decision at its end, this Court finds, the writ petition becomes premature at this stage. In the process this Court while declining to entertain this writ petition at this stage, directs the Secretary, MSME Department to take a lawful decision on the request of the Petitioner vide Annexure-7 taking into account the document appended to the writ petition and also involving the Petitioner, by completing the entire exercise at least within a period of one & half months from the date of communication of a certified copy of this order along with a copy of the writ petition by the Petitioner.

4. Petitioner is directed to serve a copy of this order along with a copy of the writ petition on the Secretary, MSME (Opposite Party No.3) within a period of ten days hence.

5. The writ petition stands disposed of with the above direction.

(Biswanath Rath)
Judge