IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

CORAM

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.No.13441 of 2019
and
W.M.P.No.13652 of 2019

Globalution Shoes Pvt. Ltd.,
Rep. by its Managing Director
Mr.N.C.Sreeshan,
No.2/24, Amman Nagar,
Melmonavur, Vellore – 632 010. ... Petitioner

Vs.

1.Joint Secretary,
Government of India,
Ministry of Commerce & Industry,
Department of Industrial Policy
& Promotion (Leather Section),
Udyog Bhawan, New Delhi – 110 011.

2.The Project Co-ordinator (IDLS),
Footwear Design & Development
Institute (FDDI) (A Statutory Body),
IDLS Project Implementation Unit (PIU),
(Ministry of Commerce & Industry),
Government of India,
No: A-10/A, Sector – 24,
NOIDA – 201 301,
Gautam Budha Nagar District,
Uttar Pradesh. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed in the 40th Steering Committee, which is a part of the first respondent in its Meeting held on 04.05.2016 and quash the same and consequently direct the respondents to pay a sum of Rs.47,46,558/- to the petitioner being the eligible subsidy determined by the Technical Appraisal Committee on 22.12.2014.

For Petitioner : Mrs.R.S.Lakshmi Priya
for M/s.Gupta and Ravi

For R1 : Mrs.D.Geetha
Senior Central Government Standing Counsel

For R2 : Mr.R.Thirunavukarasu

ORDER

Heard the learned counsel for the petitioner and the learned Senior Central Government Standing Counsel for the first respondent and the learned counsel for the second respondent and perused the affidavit filed by the petitioner in support of this Writ Petition and the counter affidavit filed by the respondents.

2. This Writ Petition has been filed for issuance of a Writ of

Certiorarified Mandamus, to call for the records pertaining to the impugned order passed in the 40th Steering Committee, which is a part of the first respondent in its Meeting held on 04.05.2016 and quash the same and consequently direct the respondents to pay a sum of Rs.47,46,558/- to the petitioner being the eligible subsidy determined by the Technical Appraisal Committee on 22.12.2014.

3. Integrated Development of Leather Sector (IDLS) Scheme is one of the Sub-Schemes of the Indian Leather Development Programme (ILDP) implemented by the Department of Industrial Policy & Promotion (DIPP), Ministry of Commerce & Industry, Government of India during the Tenth Five Year Plan 2002-2007 (from 3rd November, 2005).

4. Integrated Development of Leather Sector (IDLS) Scheme was continued to the Eleventh Five Year Plan 2007-2012. In this regard, a Circular dated 07.04.2008 bearing reference No.CLE/POL/IDLS/2008 was issued by the Council for Leather Exports (CLE) to its members. The operative portion of the said Circular dated 07.04.2008 reads as under:-

In this regard, the Council has now received a communication from DIPP, informing about the continuation of the IDLS scheme during the 11th Five Year Plan period (2007-2012) without any modification until further orders.

DIPP has stated that the eligibility criteria/guidelines of the IDLS will be same as stipulated in the DPP Office Memorandum Number. 5 (18)2002- Leather dated Nov. 3, 2005. The guidelines are hosted in the website of DIPP www.dipp.nic.in under the heading schemes. These guidelines are also hosted in the Council's website www.leatherindia.org in the Policy section under the heading General Circular which members may refer.

DIPP has also requested the Project Implementation Units (CLRI in case of tanneries and FDDI for leather products) & SIDBI to technically/financially appraise all the applications received during the 11th Plan period for approval of the Steering Committee.

Members are hence requested to approach the respective PIUs namely CLRI for tanneries and FDDI for leather products to obtain more information on the status of their applications already submitted and also for submitting fresh applications, as the case may be.

Members may note the above and avail the benefits under IDLS accordingly.

5. In the 25th Meeting of the Steering Committee held at the Department of Industrial Policy & Promotion (DIPP), it was decided that

applications from those units under Integrated Development of Leather Sector (IDLS) Scheme may be received for Twelfth Five Year Plan period 2012-2017 where investment has been made on or after 01.01.2011.The Government of India has also approved the continuation of the Indian Leather Development Programme (ILDP) for the Twelfth Five Year Plan 2012-2017. In this regard Circular dated 29.01.2014 was issued by the Council for Leather Exports (CLE) to its members which reads as under:-

> No. CLE-HO / ILDP / XII Plan / 2013-14
>
> To: Members of the Council
>
> Dear Members,
>
> January 29, 2014
>
> Sub: Indian Leather Development Programme (ILDP) approved for implementation during 12th Five Year Plan 2012-2017
>
> Members are kindly aware of the Indian Leather Development Programme (ILDP), which is being implemented by the Government of India in the 11th Plan Period 2007-2012 and many of the members have already availed assistance under this programme for technology upgradation, modernization of the units.
>
> We are happy to inform you that through the persistent efforts of the Council, the Government of India has approved the continuation of the Indian Leather Development Programme (ILDP) for the 12th Five

Year Plan 2012-2017 with an outlay of Rs.990.36 crore.

Accordingly, the Integrated Development of Leather Sector (IDLS) Scheme which provides assistance to buildup capacities, upgrade technologies and modernize the production facilities in all segments of the leather industry will also be continued in the 12th Five Year Plan period with the same level of financial assistance @ 30% of the cost of plant and machinery for SSI and 20% for non-SSI units, subject to a ceiling of Rs.2 Crores per product line. The investments made on or after 01.01.2011 are eligible for assistance under the scheme. The Guidelines of the IDLS Scheme for XII Plan as approved by the Government of India is attached herewith for kind reference.

One of the major highlights of the IDLS Scheme approved under the 12th Five Year Plan is that the disbursement of investment grant above Rs.25 lakhs, which were hitherto released in 4 equal annual installments, will henceforth be released in one single payment. The Council had earlier taken up with the Government for releasing the grant above Rs.25 lakh in one single payment which has now been favourably considered by the Government.

Please note that the second hand machinery would not be eligible for assistance since the scheme is essentially to support modernization and technology upgradation of the units.

The Council being the Facilitation Agency for the IDLS Scheme, will continue to provide the guidance to the members from the stage of preparation of applications to submission of application and for expeditious processing. Applications in prescribed format along with necessary supporting documents may be submitted in CLE offices. The CLE will undertake preliminary scrutiny and will send the application to the FDDI (for Products segment) and to the CLRI (for tanneries) for technical appraisal and further processing. For more details of the IDLS Scheme, the members are requested to attend the Open House Meetings at CLE offices every Wednesday.

The guidelines of all the sub-schemes of the ILDP viz., IDLS Scheme, Mega Leather Clusters, Leather Technology, Innovation and Environmental issues, HRD, Support to Artisans etc may kindly be perused by visiting the website of DIPP (www.dipp.nic.in) and CLE www.leatherindia.org.

With regards

Yours sincerely

R Ramesh Kumar I.A.S
Executive Director

6. The petitioner appears to have started a unit engaged in the manufacture of leather footwear, footwear component / Shoes / Shoe Uppers etc. in the year 2010 at No.2/24, Amman Nagar, Melmonavur, Vellore – 632 010 and filed an application under Integrated Development of Leather Sector (IDLS) Scheme, through the second respondent, the Zonal Officer, on 26.11.2014. The said application was duly acknowledged by the second respondent.

7. In the 40th Meeting of Steering Committee held on 04.05.2016 at 11.00 am in Room No.152, Udyog Bhawan, New Delhi under the Chairmanship of Joint Secretary, Department of Industrial Policy & Promotion (DIPP), it was stated that the Committee had approved 158 cases of Footwear Design and Development Institute (FDDI) [Annexure-II] and 30 cases of Central Leather Research Institute (CLRI) [Annexure-III] and directed to return the remaining cases with discrepancy to the concerned Project Implementation Unit (PIU) like the second respondent for completion of applications as per check list and prescribed criteria.

8. The petitioner thereafter received few communications from the second respondent which asked furnishing of original invoices for granting subsidy equivalent to 30% of the investment made in the plant and machinery. It appears that when the application was filed through the second respondent, the petitioner had claimed for grant of subsidy of Rs.54,74,209/- being the 30% of the investment amount of Rs.1,82,47,365/-. However, it was reduced to Rs.47,46,558/- as self finance / project cost was reduced to Rs.1,58,21,859/- from Rs.1,82,47,365/-.

9. It appears that after the petitioner furnished the original of invoices to the second respondent, the invoices were also subsequently returned to the petitioner by the second respondent on 28.07.2017. It appears that prior to the aforesaid communication, the second respondent, by a letter dated 25.11.2016, also informed the petitioner that the petitioner's application was ready for being listed before the next Steering Committee Meeting under the Chairmanship of Joint Secretary, Department of Industrial Policy & Promotion (DIPP). The petitioner was therefore asked to submit original bills, pursuant to which, the petitioner, vide letter dated 24.12.2016, has produced the original bills.

10. It is submitted that when the petitioner was waiting for the next Steering Committee Meeting, the first respondent, by a communication dated 02.01.2018, informed the petitioner that since no meeting of Steering Committee could take place during the Twelfth Five Year Plan period, for which, the scheme was approved and that the Government had recently approved a revised Integrated Development of Leather Sector (IDLS) Sub-Scheme under Indian Footwear, Leather & Accessories Development

Programme, the petitioner may apply as per the revised guidelines for availing assistance under the Integrated Development of Leather Sector (IDLS) Sub-Scheme once Project Implementation Units (PIUs) are ready to receive online applications.

11. Opposing the prayer in the Writ Petition, the learned Senior Central Government Standing Counsel for the first respondent submits that the application filed by the petitioner had certain discrepancies. In this connection, it has been submitted that the address given in the IDLS-I Application was in variance with the address given in the Certificate issued by the Department of Industries and Commerce and therefore, the application of the petitioner was rejected by the Steering Committee. It is submitted that due to the efflux of time, the Scheme had expired and therefore, the petitioner's application could not be considered. It is therefore submitted that the petitioner was entitled to file a fresh application as per the revised Scheme. A specific reference was made to the counter affidavit filed by the respondents. In paragraph 5 of the counter affidavit, it has been stated as follows:-

> 5. I respectfully submit that the Central Leather Research Institute (CLRI) was the Project Implementing Unit (PIU) to appraise the applications of Tannery units and Footwear Design and Development Institute (FDDI) was the PIU to appraise the applications of other units. FDDI was only disbursing agency for Tannery units and Footwear units during 12th plan period. For availing assistance, eligible units has to apply in the prescribed format and according to the procedure as provided by the Steering Committee time to time and after completion of requisite technical appraisal by the PIU and financial appraisal by the concerned bank, approval of Steering Committee is required. In the present case, during the scrutiny of the applications submitted by PIUs the Department had found that the factory address of the unit mentioned in IDLS-I and DIC certificate is not same. The address of the unit in IDLS-I is No.2/24, Amman Nagar, Bangalore Road, Melmonavur, Vellore – 632 010 while the address of factory in DIC certificate is SF.No.293/2A, Doorre No.2/24, Melmonavur Village, Amman Nagar, Vellore Block & Taluk, Vellore District – 632 010.

12. The learned Senior Central Government Standing Counsel for the first respondent has also drawn attention to the copy of the Certificate issued by the Department of Industries and Commerce and the application filed by the petitioner under the Integrated Development of Leather Sector (IDLS) Scheme. He also drawn attention to the communication addressed to the petitioner by the first respondent subsequently on 02.01.2018.

13. The second respondent, in its counter affidavit, has stated as follows:-

> 9. It is submitted that the 2nd respondent had appraised the petitioner as and when queries were raised to them. The petitioner failed to submit the application in proper format at the first instance by furnishing incorrect address. Since the address furnished by the petitioner was incorrect, the application was found to be defective. Hence, the petitioner cannot find fault with the respondents. Therefore none of the grounds raised by the petitioner are sustainable. This respondent further submit that they are only a nodal agency to co-ordinate and implement the decisions of the 1st respondent. The relief claimed is also against the 1st respondent and no relief is claimed against this respondent.

14. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Central Government Standing Counsel for the first respondent and the learned counsel for the second respondent.

15. The return of the petitioner's application by the first respondent based on the decision of Steering Committee in the 40th Meeting held on 04.05.2016 appears to be arbitrary. In any event, it was incumbent on the part of the first respondent to conduct a fresh Meeting before 12th Five Year

Plan 2012 to 2017 expired as the application filed by the petitioner on 26.11.2014. The petitioner cannot be driven to apply for subsidy freshly under the Indian Footwear, Leather & Accessories Development Programme as has been communicated by the first respondent on 02.01.2018 to the petitioner.

16. That apart, the objection that there were discrepancies in the address given by the petitioner in the Certificate issued by the Department of Industries and Commerce in Form No.1555 and in the application filed by the petitioner, cannot be countenanced as indeed there was no discrepancy. The Certificate issued by the Department of Industries and Commerce signed by the General Manager, District Industries Centre, Vellore – 6 merely adds S.F.No.293/2A. However, the Door No. given therein and Door No. given by the petitioner in its application dated 26.11.2014 are one and the same. Therefore, there are no merits in the defence of the respondents.

17. That apart, the Hon'ble Supreme Court in the case of **M/s.Prachi Leathers (Pvt.) Limited** Vs. **Union of India and others**, dated

22.03.2018, in C.A.No.3176 of 2018 (arising out of S.L.P.(C) No.13066 of 2017), has held that disbursement of subsidy could not be withheld only on the ground that the appellant therein shifted from 'Bank Finance' category to 'Self Finance' category as the Scheme applied to both categories.

18. The Hon'ble Supreme Court has further held that since the appellant therein had applied prior to coming into force of 12th Plan, purchase of machinery prior to 01.01.2011 was no disqualification and therefore, had set aside the order of the High Court and directed the respondents therein to disburse the subsidy to the appellant therein. The relevant portion of the above order reads as under:-

> We find that disbursement of subsidy could not be withheld only on the ground that the appellant shifted from 'Bank finance' category to 'self finance' category as the Scheme applied to both categories. Since the appellant had applied prior to coming into force of 12th Plan, purchase of machinery prior to 1.01.2011 was no disqualification. It is not disputed that subsidy has already been sanctioned.
>
> Accordingly, we set aside the impugned order and direct that the subside be disbursed to the appellant within one month.
> The appeal is allowed in the above terms.

19. In view of the above, the stand of the first respondent is arbitrary as the subsidy was wrongly denied under the Scheme to the petitioner. Under these circumstances, I am inclined to dispose of this Writ Petition by directing the first respondent to disburse the subsidy quantified by the second respondent in the application dated 26.11.2014 to the petitioner, within a period of 45 days from the date of receipt of a copy of this order.

20. This Writ Petition stands disposed of with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

16.11.2022

Internet : Yes / No
Index: Yes/ No
jen

To
1.Joint Secretary,
Government of India,
Ministry of Commerce & Industry,
Department of Industrial Policy &
Promotion (Leather Section),
Udyog Bhawan, New Delhi – 110 011.

2.The Project Co-ordinator (IDLS),
Footwear Design & Development
Institute (FDDI) (A Statutory Body),
IDLS Project Implementation Unit (PIU),
(Ministry of Commerce & Industry),
Government of India,
No: A-10/A, Sector – 24, NOIDA – 201 301,
Gautam Budha Nagar District,
Uttar Pradesh.

C.SARAVANAN, J.

jen

W.P.No.13441 of 2019 and
W.M.P.No.13652 of 2019

16.11.2022