

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

218

CWP-2154-2018 (O&M)
Date of Decision: 12.12.2022

M/S KARTAR COLD STORAGE

... Petitioner

VERSUS

UNION OF INDIA AND ANR.

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Maninder Arora, Advocate
for the petitioner.

Mr. Sudhir Nar, Sr. Panel Counsel
for respondent No.1.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed under Articles 226/227 of the Constitution of India, 1950 for issuance of a writ in the nature of Mandamus directing the respondents to release the amount of subsidy of Rs.15.19 lacs as per the order dated 21.09.2017 (Annexure P-11).

Reply by way of affidavit of Kulwinder Singh, Deputy Director, Horticulture, Cantt. Road, Jalandhar has been filed. The relevant extract of the same is reproduced as under:

“2. That Empowered Committee of Mission for Integrated Development of Horticulture in its meeting held on 7.9.2017 considered the orders passed by the Hon'ble Court of CWP No. 23450 of 2012 sanctioned the additional credit linked back ended subsidy of Rs. 15.19 Lakhs to M/s Kartar Cold Storage to be released by Horticulture Mission out of Annual Action Plan of 2017-18.

3. That Director of Horticulture cum Mission Director, State Horticulture Mission, Punjab, had sought clarification in the

matter of calculation of admissible subsidy for disbursement to M/s Kartar Cold Storage, Larsiwal, Distt. Jalandhar, Annexure R-5 is already on the judicial file. The respondent No.1 vide letter dated 31.1.2018 had also clarified that SHM may calculate the admissible subsidy based on the actual capacity created by the promoter. Annexure R-6 is already on the judicial file of Respondent No.1.

4. That the petitioner has conveyed their acceptance by way of an affidavit for release of eligible additional subsidy of Rs. 11.24 Lakh, based on the new sanction Le. 25% (i.e. according to old norms) on the building and 40% (i.e. according to new norms) on machinery part, on the actual measurements / calculation taken at the time of joint inspection, before release of subsidy (Annexure R-7) is already on the judicial file of Respondent No. 1.

5. That State Horticulture Mission, Punjab after completion of formalities by the petitioner has released eligible subsidy of Rs.11,24,356/- to financing bank namely Oriental Bank of Commerce and the same has also been acknowledged by the bank on 22.2.2018, Annexure R-8 as already on the judicial file of Respondent No.1.

6. That as per Hon'ble High Court order Empowered Committee meeting was conducted called the petitioner's representative Mr. Surinder Singh and eligibility of subsidy was decided by Empowered Monitoring Committee (EMC) keeping in view of the fact that the part of the project which was completed before 1.4.2010 was granted subsidy @ 25% as per old norms and part of the project which was completed after 31.03.2010 was granted subsidy @ 40% as per revised norms. As such eligible subsidy was worked out by Empowered Monitoring Committee (EMC) as under:-

- i) Civil Work Cost- Rs. 95 Lakh, subsidy @ 25% Rs.23.75 Lakh.*
- ii) Plant and machinery cost: Rs. 35 Lakhs, subsidy @ 40% Rs. 14 Lakh Total admissible subsidy Rs.37.75 Lakhs.*

Since the project was already sanctioned subsidy of Rs. 22.56 Lakhs, additional subsidy to the tune of Rs. 15.19 Lakhs was sanctioned to be released by State Horticulture Mission (SHM) and decision was conveyed vide order dated 22.10.2017 (Annexure R-4) of Respondent No.1.

It is observed from the records and details submitted by State Horticulture Mission (SHM) that against proposed and approved capacity of 2256 MT. M/s Kartar Cold Storage has created cold storage of 2180 MT capacity only.

Eligible subsidy is calculated on the basis of inspection report which is done by the inspection committee formulated for this purpose. This committee physically visit the project and measure the dimensions of unit and calculate the capacity. So, based on the actual capacity of the unit that exists on ground, Subsidy is calculated. In this case the petitioner proposed to establish cold store of 2256 MT but instead of establishing the same capacity, he established it to only 2180 MT. Therefore, this unit is eligible for availing the subsidy for actual capacity i.e. 2180 MT. As such, the eligibility of subsidy on pro-rata basis was worked out to Rs.33.04 Lakh only and difference amount of Rs.11,24,356/- after deducting the already rleased amount was released by State Horticulture Mission (SHM). Breakup of which is as under: -

Sr. No.	Component	% Share	Admissible costs	Admissible subsidy for 2180 MT
1.	Building	63.16	55,07,552	13,76,888 @ 25%
2.	Plant & Machinery	36.84	48,18,672	19,27,468 @ 40%
Total admissible subsidy				33,04,356
Subsidy earlier released by State Horticulture Mission				21,80,000
Additional Subsidy released by State Horticulture Mission				11,24,356''

The additional subsidy was thus calculated by the respondent-

Authority, State Horticulture Mission at Rs.11,24,356/- and the petitioner had

submitted an affidavit accepting the aforesaid measurement and release of the additional subsidy amount. The said affidavit filed by the authorised representative on behalf of the petitioner has been appended alongwith the written statement as Annexure R-7.

Learned counsel for the petitioner, thus, contends that in view of the above response filed by respondent No.2 and the affidavit filed by the petitioner according satisfaction and acceptance to the re-assessment subsidy and release thereof, the present petition has become infructuous.

Disposed of as having been rendered infructuous.

12.12.2022.
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No