



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO. 7582 of 2017

M/s. Pawanputra Buildcon Pvt. Ltd. **..PETITIONER**
Company registered u/Companies Act,
Having it's registered office at 302, Bhagyashri Apt.
73, Rahate Colony, Wardha Road, Nagpur, through'
it's Managing Director-Mr. Yogesh Taori,
Aged 45 years, R/o. Nagpur.

Versus

1. State of Maharashtra, **..RESPONDENTS**
Ministry of Industries, Energy and Labour
Department, through its Secretary,
Mantralaya, Mumbai-32.
2. District Industries Centre,
through its General Manager,
Udyog Bhawan, Civil Lines, Nagpur.

Corrected
as per
Court's
order dated
04.09.2023

Shri V. P. Panpalia, Advocate for petitioner.
Ms S.S.Jachak, Assistant Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 23rd AUGUST, 2023

ORAL JUDGMENT (PER A.S.CHANDURKAR, J.)

A pursis has been filed by the learned counsel for the petitioner stating therein that in view of the judgment dated 18.08.2023 passed in Writ Petition No. 19 of 2018 (*M/s. Shri Balaji Buildicon vs. The State of Maharashtra and ors.*) with connected writ petitions, the letter dated 07.07.2017 refusing to refund the amount of royalty to the petitioner is liable to be quashed. We have accordingly heard the learned counsel for the parties in the aforesaid backdrop.

2. The petitioner sought refund of royalty claimed under the Package Scheme of Incentives, 2007. By referring the Circular dated 17.06.2011, the claim was rejected by the District Industries Centre on the ground that the claim was not submitted within the specified time. The period of such claim is from 01.04.2010 to 31.03.2016, annually.

3. Perusal of the judgment in *M/s. Shri Balaji Buildicon* (supra) indicates that the Circular dated 17.06.2011 which is the basis for rejection of the claim for refund has been held to apply to major minerals. In the present case, the petitioner is concerned with manufacture of minor minerals. In the aforesaid decision, it has been held that as per Clause 5.5 of the Government Resolution dated 30.03.2007 there was no time limit fixed for seeking refund and the time prescribed under the Government Circular dated 17.06.2011 was applicable only to units concerned with major minerals. We therefore find that the issue stands decided in favour of the petitioners.

Corrected as per Court's order dated 04.09.2023
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4. Hence, for reasons recorded in Writ Petition No.19 of 2018, dated 18.08.2023 in the case of *M/s. Shri Balaji Buildicon*, with connected writ petitions, the respondents are directed to refund the royalty that was paid by the petitioner in accordance with Clause 5.5 of the Government Resolution dated 30.03.2007, if the petitioner is otherwise found entitled. The claim shall not be rejected on the ground that the application was made beyond the period of one year.

5. Rule is made absolute in aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.