



W.P.No.11860 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.01.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

WP.No.11860 of 2014

M/s Dynamic
A Partnership firm Rep by it's Partner
V.Thirumurthy
Having Office at 7/3-E, Karupparayan Koil Street,
Anuppapalayam,
Tiruppur – 641652.

... Petitioner

Vs

- 1.The Union of India,
Rep by It's Secretary,
Ministry of Textiles
Government of India
New Delhi.
- 2.The Textile Commissioner
Ministry of Textiles,
New CGO Building, Nishtha Bhavan,
48, New Marine Lines, Mumbai – 400020.
- 3.The Assistant Director,
Monitoring Section
O/o The Textile Commissioner,
Ministry of Textiles
New CGO Building, Nishtha Bhavan,
48, New Marine Lines, Mumbai – 400020.



W.P.No.11860 of 2014

4.Canara Bank,
P.N.Road Branch,
Tiruppur – 641602.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to consider the claim of petitioner for margin money subsidy @ 15% under Technology Upgradation Fund Scheme of Government of India, Ministry of Textiles, submitted to 1st respondent by the petitioner through the 4th respondent and pay the eligible subsidy amount to the petitioner's account maintained with 4th respondent together with interest at the rate of 18% on such subsidy amount from the date of submission of claim on 05.12.2007 to till the date of actual payment.

For Petitioner : Mr.A.Arun Babu
For Respondents : Mr.V.Ashok Kumar, [for R1 to R3]
Central Government Standing Counsel
Mr.Om Prakash, Senior Counsel [for R4]
for Ms.G.Narmadha, Standing Counsel

ORDER

The petitioner is a firm engaged in the manufacturing of netting fabrics. The Government of India had, in 2007, formulated a scheme entitled Technology Upgradation Fund Scheme (TUFS/scheme in short), for payment of subsidy comprising margin money of 15% to eligible persons. The main object of the scheme is to enable modernization and infrastructure



W.P.No.11860 of 2014

development in this sector, such that domestic industry could withstand the pressure created by globalization and international competition.

2. The 4th respondent is one of the nodal agencies for channelizing credit link capital subsidy for the upgradation sought to be achieved in Small Scale Textile and Jute Industries. The role of R4/Canara Bank was to sanction and advance loans after verifying the eligibility of applicant industries, in term claim margin money subsidy of 15% on the investment made and thereafter, credit the same in the bank account of the applicant, maintained with them.

3.The petitioner approached R4 in respect of the proposed modernisation for purchase of seven imported single jersey circular knitting machines and was sanctioned a loan for a sum of Rs.72.73 lakhs. The remainder of the project cost was borne by the petitioner. Since the sanction was on 29.03.2007, R4 bank was of the view that the petitioner was ineligible for the then prevailing scheme and did not process the application for the grant of the scheme then prevalent. R4 however does not appear to have put the petitioner to notice of its conclusion, as aforesaid.

4. However, it was of the view that the petitioner was entitled to subsidy under the credit linked capital subsidy of TUFS and R4 thus



W.P.No.11860 of 2014

processed the subsidy application filed by the petitioner on 29.03.2010, in terms of the revised credit linked capital subsidy scheme that provided for 15% of margin money subsidy for loans sanctioned after 01.04.2007.

5.The bank thus processed and forwarded the application, vide email dated 13.05.2011, to the Textile Commissioner, Ministry of Textiles/R2 for grant of subsidy. In the meantime, on 29.06.2010, the grant of subsidy was itself put on hold and re-launched only on 28.04.2011. Under the relaunched scheme there was a provision for consideration of applications that had been filed in the past though with a delay.

6.R4 bank thereafter corresponded with R2, writing to it on 13.05.2011 seeking condonation of delay in submission of subsidy claim in respect of various customers including the petitioner herein. On 31.05.2011, the delay was condoned by the first respondent that permitted the banks to re-submit the claims afresh after embarking upon the exercise of vetting the eligibility of the applicants.

7. It is relevant to note that the communication dated 31.05.2011 did not stipulate any time limit within which the applications had to be re-submitted. While the bank re-submitted the application on 07.07.2011, parallelly the petitioner approached the Ombudsman in the Reserve Bank of



W.P.No.11860 of 2014

India, in terms of the Banking Ombudsman Scheme, 1995 aggrieved by the non-processing of its claim for subsidy.

8.While this is so, the application submitted by R4 on behalf of the petitioner, received response from the R4 dated 17.09.2011 to the effect that the application for subsidy has been submitted to the Ministry of Textiles and that a positive response was awaited shortly. Even this communication did not contain any indication or stipulation in regard to the imposition of a time limit for submissions of applications.

9. Vide letter dated 11.10.2011 the Installation Management Steering Committee (IMSC) came to the conclusion that where the delay had been condoned, but no subsidy claim had been received from the banks, such application were liable to be returned on the ground that the same could not be entertained any further. On 18.12.2012, R4 conveyed to the petitioner, the decision of R1 that the claim for subsidy was rejected.

10.The basis of rejection was a decision of R1 and R2 that condonation was permissible only if the applications had been re-submitted to R1/R2 on or before 30.06.2011. However, it is a matter of record that this limitation imposed on the time for re-submission of applications was communicated neither to the nodal agencies nor to the applicants for



W.P.No.11860 of 2014

subsidy.

WEB COPY

11.A specific query was put to the learned counsel for R2 as to whether at all there was any information available in public domain/ any communication issued to the nodal agencies, informing them that the re-submission of applications had to be on or prior to 30.06.2011. The matter was specifically adjourned on 06.01.2023 to 10.01.2023 to enable learned counsel to obtain instructions in regard to the aforesaid position.

12.Today when the matter is called, learned counsel would accede to the position that there is no material available in public domain and neither have the nodal agencies been informed that there was any late date stipulated for re-submission of applications. He only circulates a document in F.No.2(2)/Dynamic/Court Matters/2022/MTUFS/37-38 dated 09.01.2023, which in fact supports the case of the bank and the petitioner, that there was no limitation ever imposed or communicated in regard to the last date for re-submission of applications.

13.In light of the above discussion, I am of the view that the impugned order that stipulates a last date for receipt of applications for the first time ever, in those proceedings, is misconceived and cannot be sustained. The official respondents have clearly taken a conscious stand that



W.P.No.11860 of 2014

no limitation was to be imposed in regard to the re-submission of applications. It would have been an entirely different matter had the application of the petitioner been re-submitted after the elapse of an unreasonably long period of time. However, in the present case, the application has been re-submitted on 07.07.2011 proximate to the re-launch of the scheme by the Ministry, which was on 28.04.2011.

14. The re-launch on 28.04.2011 is an open invitation, and does not anywhere stipulate a time-limit. Even in the communications that had been exchanged by R1/R2 and R4, there are no indications whatsoever to the effect that there was a cap envisaged on the condonable period. In such an event I am unable to read a time limit where none has been stipulated by the respondents.

15. The object of the scheme is itself to encourage entrepreneurs, to render them competitive and withstand international competition. The defence put forth by R1/R2 militates against such an object and renders the scheme unviable and purposeless. For the aforesaid reasons, the arguments advanced on behalf of R1/R2 are rejected and mandamus, as sought for, is issued.

16. There is no dispute on the quantification of subsidy as computed



W.P.No.11860 of 2014

by R4 and communicated to R2 under communication of the former dated 17.09.2011. In light of the conclusion in the paragraph infra, let the subsidy be paid over to R4 and consequentially be credited in the account of the petitioner in R4 bank, within a period of four (4) weeks from date of receipt of the order.

17. This writ petition is allowed. No costs.

10.01.2023

vs

Index : Yes

Speaking Order

To

- 1.The Union of India,
Rep by It's Secretary,
Ministry of Textiles
Government of India
New Delhi
- 2.The Textile Commissioner
Ministry of Textiles,
New CGO Building, Nishtha Bhavan,
48, New Marine Lines, Mumbai – 400020.
- 3.The Assistant Director,
Monitoring Section
O/o The Textile Commissioner,
Ministry of Textiles
New CGO Building, Nishtha Bhavan,
48, New Marine Lines, Mumbai – 400020.



W.P.No.11860 of 2014

4.Canara Bank,
P.N.Road Branch,
Tiruppur – 641602.

WEB COPY



WEB COPY



W.P.No.11860 of 2014

Dr.ANITA SUMANTH,J.

VS

WP.No.11860 of 2014

10.01.2023