

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

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**CWP-21434-2023
Date of Decision: 25.09.2023**

M/S KARGIL INDUSTRIES

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. Ramesh Kumar Jha, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is for issuance of directions to the respondents to release the amount of incentives/subsidies and other benefits alongwith interest @ 24% per annum in view of the settled proposition of law as laid down by this Court in CWP-19007 of 2002 decided on 20.05.2011.

The learned counsel for the petitioner contends that the petitioner, which is a registered partnership firm had established a unit under the name and style of “M/s Kargil Industries, Veerewal Road, Faridkot” in accordance with the provisions of Punjab Industrial Code, 1996. The investment of capital was made by the petitioner through loan from the financial institutions and friendly borrowings. As per the Punjab Industrial Code, 1996, the petitioner unit was eligible and entitled for the capital subsidy at the rate of 30% of the investment capital under “A” Category. The respondent No.2 i.e. the Director, Department of Commerce and Industries conveyed the sanction of the amount of Rs.29.21 lacs as capital investment subsidy in favour of the petitioner subject to the

condition that the petitioner firm shall present the returns for four years upto 1999-2000. The petitioner claims that the necessary requirements were fulfilled within the prescribed time and the matter was thereafter placed before the Committee. Even though the investment capital subsidy was required to be paid to the petitioner unit immediately upon the approval by the Committee, being an Export Oriented Unit, however, the requisite sanctioned amount was not released in favour of the petitioner unit, even though it had commenced commercial production on 13.12.1999. He contends that even though the said amount was sanctioned on 07.08.2000, however, the amount in question was released in favour of the petitioner on 14.10.2019. The petitioner contends that it took more than 19 years to the respondents to release the said amount, which caused heavy loss of capital and mental agony to the petitioner. A legal notice was thereafter served by the petitioner on 08.01.2023 calling upon the respondents to release compound interest @ 24% per annum, however, no action has been taken thereupon. Hence, the present petition.

It is argued that similar controversy came up before this Court in a batch of 44 writ petition including the one bearing No.CWP-19007-2002, which was finally decided on 20.05.2011. This Court had awarded the interest to the petitioners therein for the delayed payment of capital subsidy. The petitioner claims that he is thus entitled to compound interest @ 24% per annum on account of the delay caused by the respondents in release of the capital subsidy.

Learned counsel for the petitioner has further argued that even the capital subsidy that was sanctioned and released in favour of the petitioner was not complete. However, he does not dispute the fact that there is no challenge to the sanction granted by the respondents although the said sanction was approved on 07.08.2000. The prayer made during the course of arguments was

confined only to the extent of granting interest on the delayed payment of capital subsidy, which was released on 14.10.2019.

Prima facie, the prayer for claim of interest is barred by limitation and that the issue as to whether the period of limitation is/has been extended by any acknowledgement/admission of a liability is a mixed question of fact which cannot be gone into by this Court at this juncture. The petitioner has not been able to refer to any record and/or document which could establish the acknowledgement of liability by the respondent-Department to pay interest to the petitioner. The subsidy having already been released in favour of the petitioner, he was entitled to take recourse to his remedies in accordance with law if he was not satisfied with the sanctioned subsidy. The cause of action accrued on the date of release and it is not a recurring cause of action.

I do not find good ground to exercise writ jurisdiction to interfere in the present matter and to direct disbursement of interest to the petitioner. The petitioner may, if so advised, pursue his alternative remedies.

The present petition is accordingly dismissed in *limine*, with liberty as above and without prejudice to the rights of either party.

SEPTEMBER 25, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No