IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6753 of 2023

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M/S Rohit Pole Industries - A Partnership Firm - having registered office at K-47/88-89, Machhodari, Bisheshwarganj, Varanasi, PIN- 221001 and Manufacturing Unit at opposite Radha Swami Satsang Ashram, Madaini, G.T. Road, Block- Rohtas, P.S.- Rohtas, Sasaram, District- Rohtas, Bihar, through its one of the Partners Mrs. Hansha Agarwal, Wife of Abhishek Agarwal, Gender- Female, Age about- 44 years, Resident of- B-25/2-M-N-104, Flat No. 4, Sri Krishna Apartment Hanumanpura, P.S- Bhelupur, Varanasi, Uttar Pradesh PIN-221001.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Government of Bihar, Patna.

2. The Principal Secretary, Industries Department, Government of Bihar, Patna.

3. The Commissioner-cum-Secretary, Department of State Taxes, Government of Bihar, Patna.
4. Director Industries, Department of Industries, Government of Bihar, Patna

5. The Director (Technical) Development, Department of Industries,Government of Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate
Mr. Vinay Mistry, Advocate
Mr. Sanket, Advocate

For the Respondent/s : Mr.Vivek Prasad (GP7)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-02-2024

The petitioner is concerned with a subsidy, which it claims is entitled as per the Industrial Incentive Policy, Bihar-2006, as produced at Annexure-P/2. The subsidy, is in so far as 80 per cent reimbursement amount against the admitted VAT amount deposited in the account of the Government for a period of 10 years. The maximum subsidy amount is also up to 30 per cent of the capital invested.

2. The petitioner contends, that the petitioner has commenced production in the year 2007, and his entitlement is certified as per Annexure-P/5. The petitioner was being granted the incentive till 31.03.2011, after which, there was no disbursement of the admitted VAT amounts. The petitioner has made an application, as is seen from Annexure-P/7 series, which has not been responded to. The learned counsel for the petitioner claims that he is entitled to the refund of the VAT remitted for 10 years from the date of commencement of production.

3. Learned Government Advocate on the other hand, refers to the counter affidavit of the Industries Department, and points out, that the petitioner’s Unit was not accorded approval

on the investment proportioned by the State Industrial Promotion Board (SIPB) or the District Level Single Window Clearance Committee (DLSWCC), under the provisions of the Industrial Incentive Policy, Bihar-2006. It is also stated that the minimum investment should be more than Rs. 100 lakhs. Learned Government Advocate relies on Annexure-B, notification issued by the Industries Department dated 27.04.2006.

4. Looking at the Industrial Incentive Policy, Bihar 2006, we find that the effective date, is the date, on which the provisions of the policy came into force, which is specified to be 01.04.2006 as per Annexure-1 of Annexure-P/2. The policy, therein, was specified to remain in force for five years, from the date of issue of the order. Hence, the policy was in existence, only up to 31.03.2011, five years from 01.04.2006. The subsidy is stated to be for 10 years as per Clause 2(vi). We also notice Clause-10, which specifically indicates that the subsidy/incentive/relief from the policy would be available only to New Industrial Units, which commenced commercial production within five years from 01.04.2006. Hence, it has to be understood that the 10 years period commences from 01.04.2006, and since the policy is in existence between

01.04.2006 and 31.03.2011, the Industry has to commence production within the five year period for availing the benefit. Hence, any industry commencing production within five years, would be entitled to the benefit, but, limited to ten years or 31.03.2016, whichever comes earlier.

5. The counter affidavit speaks of approval on the investment proposed by SIPB/DLSWCC which is policy brought in later to the policy document as seen from Annexure-2. It is not clear, as to whether, such specification was incorporated in the policy, and in any event, admittedly, the petitioner was granted the subsidy till 31.03.2011, and then it was abruptly stopped.

6. Be that as it may, we notice that the petitioner did not take up the issue before the appropriate authority, when the incentives were abruptly stopped. Even, according to the petitioner, the refunds were stopped from the year 2011, then it should have approached the appropriate authority for refund and if the same is denied, could have approached the court of law. The incentives were also available only till 2016. Within this time or immediately after that, the petitioner did not approach the authority or this Court. First time, an application was made in the year 2021, as is indicated from Annexure-P/7 series.

7. In the above circumstances, the aspect of delay stands against the petitioner, and the writ petition, hence, stands rejected.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA