



WEB COPY



W.P. No.6878 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM :

THE HON'BLE MR. JUSTICE M. DHANDAPANI

Writ Petition No. 6878 of 2017
and
W.M.P. Nos.7465, 7466 and 7477 of 2017

Chennai Expo Prints Pvt. Ltd.,
Rep. by its Managing Director,
G. Varagamurthy

.. Petitioner

Versus

1. Government of India,
Rep. by Special Secretary &
Development Commissioner,
Office of the Development Commissioner,
Ministry of Micro, Small & Medium
Enterprises (MSME),
Nirman Bhawan, 7th Floor,
Maulana Azad Road,
New Delhi – 110 108.
2. Deputy Director (CLCSS),
Office of the Development Commissioner,
Ministry of Micro, Small & Medium
Enterprises (MSME),
Nirman Bhawan, 7th Floor,
Maulana Azad Road,
New Delhi – 110 108.



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3. The Chief General Manager,
National Bank for Agricultural and
Rural Development (NABARD),
TamilNadu Regional Office,
105-106, 48, Mahatma Gandhi Road,
P.B. No.6074,
Nungambakkam,
Chennai – 600 034.

4. The Regional General Manager,
Union Bank of India,
Regional Office,
Union Bank House,
139, Broadway Road,
Chennai – 600 108.

5. The Chief Manager,
Triplicane Branch,
Union Bank of India,
No.204, Triplicane High Road,
Chennai – 600 005.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for records on the file of the second respondent bearing No.:1(5) CLCSS/Unit Assn./14-15, dated 02.11.2015 refusing to release the subsidy to the petitioner, quash the same and consequently direct the respondents to release the subsidy amounting to a sum of Rs.15 lakhs to the petitioner being a registered SSI unit with Entrepreneur Memorandum No.330021210361 (Part- II), Small

For Petitioner : Ms. A.V. Bharathi

For Respondents : Mr.K. Ramanamoorthy
for R1 & R2
Mr.S. Parthasarathy for R4 & R5
R3 – No appearance



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ORDER

WEB COPY This writ petition has been filed to call for records on the file of the second respondent bearing No.:1(5) CLCSS/Unit Assn./14-15, dated 02.11.2015 refusing to release the subsidy to the petitioner, quash the same and consequently direct the respondents to release the subsidy amounting to a sum of Rs.15 lakhs to the petitioner being a registered SSI unit with Entrepreneur Memorandum No.330021210361 (Part- II), Small

2. It is stated that the petitioner is a registered SSI unit and was engaged in the printing business since 2008. During the course of such business, the petitioner approached the 5th respondent for financial assistance to develop their business and the same was considered by sanctioning a term loan of Rs.191.40 lakhs on 06.04.2010 for purchase of machineries. At that time, the petitioner came to know about a scheme for technology upgradation viz., Credit Linked Capital Subsidy Scheme (CLCSS) mooted by the 1st respondent (MSME), which was in force from the year 2000-2001. Based on the MSME Guidelines, dated 30.05.2011 and SIDBI GSC Circular, dated 25.11.2011, the petitioner submitted an application to the 5th respondent on 20.12.2011 requesting to sanction Credit Linked Capital Subsidy of a sum of Rs.15 lakhs. The 5th respondent in turn forwarded the said application to the third and fourth respondents for processing. It is the contention of the



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petitioner that the said application was received by the 3rd respondent on 23.12.2011, well within the time limit prescribed by the respondents 1 and 2, however, the application has not been processed.

3. It is further averred that though the said Scheme was in force from the year 2000-2001, there were certain problems arose for implementation of the said scheme. Therefore, to resolve the issues with regard to implementation of the said Scheme at that relevant point of time, the 2nd respondent conducted a meeting with Nodal Agencies on 30.05.2011 during which, the reference date for deciding the admissibility of subsidy, timely settlement of subsidy claim etc. were discussed. Pursuant to the Meeting, certain guidelines were issued which reveals that the information about the subsidy claim applications should be filed as soon as possible after the reference date. As per the Minutes of the said Meeting, there is no time limit prescribed and the same was also clarified vide Circular, dated 25.11.2011. Hence, the last date for filing of claim for the period from 01.10.2010 to 30.09.2011 is 31.12.2011. In the case of the petitioner, they have submitted the application to the 5th respondent on 20.12.2011 itself. Subsequently, the petitioner also made representations to the 4th respondent and the 4th respondent also sent reminders to the 3rd respondent. While so, to the shock



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and surprise of the petitioner, through the Communication, dated 17.02.2015 of the 3rd respondent it was stated that the subsidy claim application of the petitioner was rejected by the 1st respondent on account of late receipt and rejected cases would be referred at a later point. In such circumstances, the petitioner sent various representations to the respondents seeking to entertain the application for subsidy of Rs.15 lakhs, but the same was not considered and therefore, they were forced to address their grievances before the MSME Director by way of representation dated 27.09.2015. At that scenario, the 2nd respondent issued the impugned order, dated 02.11.2015, rejecting the request of the petitioner for subsidy amount. Aggrieved by the same, this writ petition has been filed.

4. Learned counsel for the petitioner submitted that the impugned order is a non-speaking order which does not contain any reasons as to why the claim of the petitioner was rejected. She submitted that the petitioner submitted the application seeking subsidy of Rs.15 lakhs under CLCSS scheme before the 5th respondent, well before the cut off date while so, the rejection of claim of the petitioner for subsidy at a later date on the ground of belated submission of application is contrary to facts. She further submitted that the petitioner had submitted the application to avail credit facility along



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with requisite documents by strictly following the Circulars / Guidelines

issued by the respondents, within the time limit and therefore, she vehemently argued that there is no delay attributable on the part of the petitioner in submitting the application. She vehemently pointed out that there is no specific mention either in the Circular, dated 25.11.2011 issued by the respondents or any Communication indicating the last date for submission of the application, but the cut off date i.e., 10.12.2011 was imposed by the third respondent, that too after a period of five years when the scheme came into force. In any event, the rejection of the application is without any valid reasons. Further, the applications submitted by similarly placed persons like that of the petitioner were considered even after an inordinate delay of a month and hence, the discrimination shown by the respondents in the instant case is non-est in law.

5. Drawing the attention of this Court to a specific averment made in the affidavit with regard to dates with sequence of events and the time limit prescribed by the MSME & SIDBI, she strongly argued that the petitioner has submitted the application before the last date and therefore, the impugned order passed by the 2nd respondent is without application of mind. She also submitted that the respondents themselves are not clear about the implementation of CLCSS Scheme particularly as to the reference date and



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shifted the whole burden on the petitioner. Finally, she submitted that the 5th respondent bank also recommended the case of the petitioner for sanction of loan but the same was ignored while passing the impugned order, dated 02.11.2015 and prays for setting aside the said order and to allow the writ petition.

6. Denying the contentions made by the learned counsel for the petitioner, the learned counsel appearing for the respondents 1 & 2 submitted his arguments based on the counter affidavit. He submitted that the petitioner unit is not eligible for subsidy under CLCSS Scheme inasmuch as they have submitted the application for subsidy belatedly only on 20.12.2021. He further submitted that the petitioner unit availed benefits in another scheme and therefore, they are not entitled to benefits of the CLCSS Scheme. It is stated that the respondents 4 and 5 received the application submitted by the petitioner with delay. In view of such delay, the bank has forwarded the application to the nodal office on 17.02.2022. Subsequently, the bank has forwarded certain additional documents sought for by NABARD. However, the claim of the petitioner was rejected by the third respondent-NABARD by referring to the delay in submitting the application. According to the respondents 4 and 5, the last date for filing the application for the period between 01.10.2010 to 31.03.2011 was 10.12.2021. The petitioner submitted



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the claim petition only on 20.12.2011. Above all, the petitioner has already availed a term loan facility for Rs.191.40 lakhs during the year 2010 for importing offset printing machine from Japan. Based on the loan amount, on 23.12.2010, the petitioner has purchased the machineries. Ultimately, on 25.01.2011, the machineries were installed by the petitioner.

7. It is further submitted that in the minutes of the meeting held on 30.05.2011, the MSME Department has informed the nodal officers that they required to submit the claim applications to MSME on 31.12.2011 and wherever the reference dates falling between 01.10.2010 to 31.03.2011, such application must be submitted before 10.12.2011 so as to enable SIDBI to forward the claim petitions to the office of the Deputy Commissioner, MSME. It was specifically directed in the meeting that applications received after 10.12.2011 shall not be processed for subsidy. Therefore, the delay in submission of the application by the writ petitioner would be against the policy decision taken by the MSME Department for processing the applications for subsidy. While so, the relief sought for by the petitioner in this writ petition cannot be considered and the writ petition is liable to be dismissed.

8. Heard the learned counsel on either side and perused the materials placed on record.



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9. Admittedly, term loan was sanctioned by the 5th respondent to the petitioner on 05.04.2010 to the tune of Rs.191.40 lakhs. From a bare perusal of the table showing the dates with sequence of events and time limit prescribed by the MSME & SIDBI, it is noted that the date of installation of machineries is 25.01.2011 and the date of submission of application by the petitioner to the 5th respondent is 20.12.2011, whereas the last date for filing of claim of subsidy is 10.12.2011. When the aforesaid dates are taken into account, it could be inferred that the petitioner has submitted the application after lapse of 10 days time prescribed by the respondents. In any event, even as per the respondents 4 and 5, the cut off date was fixed only to facilitate the process of the applications to be received quickly and there is no other reasons behind it. Further, if the applications are submitted before 10.12.2011, those applications have to be processed on or before 31.12.2011. In this case, the petitioner submitted the application on 20.12.2011 and after submission of applications, ten more days are available for the last date for processing the application on 30.12.2011. In such circumstances, processing the application of the petitioner would have been taken up by the respondents, without rejecting it on the ground of delay in submitting the application by the petitioner.



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10. The respondents have stated in their counter that the application was received by the MSME, New Delhi only on 07.06.2012, after a lapse of 158 days. At this relevant point of time, this Court carefully noted that the said lapses were not observed in the impugned order and the respondent has rejected the claim of subsidy to the petitioner in two lines. Therefore, the contention of the petitioner that the impugned order is a non-speaking order is wholly justified. The respondents have invented reasons for rejection of the petitioner's application by way of counter and additional counter, which seems to be the improved version of impugned order and the same is unsustainable. Generally, schemes with regard to the claim of subsidy were introduced by the Government to encourage entrepreneurs as well as to develop the business growth of small sectors, but the act of the respondents appears to be to refuse genuine and legitimate claim of the entrepreneurs thereby diluting the very object with which the scheme was formulated. It is clear that the 2nd respondent has mechanically passed a non speaking order, which is bereft of any material particulars. In the impugned order, the ground of belated submission was made without specifically mentioning the date on which the petitioner submitted the application and the period within which it has to be submitted. However, in the counter, it is clearly stated that the last date is 10.12.2011. Even as per the counter affidavit, the last date for submission of



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application is 10.12.2011 and the petitioner submitted the application on 20.12.2011, within a period of ten days. Even as on 20.12.2011, the applications submitted by similar applicants have been taken up for processing, but on the ground of delay, the application of the petitioner has not been taken. Thus, only by adopting technicalities, the respondents have rejected the application for subsidy made by the petitioner. In a case of this nature, the respondents, without harping on technicalities ought to have processed the application of the petitioner.

11. In view of the above, the order impugned herein is liable to be set aside and the matter has to be remanded to the 2nd respondent for fresh consideration. Accordingly, the order, dated 02.11.2015 passed by the 2nd respondent is hereby set aside and the matter is remanded to the 2nd respondent for fresh consideration on merits and in accordance with law.

12. In the result, this writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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2. The Deputy Director (CLCSS),
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M. DHANDAPANI, J.

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5. The Chief Manager,
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