2024:DHC:6447-DB

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 811/2024 & C.M.Nos.48058-48059/2024

K C FIBERS LIMITED .....Appellant

Through: Mr.Akshay Srivastava with Mr.Alankrit Bhatnagar with Mr.Suryansh Vashisth, Advocates.

versus

UNION OF INDIA AND ORS .....Respondents

Through: Ms.Monika Arora, CGSC with Mr.Aakash Meena, GP and Mr.Subhordeep Saha, Advocate for R-1& 2.

% Date of Decision: 22nd August, 2024

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present appeal has been filed challenging the order dated 30th May, 2024 passed by the learned Single Judge in W.P. (C) 7886/2013 whereby the learned Single Judge held that the Appellant is not entitled to claim 5% subsidy reimbursement from 23rd March, 2000 under Technology Upgradation Funds Scheme ("TUFS").

2. Learned counsel for the Appellant states that the Appellant is concerned with the import and installation of 24 Projectile Shuttleless Looms in 1998-1999 for which a Rupee Term Loan ("RTL") of

Rs.3,00,00,000/- (Rupees Three Crore Only) was sanctioned under TUFS as enacted by the Respondent No.1 vide Government Resolution dated 24th March, 1999.

3. He states that Clause 3.2(2)(i) of Part II of TUFS allowed the import of second hand projectile shuttle less looms by the eligible applicant subject to a maximum expired (vintage) life of five years as reckoned from the year of manufacture and a residual life of ten years. As per the terms of the TUFS, 5% interest reimbursement subsidy was to be provided on the RTL taken by the applicant.

4. He admits that the Looms imported and installed by the Appellant had an expired (vintage) life of nine years as reckoned from the year of manufacture and a residual life of ten years.

5. He states that the 5th meeting of the Inter Ministerial Steering Committee ("IMSC") was held on 23rd March, 2000 whereby it was decided that the benefit of TUFS would be available to projectile Shuttleless Looms with a vintage life of ten years, instead of five years. He states that in the 12th Meeting of IMSC held on 05th July, 2002, it was clarified that pursuant to the 15th Technical Advisory Monitoring Committee ("TAMC") meeting with respect to eligibility for interest subsidy, the effective date of reimbursement of interest consequent to amendments/modifications approved by IMSC would be the date of the meeting of IMSC. He further states that the RTL was sanctioned on 30th March, 1999 and disbursed after 01st April, 1999. He emphasizes that the project was completed in March, 2000.

6. He states that the last installment of loan was repaid by the Appellant on 25th April, 2006 and the Appellant applied for the benefit under TUFS

within the prescribed period. He states that Respondent No.3 vide its letter dated 13th August, 2010 sanctioned the claim for interest reimbursement subsidy on RTL amounting to Rs. 24,25,000/- out of RTL of Rs.3,00,00,000/-.

7. He states that subsequently the Respondent No. 3 rejected the claim of the Appellant vide letters dated 21st September, 2010 and 18th November, 2010 on the ground that when the Appellant purchased/imported the Looms, the essential eligibility condition under the TUFS was for Looms having vintage life of five years, whereas the machinery of the Appellant had a vintage life of nine years.

8. Per contra, learned counsel for the respondents has drawn this Court's attention to paragraph 8.2 of the impugned order, wherein the learned Single Judge has dealt with and rejected the contentions advanced by learned counsel for the Appellant herein. The relevant portion of the said order reads as under:-

> *"8.2 IMSC in its 12th Meeting held on 05.06.2002 clarified and discussed the effective date of eligibility of interest reimbursement under TUFS consequent to the amendments/modifications approved by the IMSC of TUFS from time to time.* ***It was decided as under****:-*
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> > *IMSC approved that whenever a new machines or equipments which is equal or superior than the bench marked equipments or machines, already included in the existing list of items of the GR, is made eligible under TUFS, the TUFS benefits for such equipments may be extended for the loans disbursed after 01.04.1999. In case inclusion of any machinery/equipment is due to relaxation of norms laid down in the GR of TUFS,* ***the effective date of eligibility of interest reimbursement would be applicable from the date of the meeting****.*
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> (emphasis supplied)

9. Having heard learned counsel for the parties, this Court is of the view that the Appellant imported 24 projectile shuttleless Looms with vintage life

of nine years as reckoned from the year of manufacture with a minimum residual life of ten years which were not eligible for 5% subsidy reimbursement as per relevant clauses of TUFS 1998-1999 Policy. The vintage life was increased from five years to ten years in view of the Circular No.1, which was made applicable from the date of the meeting i.e. 23rd March, 2000 only, and as such the Appellant would not be entitled to claim said benefit. This Court is further of the view that if the Appellant's submission were to be accepted, it would amount to giving retrospective effect to the 2000 Policy, which has not been so stated in the said Policy.

10. For the aforesaid reasons, present appeal along with the applications is dismissed.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

AUGUST 22, 2024
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