$~7

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

\+ W.P.(C) 17701/2024 & CM APPL. 75338/2024

SHIRDI INDUSTRIES LTD .....Petitioner

Through: Mr. Pankaj Kumar and Ms. Shruti Sharma, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Rakesh Kumar, CGSC with Mr. Gokul Sharma, GP and Mr. Sunil, Advocate for R-1 & 2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **23.12.2024**

1. The present petition impugns communication dated 2nd April, 2024,[1] whereby Petitioner's claim for subsidy was closed by the Respondents and also seeks to direct the Respondents to approve Petitioner's claim under the Industrial Development Scheme for Himachal Pradesh & Uttarakhand, 2017.[2]

2. A brief background leading to the filing of the present petition is as follows:

2.1. On 23rd April, 2018, the Respondents launched the Industrial Development Scheme for Himachal Pradesh & Uttarakhand, 2017 for the purpose of promotion and development of industries in the States of

[1] "the impugned communication"
[2] "the Scheme"

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 30/12/2024 at 12:08:26

Uttarakhand and Himachal Pradesh. The said Scheme is applicable to all new and existing industrial units undertaking substantial expansion in the manufacturing and service sector.

2.2. The Petitioner set up new units for manufacturing of two distinct new articles i.e. Thin MDF Board and Plywood. For this purpose, Petitioner sought financial assistance from two Non-Banking Financial Corporations – M/s Edelweiss Asset Reconstruction Company Limited and M/s JM Financial Asset Reconstruction Company Limited, which was duly sanctioned to them.

2.3. In order to take the benefit of the Scheme, the Petitioner applied under the said Scheme through application No. IDS/UK/115.

2.4. During the pendency of Petitioner's application, press release dated 6th September, 2023 was issued approving an additional outlay fund of INR 1164.53 Crores in order to meet the committed liabilities up to 2028-29 for the State of Himachal Pradesh and Uttarakhand. Thereafter, on 9th November, 2023, the Ministry of Commerce and Industry, Respondent No.1 published a notification declaring that the aforesaid approved additional outlay is for 774 already registered units and no further claims shall be entertained from the un-registered units in the future.

2.5. Subsequently, on 2nd April, 2024, Respondent No.1 issued the impugned communication stating that the Petitioner is not registered and therefore, their claim cannot be accepted. Their application status now shows that their application is closed.

3. Mr. Pankaj Kumar, counsel for Petitioner, urges that the impugned communication is unreasonable and arbitrary. He contends that the Petitioner is a duly registered entity under the Scheme and places reliance on

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 30/12/2024 at 12:08:26

the copy of application annexed with the petition to assert that while the status displays "closed", yet it also categorically mentions a registration No. 1785/SIA/IMO/2017. He also places reliance on Office Memorandum dated 14th December, 2023 conveying the decision of the minutes of the 13th Empowered Committee meeting held on 11th December, 2023 wherein the details of grant of registration are mentioned.

4. On the other hand, Mr. Rakesh Kumar, CGSC for the Respondents No. 1 and 2, defends the impugned order on the ground that the Petitioner is not entitled to any benefit of the Scheme as the press release posted on 6th September, 2023 clearly specifies that additional outlay amount was meant only for 774 registered units. Since the Petitioner is not a registered unit, they are not entitled the benefits of the said Scheme. For ease of reference, the press release has been extracted below:

> ***"Cabinet approves additional fund requirement under Industrial Development Scheme, 20 17 for Himachal Pradesh and Uttarakhand***
>
> *Additional financial outlay of Rs. 1164 crore approved*
>
> *Posted On: 06 SEP 2023 3:48PM by PIB Delhi*
>
> *The Cabinet chaired by Hon'ble PM Shri Narendra Modi has approved an amount of Rs. 1 164.53 cr. for Industrial Development Scheme (IDS), 2017 for Himachal Pradesh and Uttarakhand.*
>
> *The government of India announced Industrial Development Scheme, 2017, in 2018 vide Notification No. 2(2)/201 8-SPS dated 23rd April 2018 for the state of Himachal Pradesh and Uttarakhand. Under this scheme, the total financial outlay was Rs. 131.90 crore. This allocated fund has been exhausted during the financial year 2021 -22. Further, the requirement of an additional fund to meet the committed liabilities up to 2028-2029 is Rs. 1164.53 Crore. For allocation of this additional financial outlay, approval of the Cabinet was solicited under Industrial Development Scheme, 201 7.*
>
> *2. The Cabinet, in its meeting held today, considered and approved the proposal of the Ministry of Commerce and Industry, Department*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 30/12/2024 at 12:08:26

for Promotion of Industry and Internal Trade for Central Sector Scheme for Industrial Development Scheme 2017 for Himachal Pradesh and Uttarakhand for additional fund requirement to meet the committed liabilities under the scheme upto 2028-29. As per the approval of additional funds under the above scheme, the following incentives would be benefitted under the scheme.

i. ***Central Capital Investment Incentive for Access to Credit (CCIIAC):***
All eligible new industrial units and existing industrial units on their substantial expansion in the manufacturing and service sector located anywhere in the States of Himachal Pradesh and Uttarakhand will be provided Central Capital Investment Incentive for access to credit (CCIIAC)
@30% of the investment in Plant and Machinery with an upper limit of Rs.5.00 crore.

ii. ***Central Comprehensive Insurance Incentive (CCII):***
All eligible new industrial units and existing industrial units on their substantial expansion located anywhere in the states of HP and Uttarakhand will be eligible for reimbursement of 100% insurance premium on insurance of building and Plant & Machinery for a maximum period of 5 years from the date of commencement of commercial production/operation.

3. ***Expenditure involved:***
The financial outlay of IDS, 2017 for the State of Himachal Pradesh & Uttarakhand was only Rs. 131.90 crore, which was released during 2021-2022. Further, to meet the committed liabilities through the additional requirement of funds under the scheme up to 2028-29, the cabinet has approved the additional financial outlay amounting to Rs. 1164.53 crore under the scheme.

It is anticipated to generate direct employment opportunities for about 48607 people by 774 registered units."

5. The Court has heard the counsel for the parties and remains unconvinced by the contentions advanced by the Petitioner. The Respondents, through communication dated 2nd April, 2024 clearly specified that the Petitioner is not a registered entity under the Scheme. The said communication reads as follows:

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 30/12/2024 at 12:08:26

"Sir,

I am directed to refer to your trail mail dated 01 .04.2024 on the above mentioned subject and to inform the your application bearing No. IDS/UK/115 is unregistered and a decision has been taken to give incentives only to the already registered units in the States of Himachal Pradesh and Uttarakhand under IDS, 2017. No new registrations are to be entertained. A copy of this Department's communication dated 9th November, 2023 is also enclosed for your reference.

2. Further, your attention is invited to clause 7.3 of Scheme Notification No. F. No. 2(2)/2018-SPS dated 23.04.2018 wherein it is explicitly mention that "The final grant of registration/in-principle approval will be decided by the Committee, which will, inter-alia, consider the prima-facie eligibility of the industrial unit, availability of budget and decide the eligibility for registration under the Scheme. No Industrial unit will have the right to register under Industrial Development Scheme for H.P & Uttarakhand or claim the benefits unless it is specifically approved by the Central Government. No interest on account of delay in payment of incentive can be claimed by the unit. The beneficiary of this scheme has to furnish an undertaking to abide by the terms and conditions of the scheme"."

6. Further, Mr. Rakesh Kumar has also confirmed to the Court that Petitioner's unit was never registered. This statement is taken on record.

7. Accordingly, in absence of Petitioner being a registered unit and the Scheme itself being specifying that the outlay was meant only 774 registered units in which the Petitioner does not fall, in the opinion of the Court, no relief can be granted to Petitioner. This is an addition to the fact that the claim made here is for grant of subsidy, for which Petitioner does not have any vested right.

8. At this juncture, it must also be noted that Mr. Pankaj Kumar has pointed out that similar matters are pending consideration before this Court including W.P.(C) 2475/2024. However, as clarified by Mr. Rakesh Kumar, in the said cases, when notice was issued, counsel had not received specific instructions. In any event, the Court has heard counsel for parties in the

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 30/12/2024 at 12:08:26

instant case extensively and therefore, the view noted above has been formed on the basis of the facts disclosed by the counsel for parties.

9. Accordingly, the present petition is dismissed, along with pending application.

SANJEEV NARULA, J

DECEMBER 23, 2024

d.negi

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 30/12/2024 at 12:08:26