IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16363 of 2024

==

M/s Maa Rolling Mills a proprietorship firm having its office at C-20, Industrial Area, Patliputra, P.S.-Patliputra, District-Patna, through its Proprietor-Arvind Kumar Jha (Male), aged abotu 65 years, S/o Late Bibhuti Bhushan Jha, R/o Dadi Ji Sweets Lane, Boring Road, PS-SK Puri, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Industries, Government of Bihar, Patna.
2. The State Investment Promotion Board Patna through its Secretary.
3. The Secretary, Department of Industry, Government of Bihar, Patna.
4. Commissioner cum Secretary, Department of State Taxes, Government of Bihar, Patna.
5. Director, Industries, Department of Industry, Government of Bihar, Patna.
6. The Director (Technical Development), Department of Industry, Government of Bihar.
7. The General Manager, District Industries Centre, Department of Industries, Government of Bihar, Patna.

... ... Respondent/s

==

Appearance :
For the Petitioner/s : Mr. Abhishek Kumar
For the Respondent/s : Mr. Standing Counsel (11)

==

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

10 19-11-2025

1. The petitioner has approached this Court for quashing the communication dated 05.11.2022 sent to the petitioner via email, whereby he was informed by the State Investment Promotion Board (SIPB), Department of Industries, Government of Bihar, that his claim for VAT reimbursement do not have the approval of the competent authority.

2. The petitioner further prayed for a direction upon the respondent/authorities to pay the petitioner as per its

entitlement under the Bihar Industrial Incentive Policy, 2006, under the head of reimbursement of VAT.

3. It is the case of the petitioner that the Government of Bihar introduced the Bihar Industrial Incentive Policy, 2006 with the objective of accelerating industrial growth in the State and reviving sick and closed units by creating a favorable environment for attracting domestic as well as foreign investment. Under Clause 2(vi), read with Clause 10 of the said Policy, new industrial units which commence the commercial production within five years from 01.04.2006 were made eligible for an incentive in the form of reimbursement of 80% of the admitted VAT amount deposited by such units in the State government. The benefit of VAT reimbursement was available for a total period of ten years.

4. Acting upon the promise and incentives assured under the Bihar Industrial Incentive Policy, 2006, the petitioner established an iron and steel rolling mill at Patna by investing a sum of Rs. 52.82 lakhs. The unit commenced its commercial production on 17.08.2006. After due inspection and verification, the respondent/authorities issued an Eligibility Certificate dated 30.03.2009 (Annexure P/4), declaring the petitioner eligible for reimbursement of 80% of the VAT paid, in terms of 2006 Policy.

5. Pursuant thereto, the petitioner was granted VAT reimbursement from August 2006 till 22.01.2015, except for the last three quarters (eight months), i.e., January 2016 to August 2016 amounting to Rs. 17,76,460.88/-.

6. Thereafter, for the remaining period i.e. from January 2016 to August 2016, the petitioner submitted an application before the Deputy Commissioner, Commercial Taxes Department, on 16.09.2019. His application remained unattended and in September 2022, the petitioner was informed that the procedure of claim of reimbursement had been revised and the claim must now be filed through the online portal of the Industries Department. The difficulty that arose was that the portal did not contain any provision for filing claims under the 2006 Industrial Policy and accepted applications only under the 2011 and 2016 Policies. Aggrieved thereby, the petitioner raised a grievance by email dated 07.10.2022. In response, the Department, through its email dated 05.11.2022, stated that the petitioner's claim had not received approval from the competent authority and therefore, could not be processed further.

7. Learned counsel for the petitioner argued that after coming into force the 2006 Policy, the petitioner/company set up a manufacturing unit of iron and steel rolling mill and in

terms of the policy, commenced production on 17.08.2006 i.e., within five years from the cut of date i.e., 01.04.2006. The petitioner/unit was fully covered by the 2006 Policy, as such, it was eligible for 80% VAT reimbursement. Vide Annexure 4 to the writ petition, the respondent/authorities duly declared the petitioner/unit eligible for 80% VAT reimbursement. The authorities also accepted the claim of the petitioner for reimbursement of 80% VAT amount and paid the same from august 2006 to 22.01.2015.

8. Learned counsel for the petitioner further argued that the issues involved in the present writ petition is fully covered by the judgment dated 22.03.2024 of this Hon'ble Court passed in CWJC No. 10038 of 2020 (M/s Essell Lubricants and Chemicals Private Limited vs. The State of Bihar), wherein identical claims arising out of the 2006 Industrial Policy were adjudicated. Accordingly, learned counsel makes a prayer to dispose this writ application in terms of the order dated 22.03.2024 passed in CWJC No. 10038 of 2020.

9. On the other hand, learned counsel appearing for the respondent/State contended that the petitioner had never obtained approval from the State Investment Promotion Board (SIPB) and/or the District Level Single Window Clearance

Committee. The petitioner's claim pertains to the 2006 Policy, the tenure of which has already expired, and the said Policy now stands closed. The subsequent Industrial Policies of 2011 and 2016, came into existence and in terms of Clause 3 (iii) of Industrial Policy, 2011, the petitioner was only entitled for 25% of VAT reimbursement.

10. He further submits that the petitioner cannot place reliance upon the judgment of this Hon'ble Court dated 22.03.2024 passed in CWJC No. 10038 of 2020, inasmuch as the said judgment has not attained finality and has already been challenged by the respondent/authorities in LPA No. 576 of 2024 which is still pending.

11. I have heard learned counsel for the parties and have perused materials available on record as well as the order dated 22.03.2024 passed in CWJC No. 10038 of 2020.

12. It is not disputed that the petitioner commenced its commercial production on 17.08.2006 and received VAT reimbursement at the rate of 80% up to 22.01.2015. The petitioner also holds a valid Eligibility Certificate issued by the competent authorities under the Bihar Industrial Incentive Policy, 2006.

13. The factual matrix in the present case stands on

the same footing as that rendered in CWJC No. 10038 of 2020, wherein, this Court categorically held that, once an Eligibility Certificate has been granted, once reimbursement has been sanctioned for earlier years, and once the industrial unit has altered its position on the basis of the incentives promised under the Industrial Policy, the State cannot subsequently rely on later policies to deny the benefits accruing from the 2006 Policy.

14. In the present case as well, the respondents themselves had issued the Eligibility Certificate and had consistently granted reimbursement for nearly nine years without raising any such objection. Moreover, a subsequent policy such as the 2011 Policy cannot operate retrospectively to take away or restrict benefits already accrued to the petitioner under the 2006 Policy. This Court in Essell Lubricants (supra) already held that the plea of absence of SIPB approval is not acceptable and preposterous when the State itself granted and acted upon the Eligibility Certificate over an extended period. The respondents, therefore, cannot now shift their stand to the prejudice of the petitioner.

15. In view of the aforesaid discussion, this Court holds that the petitioner had duly acted upon the promise contained in the 2006 Policy, altered his financial position

accordingly, and possesses a valid Eligibility Certificate that entitles him to reimbursement of 80% of the admitted VAT for the entire ten-year period and the pendency of LPA No. 576 of 2024 against the judgment dated 22.03.2024 passed in CWJC No. 10038 of 2020, does not dilute its precedential value in absence of any stay order by the Division Bench.

16. Therefore, the impugned communication dated 05.11.2022 denying the petitioner's legitimate claim is found to be arbitrary, unreasonable, contrary to the doctrine of promissory estoppel and is thereby quashed.

17. The respondents are directed to process and release the balance VAT reimbursement due to the petitioner for the period from January 2016 to August 2016, i.e. Rs. 17,76,460.88/- within a period of two months from the date of receipt/production of a copy of this order.

18. with the aforesaid directions and observations, the present writ application is allowed.

(Anil Kumar Sinha, J)

HarshPandey/-

U			