IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

111 LPA No.2338 of 2025(O&M)
Date of Decision : **August 08, 2025**

State of Punjab and others
……..Appellants

Vs

M/s Gupta Steel Udyog
Respondent

CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present : Mr. Maninder Singh, Addl. AG, Punjab.

Mr. Sunil Chadha, Sr. Advocate assisted by
Mr. Lakshay Bector, Advocate,
Ms. Tanvi Dhull, Advocate
for the respondent.

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ROHIT KAPOOR, J.

CM-5884-LPA-2025

1. The present application has been filed for condonation of delay of 146 days in filing of the appeal.

2. For the reasons mentioned in the application, the present application is allowed and the delay of 146 days in filing of the appeal is condoned.

Main case

3. Challenge in the present Letters Patent Appeal is to the judgement dated 31.01.2025 passed by the learned Single Judge in CWP No.10749 of 2020, whereby the impugned letter dated 15.5.2020 (Annexure P-10), refusing the sanction of investment incentive in favour of the

respondent-petitioner, has been set aside and the appellants have been directed to forthwith release the amount of Rs.9,82,000/- alongwith 6% interest from the date of sanction.

4. The facts involved in the matter are not in dispute.

5. In pursuance to the incentive policy issued by the State of Punjab vide notification dated 28.9.1990, an amount of Rs.9,84,093.80/- was sanctioned as investment incentive in favour of the respondent-firm vide letter dated 15.7.1996. However, despite valid sanction, the investment incentive was not released. The respondent-firm continued operations till June 1996, but thereafter shut down the unit owing to various reasons. Pertinently, the respondent-firm continued to operate despite shutting down of the unit in question. On 21.10.2015, the firm received a letter from the office of appellant No.3, which embodied instructions that in order to implement the directions of the learned Single Judge of this Court issued in the case of "**M/s Balak Gases Oxygen Plant and others Vs. State of Punjab and others", AIR 2012 P&H 30**, the firm was required to submit certain documents for release of the sanctioned investment incentive. Accordingly, the firm submitted all the relevant documents. However, neither the investment incentive was released nor any intimation in this regard was received from the authorities concerned. This inaction led to submission of various representations by the respondent-firm and ultimately vide impugned letter dated 15.5.2020, the request of the respondent-firm for release of the investment incentive was declined by the authority concerned, on the solitary ground that owing to change in the constitution of the firm, the same cannot be released in view of the guidelines of the State of Punjab dated 13.11.2019.

6. Aggrieved therefrom, the respondent-firm filed CWP No. 10749 of 2020 wherein, it challenged the impugned rejection of its claim *inter-alia* on the ground that it has already been held in **M/s Balak Gases Oxygen Plant and others' case (supra),** that the restrictions brought into effect by way of the guidelines dated 13.11.2019, cannot be applied retrospectively even when the subsidy fell due prior thereto. The respondent also relied upon the judgement passed by a learned Single Judge of this Court in **"M/s Medi Gas Corporation Vs. State of Punjab and others", 2024 SCC Online P&H 3671**, wherein it was held that a brief status of a partnership firm, as a sole proprietor on account of resignation of one of the partners, and before execution of fresh partnership deed, inducting new partners cannot be construed as conferring the status of a sole proprietorship so as to attract Clause 1.2.3 (2) of the Operational Guidelines and to hold a partnership firm disentitled from the benefits that have already enured in its favour.

7. The claim of the respondent-firm was opposed by the State primarily on the ground that the sanctioned subsidy was not to be disbursed to the closed units besides the fact that in pursuance to the judgment in Balak Gases' case (supra), the guidelines dated 13.11.2019 were framed wherein the incentive was not to be released if the firm had become a sole proprietorship or had undergone reconstitution. It was argued that in the case of the respondent-firm, various changes were made to the constitution of the said firm and it also became a sole proprietorship for certain period of time and thus in view of the guidelines, it was not entitled for receiving the sanctioned investment incentive/subsidy.

8. The learned Single Judge after considering the arguments of the parties and examining the ratio of the judgements, as regards their

applicability to the facts of the case, ultimately held that the emphasis of the State on the guidelines dated 13.11.2019 is misplaced. The relevant paragraphs containing the reasoning of the learned Single Judge, are reproduced as under:-

> *"19. The reason for drawing the above inference stems from the factum that, the issue "whether the petitioner firm has been dissolved or it is a case of deemed dissolution" needs to be examined as per the apt provisions of law. The fact, which is not under dispute is that, originally the petitioner firm was constituted on 04.07.1994 with four partners, namely, Brij Lal, Rajiv Kumar, Ramesh Chander and Kuldeep Rai. Soon thereafter, one Satyapal Sharma was inducted as the fifth partner in the petitioner firm on 16.09.1994. In June, 1996, the petitioner firm shut down its unit of Steel Rolling Mill, and thereafter, three out of the five partners retired from the petitioner firm w.e.f. 31.12.1996, whereupon, the petitioner firm continued with only two partners, namely, Brij Lal and Rajiv Kumar. However, vide retirement deed dated 31.03.2000, Rajiv Kumar also retired from the petitioner firm, which resulted in the petitioner firm continuing with only one Brij Lal. Thereafter, w.e.f. 01.04.2010, Rajiv Kumar (one of the erstwhile partners) along with his son Vinod Kumar joined as partners with Brij Lal in the petitioner firm. On 26.06.2018, the demise of Brij Lal occurred, whereupon, his grandsons Chirag Gupta and Sarthak Gupta joined as partners with Rajiv Kumar and Vinod Kumar in the petitioner firm. In this way, as on date, Rajiv Kumar, Vinod Kumar, Chirag Gupta and Sarthak Gupta are partners in the petitioner firm.*
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> *20. Moreover, as per Section 25 of the Partnership Act, 1932, every partner has an unlimited obligation/liability against the partnership firm and has all rights to operate the accounts. Therefore, each partner, who has an obligation towards all other partners, can act and/or operate account and receive payments for and on behalf of other partners. Gainful reference in this regard can be made to M/s Medi Gas Corporation's case (supra), wherein, this issue has been examined by the Co-ordinate Bench. The relevant paragraphs of this verdict are reproduced hereunder:-*
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> > *"16. That even otherwise, as per the law, every partner has an unlimited obligation/liability against the partnership firm and has all rights to operate the accounts as per Section 25 of the Partnership Act, 1932. Therefore, each partner has an obligation towards all other partners and that he can act and/or operate account and receive payments for and on behalf of other partners. Such a distinction, which has been referred to by the respondents to portray that the earlier identity of the petitioner firm having*

undergone material change, it would be deemed to have been dissolved (notwithstanding reconstitution of the partnership) even though new partnership is admitted by the respondents in their own communication dated 18.11.2022 bearing Memo No. INC/Sub/Ludhiana/M-259/5420-A.

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18. A perusal of the Notification shows that the same was intended to ensure release of capital subsidy and attempts to streamline the process in light of the judgment in Balak Gases (supra).

19. Surprisingly, the said guidelines permit change in constitution or reconstitution of a partnership firm but disentitle the petitioner for an event of change of event and does not recognize the petitioner regaining the same status.

20. The respondent cannot be allowed to read a change merely to the prejudice of the petitioner and discard a change which fulfils the requirement. The exercise of power to determine eligibility cannot be selective and even a change which favours the petitioner too need to be considered by the respondent especially when the petitioner regained its status before the release of subsidy. It is required to be kept in mind that all these restrictions are being apprised only by way of notification dated 13.11.2019and cannot be applied retrospectively even when the subsidy fell due in 2011.

21. The respondents cannot be permitted to take a stand at their convenience. Vide the aforesaid communication, they have acknowledged that the status of the petitioner is that of a partnership unit, while declining the case of the petitioner unit for release of the capital subsidy. The stand of the respondents is nothing more than a self serving statement to cover up their lapse and to find a justification for their acts before this Court. The provisions as contained in the operational guidelines notified in the year 2019 need to be reconciled and harmoniously constructed. A brief status of a partnership firm, as a sole proprietor on account of resignation of one of the partners, and before execution of fresh partnership deed, inducting new partners cannot be construed as conferring the status of a sole proprietorship so as to attract Clause 1.2.3 (2) of the Operational Guidelines and to hold a partnership firm disentitled from the benefits that have already enured in its favour. This would not have been the intent even of the appropriate government since any such clause would easily *be avoided by mere induction of an additional partner before resignation of an existing partner. Thus, a mere logistic lapse cannot be construed as depriving a person of a right that has accrued in his favour."*

21. This Court concurs with the hereinabove extracted view taken by the Co-ordinate Bench. The Incentive Policy entitled the petitioner firm to investment incentive, which was duly sanctioned in its favour on 15.07.1996. Therefore, the subsequent guidelines dated 13.11.2019, which were framed only for the purpose of setting out circumstances for disbursement of investment incentive/capital subsidy, cannot snatch the preexisting rights of the petitioner firm. The respondent-State of Punjab cannot be expected to act arbitrarily by taking shelter of the guidelines dated 13.11.2019 and thus declining the rightful claim of the petitioner firm. Moreover, the petitioner firm has a legitimate expectation, inasmuch as, on account of the promise made by the respondent-State of Punjab, it established its unit of Steel Rolling Mill and brought capital in the State of Punjab. Therefore, the doctrine of estoppel restrains the respondent-State from denying the rightful claim of the petitioner firm."

9. The learned counsel for the appellants, has assailed the correctness of the judgement passed by the learned Single Judge before us, on the limited ground that the firm was not entitled for the investment incentive in view of the fact that it had undergone various changes and had also been a sole proprietorship for some period of time. The learned counsel for the appellants contends that in view of the guidelines of 2019, the respondent-firm was not entitled for the investment incentive. He has, however, conceded that the judgments in **'M/s Balak Gases and M/s Medi Gas Corporation' (supra)** have attained finality, and has not argued any other point before us.

10. The learned counsel for the respondent submits that the judgment of the learned Single Judge does not suffer from any infirmity and the issue involved stands squarely covered by the aforementioned judgments of this Court in **M/s Balak Gases Oxygen Gas Plant and M/s Medi Gas Corporation (supra).**

11. We have heard the learned counsel for the parties and have perused the record with their able assistance.

12. Undisputedly, it has been held in **M/s Balak Gases'** case that the rights accruing in favour of any industry/firm cannot be taken away by any subsequent guidelines by giving retrospective effect to the same. It is also the conceded case of the appellants that the issue relating to conversion from partnership firm to proprietorship, has also attained finality in a similar matter i.e. CWP No.5575 of 2023, **M/s Medi Gas Corporation case**, decided on 13.03.2024. In such circumstances, when incentives have been granted to similarly situated entities, denial of incentives to the respondent firm, would be discriminatory and would be hit by Article 14 of the Constitution of India.

13. In view thereof, we do not find any ground to interfere in the judgment dated 31.1.2025 passed by the learned Single Judge and the present letters patent appeal is dismissed.

14. All pending applications, if any, stands disposed of accordingly.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

August 08, 2025
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No