
(1997) 02 P&H CK 0149
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition 12740 of 1994

Hard Core (India), Bhiwani

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 05-02-1997

Acts Referred:

Citation : (1997) 2 RCR(Civil) 551

Hon'ble Judges : T.H.B.Chalapathi, J

Advocate : Mr. Amol Rattan, Asstt. Advocate General, Haryana., Mr. J.S. Rathee, Senior Standing Counsel for the Union of India, Mr. Arun Jain, Advocates., Mr. Ashok Gupta, Mr. R.K. Arora, Advocates for appearing Parties

Judgement

T.H.B. Chalapathi, J.—In all these three writ petitions the petitioners' grievance is that they have not been disbursed the subsidy to which they are entitled under the Central Investment Subsidy Scheme, 1971 for industrial units to be set up in the backward areas.

2. In CWP No. 12741 of 1994, the petitioner is M/s. H.S. Strips Private Limited, Bhiwani. According to the petitioner, it set up a small scale industrial unit in the backward area of Bhiwani for manufacturing and processing of hardened and tempered steel in the year 1988 because of lucrative benefits of Central Investment Subsidy of 25% on the fixed assets and investments provided by the Union of India. The petitioner industry was registered on 24.4.1988. It was registered with the District Industries Centre, Bhiwani on 30.9.1988. The petitioner also obtained a loan of Rs. 16.92 lacs from the Haryana Financial Corporation. The petitioner company completed its project and went into production in the month of April, 1989. Thereafter the petitioner applied on 1.8.1989 for release of 25 per cent of Central Investment Subsidy. The petitioner completed all the formalities, but the petitioner company was not released the subsidy. It is further averred that the central subsidy was released to some other industries including Gupta Oil and General Mills who filed CWP No. 5996 of 1991 for the same relief and a direction was issued to disburse the subsidy to the

petitioner to which it was held entitled under the orders dated 28.3.1989 by the State Level Committee.

3. In the written statement filed by respondent No. 3, it is inter alia contended that the Central Investment Subsidy Scheme was discontinued with effect from 30.9.1988 and the central subsidy was disbursed only to those industries to whom the Central Government sanctioned and released the central investment subsidy. Since no subsidy was sanctioned and released by the Union of India to the petitioner, there was no question of disbursing the same. It is averred in the written statement filed by respondent No. 2 that the grant of subsidy is an incentive and it cannot be claimed as a matter of right and since the Govt. of India discontinued the Central Investment Subsidy Scheme after 30.9.1988, the petitioner industry is not entitled to any subsidy. It is further averred that there was no discrimination as the subsidy was released only to those industries to whom the sanction was already accorded by the Central Government prior to discontinuation of the scheme.

4. The Union of India in its written statement contended inter alia that the petitioner is not eligible for reimbursement of any subsidy from the Central Government as no subsidy was granted by the State Government. It is further averred that the Union of India continued the scheme for a limited period only and the petitioner's unit was registered with the District Industries Centre, Bhiwani on 30.9.1988. The petitioner company applied for Central Investment Subsidy to the Haryana Financial Corporation on 1.8.1989 i.e. much after the expiry of the scheme on 30.9.1988. Therefore, it is contended that the petitioner is not entitled to any subsidy.

5. In CWP No. 12740 of 1994, the petitioner is M/s. Hard Core (India) while in CWP No. 17206 of 1994, the petitioner is Rawalwasia Ispat Udyog Limited. In both these writ petitions also, the petitioners have claimed the central investment subsidy. In CWP No. 12741 of 1994, the petitioner company submitted its application for disbursement of the central investment subsidy on 21.1.1989 while the petitioner in CWP No. 17206 of 1994 filed its application for the grant of central investment subsidy on 15.3.1989.

6. Similar contentions have been raised by the respondents in their respective written statements filed in these two writ petitions as were raised in the written statements filed by respondent Nos. 1, 2 and 3 in CWP No. 12741 of 1994.

7. After hearing the learned Counsel for the parties, I am of the opinion that the controversy in these writ petitions is squarely covered by the decision of the Supreme Court in Civil Appeal No. 6240 of 1994 titled as Umesh Textile and another v. Union of India and another dated December 5, 1995. By an order dated August 31, 1995, the apex Court directed the industries to make a representation before Mrs. Pratibha Karan, Joint Secretary, Ministry of Industry under Department of Industrial Development, Udyog Bhavan and that she shall decide the representation and the decision taken by her shall be placed before

the Court. According to the directions of the Supreme Court, Mrs. Pratibha Karan, Joint Secretary, Ministry of Industry, passed an order on 16.11.1995 and placed the same before the Supreme Court. The Supreme Court after considering it, observed as follows :

"We are of the view that so far as the cutoff date is concerned, the Joint Secretary has taken a fair and just stand. We agree with her that all the applications filed upto September 30, 1988 should be considered for grant of central investment subsidy provided the said applications were complete in terms of the scheme dated August 26, 1971 as modified from time to time."

Thus, it is clear that the Supreme Court has categorically stated that the applications filed before September 30, 1988 can be considered for central investment subsidy provided the applications are complete under the scheme. Thus in all the three cases, the applications were filed after 30.9.1988 which is the cutoff date for making the applications for the grant of central investment subsidy. As the Hon''ble Supreme Court approved the cutoff date for applying to get central investment subsidy under the scheme as modified from time to time and held that those industries which have applied for the grant of central investment subsidy before 30.9.1988 alone were entitled to the same, the petitioners in all the three writ petitions which have applied for central investment subsidy after the cutoff date i.e. 30.9.1988, are not entitled to central investment subsidy under the scheme. In this view of the matter all the three writ petitions are liable to be dismissed in view of the decision of the Supreme Court referred to above.

The result is, all the three writ petitions fail and are, accordingly, dismissed, but in the circumstances of the case, there will be no order as to costs.