

Trishala Electrolytics Private Limited Vs Government of India, Ministry of Small Scale Industries and Others

Court: Karnataka High Court

Date of Decision: Nov. 9, 2015

Hon'ble Judges: Anand Byrareddy, J.

Bench: Single Bench

Advocate: Mahesh A.S., Advocate, for the Appellant; A. Rajesh, Central Government Counsel, for the Respondent

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

Anand Byrareddy, J.

Heard the learned Counsel for the petitioner and the learned Counsel for the respondents.

2. The petitioner is a private limited company incorporated under the Companies Act, 1956. It is engaged in the business of manufacturing

Electrolytic Capacitors, Servo Controlled Voltage stabilizers and Panel Boards. The petitioner has been in the manufacturing business since 1993

and it is also a Small Enterprise as defined under the Micro Small and Medium Enterprise Development Act, 2006.

The Government of India, as stated, is operating a Scheme for the purpose of technology upgradation of small scale industries known as the Credit

Linked Capital Subsidy Scheme (CLSCSS). Initially, the Scheme provided for 12% capital subsidy to Small Scale Industrial Units, including tiny

units. This has been raised to 15%. The CLSCSS Scheme enumerates various sectors and also enlists the names of various machinery, which are

eligible for the subsidy and it is contained in the book-let which is annexed as annexure-B to the petition.

For the purpose of implementation of the Scheme, the second respondent and the National Bank for Agricultural and Rural Development

(NaBAARD) were identified as the nodal agencies, which would process the application of the Small Scale Industries (SSIs).

The petitioner being a SSI, was eligible for subsidy under the CLCSS. During the year 2011, the petitioner had sought a loan in respect of a

particular machine known as "Automatic Winding Machine" for its manufacturing plant and had submitted its application for subsidy to the third

respondent on 18.7.2011 for the grant of 15% subsidy over the cost of the plant and machinery which it had purchased. The third respondent had

forwarded the application of the petitioner to its head office and requested it to further process the application of the petitioner. The second

respondent had returned the application with an endorsement that the machinery over which the petitioner was seeking subsidy was not eligible for

grant of subsidy. The petitioner, therefore, was in a quandary as it did conform to the specifications.

Therefore, the petitioner had approached the Ministry of Micro, Small and Medium Enterprises, Government of India, which administers the

CLCSS and sought for clarification with regard to eligibility of its machinery for grant of subsidy. The Ministry had issued an Eligibility Certificate

and clarified that the machinery purchased by the petitioner was eligible for subsidy. It is thereafter that the petitioner wrote to the third respondent

and brought to its attention that the machinery procured by the petitioner was eligible for subsidy. However, the second respondent had again

issued another endorsement rejecting the application of the petitioner by merely ticking the standard form endorsement, as was issued in the first

instance, to state that the petitioner was not eligible and the machinery was not in terms of the specifications as per Annexure-B. It is that which is

under challenge.

3. The learned counsel for the petitioner would point out that the specifications contained in the booklet issued in respect of the Scheme speaks

about the description of the machinery which are eligible for grant of subsidy and at item No. xix of the Appendix, Automatic or CNC coil winding

machines are mentioned as being eligible for grant of subsidy. The machine procured by the petitioner is an Automatic Winding Machine and as

such, the petitioner is entitled for subsidy. This is evident from the invoices issued by the vendor of the machine.

4. As can be seen, it was a standard format providing for various reasons as to whether an application could or could not be rejected and the

respondent has merely ticked a particular column which reads as follows:

Whereas, Micro, Small, and Medium Enterprises (MSME), which is an agency of the Government of India, Ministry of Micro, Small, and Medium

Enterprises, has by its letter dated 14.12.2011 has stated as follows:

MSME/CLCSS/3/11-12, 14/12/2011

Trishala Electrolytics Private Limited,

A-111, Industrial Estate,

Rajajinagar,

Bangalore 560 044

Sub:-- Subsidy claim under CLCSS - Reg.

Sir,

Please refer to your letter no nil, dated 02/12/2011 regarding the subject matter, requesting this office to examine and to issue an eligibility

certificate. This matter has been examined along with the documents submitted by you and it is to inform you that the following

equipments/machines are eligible for subsidy claim under CLCSS, at present.

Yours faithfully,

Sd/-

R.Gopinath Rao

Assistant Director (HOSY/CLCSS)

Notwithstanding such a clarification by MSME, a further application made before the second respondent has met with the same fate in the second

respondent having issued a similar endorsement, as earlier.

The primary contention of the learned counsel for respondent No. 2 is that the document at Annexure -E was never supplied to the second

respondent and the second respondent was under the impression that the petitioner was merely making second application against the endorsement

issued earlier and hence, a similar endorsement has been issued.

5. This may not be tenable since the petitioner claims that he had enclosed Annexure -E issued by MSME along with the application. Though there

is a controversy as to this assertion, it is now made clear that the second respondent shall once again consider the claim of the petitioner with

reference to Annexure - E, a letter issued by MSME dated 14.12.2011 and if respondent No. 2 is still not agreeable as regards its opinion that the

machinery does not conform to the specifications contemplated under the Booklet issued under the Scheme, it shall state its detailed reasons in that

regard. For otherwise, it is bound to accept the application and recommend that the petitioner is entitled to subsidy.

One other apprehension of the petitioner is that the second respondent is known to drag its feet in such circumstances and it is likely that there will

not be timely consideration of the application and the entire exercise would be rendered futile if the petitioner is to be denied subsidy on the ground

that the Scheme is no longer in existence. Therefore, the second respondent is directed to expedite consideration of any such application, which the

petitioner shall resubmit forthwith, in any event, within three days from the date of receipt of a copy of this order and respondent No. 2 shall

consider such application and process the same within one week from the date of such application.

It is not necessary to indicate that since there is a controversy as to whether or not the machinery conforms to specifications, the present

application to be resubmitted shall be treated as an application dating back to 18.7.2011.

With that observation, the petition stands disposed of.