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

% **Reserved on: February 05, 2024**
Decided on: May 30, 2024

+ **W.P. (C) 7886/2013**

K.C. FIBERS LIMITED **Petitioner**

Through: Mr. Shiv Charan Garg,
Mr. D. Khan, Advocates

V

UNION OF INDIA & OTHERS **Respondents**

Through: Ms. Monika Arora, CGSC
with Mr. Subhrodeep Saha
and Mr. Ranjit, Advocates
for UOI

CORAM
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T

1. The present petition is filed by K.C. Fibers Limited (hereinafter referred to as the “**petitioner**”) under Article 226 of the Constitution for issuance of writ of certiorari for quashing of letter bearing no. IDBI.HO.TUFS.343 dated 21.09.2010 (hereinafter referred to as the “**impugned letter no.1**”), letter no IDBI.HO.TUFS.437 dated



18.11.2010 (hereinafter referred to as the “**impugned letter no.2**”) and letter bearing no. 50(8)/2011/IMS/190 dated 16.01.2013 (hereinafter referred to as the “**impugned letter no.3**”) issued by Office of Textile Commissioner, Ministry of Textiles, Government of India (hereinafter referred to as the “**respondent no.2**”) and IDBI Bank Limited, TUFS Cell (hereinafter referred to as the “**respondent no.3**”) and writ in the nature of mandamus directing the respondents to grant interest reimbursement subsidy on Rupee Term Loan (hereinafter referred to as the “**RTL**”) of Rs.2,75,75,000/- for eligible machinery imported under the Technology Upgradation Fund Scheme (hereinafter referred to as the “**TUFS**”) enacted by the Ministry of Textiles.

2. The factual background of the case is that the respondent no. 1/Union of India through Secretary, Ministry of Textiles enacted TUFS vide Government Resolution (GR) no. 28/1/99-CTI dated 24.03.1999 with an intent to promote technological advancement and modernization of textile industry. TUFS was initially enacted for a period of five years with effect from 01.04.1999 and was subsequently extended to 31.03.2007 and further extended to



31.03.2012. Part III, Clause (1) (a) of TUFS provides that loan sanctioned by the lending agency till last date of the duration of TUFS would be eligible under the scheme and the reimbursement would continue to be available till loan is repaid as per normal lending period of nodal agency and accordingly a 5% interest reimbursement subsidy was provided on RTL as per the terms of TUFS. The respondent no. 3/IDBI Bank Limited was designated as the Nodal Agency for Textile Industry (excluding Small Scale Industry sector) and was allowed to co-opt State Industrial Development Corporations (SIDCs) for sanction and disbursement of the loan under the TUFS. The respondent no. 4/Haryana State Industrial & Infrastructural Development Corporation Ltd. (HSIIDC) was co-opted for sanctioning and disbursement of RTL. Inter-Ministerial Steering Committee (IMSC) headed by the Secretary (Textiles) was established for providing a monitoring and appraisal mechanism under TUFS and is competent to lay down norms for efficient implementation of TUFS. Technical Advisory and Monitoring Committee (TAMC) was formed to consider representations from units/manufacturers/associations regarding the



implementation and amendments of TUFSS and thereafter used to forward these representations to IMSC for consideration. The minutes of the meetings of TAMC and IMSC used to be recorded and points agreed upon in the meetings were issued in form of Circulars by respondent no.2. Part II Clause 5 of TUFSS also provided to obtain view of TAMC in case Nodal Agency raised any question of clarification or interpretation regarding the eligibility of any unit or machinery unit under TUFSS. TUFSS under Part II clause 3.2 (2) (i) allowed the import of second hand projectile shuttleless looms by the eligible applicant subject to a maximum expired (vintage) life of 5 years as reckoned from the year of manufacture and a residual life of 10 years. The petitioner was sanctioned RTL of Rs.3,00,00,000/- on 30.03.1999 under TUFSS for import and installation of 24 projectile shuttleless looms in 1998-1999 for manufacturing cotton grey and these projectile shuttleless looms were having a residual life of 10 years with an expired (vintage) life of 9 years as reckoned from the year of manufacture. RTL was disbursed after 01.04.1999 and project was completed in March 2000.



2.1 IMSC on basis of representations of the industry which were took up in TAMC considered issue of modification of TUFs and to increase vintage life of projectile looms from 5 years to 10 years. IMSC in its 5th Meeting held on 23.03.2000 increased vintage life of looms from 5 years to 10 years under TUFs and benefit of TUFs. The respondent no. 1 issued circular no 1 (2000-2001 series) dated 17.04.2000 on basis of decision of IMSC whereby TUFs was modified to include looms with vintage life of 10 years. TAMC in its 15th Meeting held on 23.05.2002 decided that the effective date of eligibility of interest reimbursement under TUFs consequent to the amendments/modifications approved by IMSC from time to time will be first disbursement of RTL on or after 01.04.1999. It was further decided that in specific cases, if needed TAMC/IMSC may specify effective date of eligibility under TUFs. IMSC in its 12th meeting held on 05.07.2002 discussed the "effective date of eligibility of interest reimbursement under TUFs consequent to the amendments/modifications of TUFs from time to time approved by the IMSC" and approved that whenever new machines or equipments which are equal or superior than the bench marked equipments or



machines already included in the existing list of items of the GR, is made eligible under TUFS and TUFS benefits for such equipments may be extended for the loans disbursed after 01.04.1999. It was further decided that in case inclusion of any machinery/equipment is due to relaxation of norms laid down in the GR of TUFS, the effective date of eligibility of interest reimbursement would be applicable from the date of the meeting. The respondent no 2 based on the decision of the IMSC issued a circular no. 3 (2002-2003 series) dated 31.07.2002 wherein it was clarified that the effective date of eligibility of interest reimbursement consequent to amendments/modification approved by IMSC from time to time, would be from the date of the meeting.

2.2 The petitioner after paying last instalment of RTL on 28.04.2006 applied for TUFS benefit to the respondent no. 4 on 15.05.2006 within the time limit prescribed to file application for the interest reimbursement subsidy, however the respondent no 3 vide letter dated 16.04.2008 had rejected eligibility of the petitioner for benefit under TUFS on the ground of delay. The petitioner filed an online appeal before Textile Commissioner on 05.04.2009 and Textile



Commissioner vide letter dated 09.06.2009 held that the delay was on part of the lending agency i.e. the respondent No. 4. The respondent no 2 vide letter dated 04.03.2010 clarified and condoned the delay in filing the claim and instructed the respondent no. 4 to lodge the claim for interest reimbursement with IDBI. The respondent no 4 again lodged the claim of the petitioner vide letter dated 19.03.2010 and the respondent no 3 vide letter dated 13.08.2010 sanctioned the claim for the interest reimbursement subsidy for RTL of Rs. 24,25,000/- out of the total RTL of Rs. 3,00,00,000/- for machinery other than projectile shuttleless looms and rejected the remaining claim of Rs. 2,75,75,000/-. The petitioner exchanged correspondences dated 20.08.2010 and 07.09.2010 with the respondent no 3 and 4 for seeking reasons for rejection of the remaining amount of interest reimbursement subsidy. The respondent no 3 vide letter bearing no IDBI.HO.TUFS.343 dated 21.09.2010 i.e. the impugned letter no 1 rejected the claim of the petitioner for interest reimbursement subsidy on the ground that when the petitioner purchased/imported the looms, the essential eligibility condition under TUFS for projectile shuttleless looms was a residual



life of 10 years and a maximum vintage life of 5 years but vintage life of the purchased/imported looms of the petitioner was 9 years. The respondent no. 3 on representations preferred by the petitioner again rejected the claim of the petitioner vide letter no. IDBI.HO.TUFS.437 dated 18.11.2010 i.e. the impugned letter no. 2. The petitioner and the respondent no 4 in response to letter dated 18.11.2010 issued by the respondent no. 3 preferred representations but no satisfactory response was received by the petitioner. The respondent no 2 vide letter no. 50(8)/2011/IMS/190 dated 16/18.01.2013 i.e. the impugned letter no.3 informed the respondent no 4 that the petitioner is not eligible for the benefit of TUFS and that the contents of Circular No. 1 (2000-2001 series) dated 17.04.2000 are only applicable to cases where the term loan has been sanctioned after the 5th IMSC Meeting held on 23.03.2000 and the respondent no 4 communicated the said decision of the respondent no 2 was communicated to the petitioner vide letter dated 11/28.02.2013. The rejection of claim of the petitioner for interest reimbursement subsidy by the respondents was perverse, arbitrary and illegal being contrary to TUFS and circulars issued by the



respondent no 2. The petitioner in present petition challenged legality of the decision of the respondents on grounds and prayed as under:-

(a) Issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate writ, order or direction to quash the impugned Letter No. IDBL.HO.TUFS.343 dated 21.09.2010, Letter No. IDBL.HO.TUFS.437 dated 18.11.2010 and Letter No. 50(8)/2011/IMS/190 dated 16/18.01.2013 issued by Respondent No. 2 and 3.

(b) Issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate writ, order or direction ordering and directing the Respondent No. 1,2 and 3 to allow the claim of interest reimbursement subsidy of the Petitioner.

(c) Grant costs of the Petition and orders thereon; and

(d) Grant such further and other relief as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case.

3. The respondents filed counter affidavits to oppose claim of the petitioner. The respondent no 1 and 2 in counter affidavit primarily stated that the respondent no 1 to facilitate modernization and technological upgradation of the Textile Mills has launched TUFS for Textile and Jute Industries with effect from 01.04.1999 which was initially valid for a period of 5 years and was subsequently extended up to 31.03.2007 with modifications. TUFS was a bank driven scheme wherein the application for TUFS benefit was submitted by the industrial unit to the lending agency/bank and the eligibility of loan for grant of TUFS subsidy was established by the nodal



bank/agencies. The subsidy thereafter is released by the Ministry of Textiles to the concerned nodal agencies/lending agencies which in turn provides the same to the beneficiary. The grievance of the petitioner about rejection of its subsidy claim under TUFS on part of term loan sanctioned by the respondent no 4 on 31.03.1999 was wholly incorrect and misconceived. The respondent no. 3 was not granted eligibility for second hand imported shuttleless looms with a vintage life of 9 years for which the disputed subsidy claim was made by the petitioner. The imported machinery as per Part II.3.2(2)(i) of G.R. on TUFS (01.04.1999 to 31.03.2007) should have maximum expired life (vintage) of 5 years as reckoned from the year of manufacture and with a minimum residual life of 10 years. The loans sanctioned by the lending agencies till the last date of duration of TUFS period were eligible under TUFS and the reimbursement was continued to the beneficiary till the eligibility period of the repayment of the loan sanctioned under the TUFS and the benefit of interest reimbursement was provided subject to fulfilment of all conditions under TUFS. The respondent no 3/IDBI Bank being Nodal Agency co-opted the respondent no 4 for sanction and disbursement



of loan. The circulars issued under TUFSS from time to time were to convey the decisions of TAMC and IMSC to the stakeholders of TUFSS. The import of second hand projectile shuttleless looms with maximum expired life (vintage) of 5 years as reckoned from the year of manufacture and with a minimum residual life of 10 years as per Section 11.3.2 (2)(i) of G.R. on TUFSS from 01.04.1999 to 31.03.2007 was eligible for subsidy benefit. IMSC in its 5th meeting held on 23.03.2000 increased the vintage period from 5 years to 10 years with a minimum residual life of 10 years and effective date of eligibility of interest reimbursement was decided to be from the date of IMSC meeting. Accordingly for the term loans sanctioned prior to 23.03.2000, the benefit of TUFSS was available for imported second hand projectile shuttleless loom, subject to, maximum expired life (vintage) of 5 years as reckoned from the year of manufacture and within a minimum residual life of 10 years. The term loan sanctioned under TUFSS on or after 23.03.2000 would be eligible for machine subject to maximum expired life (vintage) of 10 years as reckoned from the year of manufacture with a minimum residual life of 10 years. IMSC in its meeting held on 05.07.2002 took a decision that in



case inclusion of any machinery/ equipment is due to relaxation of norms laid down in the G.R. of TUFS, the effective date of eligibility of interest reimbursement would be applicable from the date of IMSC meeting. The respondent no 2 also filed additional counter affidavit wherein primarily stated that the petitioner imported 24 projectile shuttleless looms with a vintage of 9 years and residual life of 10 years. The projectile shuttleless looms with a vintage of 9 years and residual life of 10 years as per Para 3.2 (1) of GR No. 28/1/99-CTI dated 24.03.1999 were held to be ineligible for benefit of TUFS by the respondent 3/IDBI Bank vide impugned letters dated 21.09.2010 and 18.11.2010. The decision taken by the respondent no 3 was confirmed by the impugned letter dated 18.01.2013 issued by the Textile Commissioner i.e. the respondent no 2., IMSC in the 12th meeting held on 05.07.2002 approved that whenever a new machine or equipment which is equal or superior than the bench marked equipments or machines already included in the list of items in GR was made eligible under TUFS and TUFS benefits for such equipments may be extended for the loans disbursed after 01.04.1999 and the effective date of eligibility of interest reimbursement for



inclusion of any machinery/equipment due to relaxation of norms laid down in the GR of TUFS would be applicable from the date of meeting. The projectile shuttleless looms with 10 years vintage became eligible from date of meeting of IMSC and not from the date of disbursal. The term loan of the petitioner was disbursed before the date of meeting i.e. 23.03.2000, therefore, the petitioner was not eligible for benefit of TUFS. The respondents no 3 and 4 also filed respective counter affidavit on similar lines.

4. The petitioner filed rejoinder to counter affidavit filed on behalf of the respondent no 1 and 2 and a counter affidavit of the respondent no 2.

5. The petitioner filed additional affidavit wherein stated that Technical Advisory-Gum-Monitoring Committee (TAMC) in its 15th Meeting of TUFS held on 23.05.2002 wherein granted benefit to another unit whose claim was also similar to claim of the petitioner.

6. It is reflecting that the respondent no 1 has launched TUFS for Textile and Jute Industries vide Government Resolution (GR) no. 28/1/99-CTI dated 24.03.1999 to facilitate their modernization and technological upgradation with effect from 01.04.1999 which was



initially valid for a period of 5 years and was subsequently extended up to 31.03.2007 and further extended to 31.03.2012. TUFSS was a bank driven scheme where under industrial units were required to submit the applications for benefit to the lending agency/bank and eligibility for grant of loan was to be established by the nodal bank/agencies. The Ministry of Textiles was responsible for release of subsidy to the concerned nodal agencies/lending agencies which in turn to be released to the beneficiary. Part III, Clause (1) (a) of TUFSS provides that loan sanctioned by the lending agency till last date of the duration of TUFSS would be eligible under the scheme and the reimbursement would continue to be available till loan is repaid as per normal lending period of nodal agency. Accordingly a 5% interest reimbursement subsidy was provided on RTL. The respondent no 3 was designated as the Nodal Agency for Textile Industry and Nodal Agency and was allowed to co-opt State Industrial Development Corporations for sanction and disbursement of the loan and accordingly the respondent no 4 was co-opted to sanction and disburse the loan. IMSC was established to monitor and appraisal mechanism and laid down norms for efficient



implementation of TUFS. TAMC used to consider representations from units/manufacturers/associations regarding the implementation and amendments of TUFS and then these representations were forwarded to IMSC for consideration. The points agreed upon in the meetings of TAMC and IMSC were issued in form of Circulars issued by the respondent no.2. The eligible applicants under Section II clause 3.2 (2) (i) were allowed to import second hand projectile shuttleless looms subject to a maximum expired (vintage) life of 5 years as reckoned from the year of manufacture and a residual life of 10 years. The petitioner was sanctioned RTL of Rs. 3,00,00,000/- (Rupees Three Crores) on 30.03.1999 under TUFS and was disbursed after 01.04.1999. The petitioner imported projectile shuttleless looms having a residual life of 10 years with an expired (vintage) life of 9 years as reckoned from the year of manufacture. IMSC in 5th Meeting held on 23.03.2000 concluded to increase vintage life of looms under TUFS from 5 years to 10 years and benefits of the scheme should be extended to eligible applicants. The circular no 1 (2000-2001 series) dated 17.04.2000 was issued by respondent no 1 for modification of TUFS to include looms with vintage life of 10 years. TAMC in 15th



Meeting held on 23.05.2002 decided that the effective date of eligibility of interest reimbursement under TUFS consequent to the amendments/modifications would be first disbursement of term loan on or after 01.04.1999. IMSC in its 12th meeting held on 05.06.2002 approved that whenever new machines or equipments which are equal or superior than the bench marked equipments or machines already included in the existing list of items of the GR, is made eligible under TUFS and TUFS benefits for such equipments may be extended for the loans disbursed after 01.04.1999. It was further decided that in case inclusion of any machinery/equipment is due to relaxation of norms laid down in the GR of TUFS, the effective date of eligibility of interest reimbursement would be applicable from the date of the meeting. The respondent no 2 thereafter issued a circular no. 3 (2002-2003 series) dated 31.07.2002 to clarify effective date of eligibility of interest reimbursement consequent to amendments/modification would be from the date of the meeting. The petitioner repaid last instalment of RTL on 28.04.2006 and applied for TUFS benefit to the respondent no. 4. The respondent no 2 vide letter dated 04.03.2010 clarified and condoned issue of delay



in filing the claim and instructed the respondent no. 4 to lodge the claim for interest reimbursement with the respondent no 3/IDBI. The respondent no 3 vide letter dated 13.08.2010 only sanctioned the claim of Rs. 24,25,000/- (Rupees Twenty Four Lacs Twenty Five Thousand only) for the interest reimbursement subsidy for RTL out of the total RTL of Rs. 3,00,00,000/- for machinery other than projectile shuttleless looms and rejected the remaining claim of Rs. 2,75,75,000/- (Rupees Two Crores Seventy Five Lacs Seventy Five Thousand only) on RTL. The respondent no 3 vide the impugned letter no 1 dated 21.09.2010 rejected the claim of the petitioner for interest reimbursement subsidy on the ground that at the time of import/purchase of looms by the petitioner, the essential eligibility condition for projectile shuttleless looms was a residual life of 10 years and a maximum vintage life of 5 years but vintage life of the purchased/imported looms of the petitioner was 9 years. The respondent no. 3 on representation again rejected the claim of the petitioner vide the impugned letter no. 2 dated 18.11.2010 on ground that the vintage life of the looms was 9 years and not 5 years as required under TUFS when the machinery was imported. The



respondent no 2 vide impugned letter no. 3 dated 16/18.01.2013 informed the petitioner that the petitioner is not eligible for the benefit of TUFS and that the contents of Circular No. 1 (2000-2001 series) dated 17.04.2000 are only applicable to cases where the term loan has been sanctioned after the 5th IMSC Meeting held on 23.03.2000.

7. Sh. Shiv Charan Garg, Advocate for the petitioner argued that the petitioner had purchased the projectile shuttleless looms on which the respondent no 1 had given subsidies by issuing Government Resolution (GR) no. 28/1/99 CTI dated 24.03.1999 and the issue involved in present petition is that whether the petitioner is entitled/eligible for interest reimbursement under TUFS and whether TUFS was applicable on the date of disbursement of loan. The petitioner purchased projectile Shuttleless loan in August, 1998 and approached to HSIDC i.e. the respondent no 4 for RTL which was sanctioned on 30.03.1999 and released after 01.04.1999. He further argued that IMSC in its 5th Meeting held on 23.03.2000 approved second hand projectile and rapier looms with 10 years vintage and with a residual life of minimum 10 years eligible under TUFS based



on TAMC recommendations. Accordingly Circular no.1 (2000-2001) dated 17.04.2000 was issued. TAMC in its 15th Meeting held on 23.05.2002 discussed the issue in detail including the views of Nodal Agencies and decided that the effective date of eligibility of interest reimbursement under TUFSS consequent to the amendments/modifications approved by the Inter Ministerial Steering Committee (IMSC) of TUFSS from time to time will be first disbursement of term loan or after 01.04.1999. However, in specific cases, if needed, the TAMC/IMSC may specify the effective date of eligibility under TUFSS. He further argued that the respondents no 1 and 2 have changed their stand in new counter affidavit from previous counter affidavit which was based on meeting held on 23.05.2002 and referred paras no 8 to 10 of previous affidavit and paras no 2 to 4 of new affidavit. It was argued that the present petition be allowed. Ms. Monika Arora, the CGSC for the respondent no.1/U.O.I argued to the contrary.

8. The perusal of TUFSS which was issued by the respondent no 1 vide Government Resolution (GR) no. 28/1/99 CTI dated 24/03/1999 reflects that Part II of TUFSS deals with eligibility criteria for



assistance. Clause 3.2 of Part II eligible types of machinery and Clause 3.2.1 provides that under TUFSS generally only new machinery would be permitted. However as per Clause 3.2.2 import of certain machinery which also included projectile shuttleless looms with a minimum residual life of 10 years was permitted subject to maximum expired life (vintage) life of 5 years as reckoned from the year of manufacture. Part III Clause 1(a) deals with duration of TUFSS and provides that TUFSS would be in operation for the period of five years from 01.04.1999 to 31.03.2004 and loans sanctioned by the lending agency till the last date of the duration of the scheme period would be eligible under TUFSS and the reimbursement would continue to be available till the same is repaid as per the normal lending period of the nodal agency. TUFSS was also extended for further period. The petitioner purchased projectile Shuttleless looms in August, 1998 and the respondent no 4 sanctioned RTL in favour of the petitioner on 30.03.1999 and was released after 01.04.1999. Admittedly, the petitioner imported and installed projectile looms which had a residual life of 10 years with an expired life (vintage) of 9 years as reckoned from the year of manufacture. It is also not in



dispute that IMSC in its 5th Meeting held on 23.03.2000 approved second hand projectile and rapier looms with 10 years vintage and with a residual life of minimum 10 years. Thereafter, Circular No 1 (2000-2001 Series) was issued incorporating decision of IMSC taken in its 5th Meeting held on 23.03.2000. The relevant portion of Circular No 1 (2000-2001 series) reads as under:-

The decision taken by the Inter Ministerial Steering Committee (IMSC) in its 5th meeting with regard to norms relating to TUFs are as follows:

1. The following second hand machinery for jute & textile sector would be eligible under TUFs:

i) -----

ii) -----

iii) Projectile and Rapier looms with 10 years' vintage and with a residual life of minimum 10 years.

iv) ----

8.1 IMSC in its meeting held on 23.03.2000 in case of second hand projectile looms has increased vintage life of 10 years with a residual life of minimum 10 years. TAMC in its 15th Meeting held on 23.05.2002 considered effective date of eligibility of interest reimbursement under TUFs consequent to the amendments/modifications approved by IMSC of TUFs from time to time. It was decided as under:-



The Committee discussed the issue in detail including the views of Nodal Agencies and decided that the effective date of the eligibility of interest reimbursement under TUFs consequent to the amendments/modifications approved by the Inter Ministerial Steering Committee (IMSC) of TUFs from time to time will be first disbursement of term loan on or after 01.04.1999, however, in specific cases, if needed, the TAMV/IMSC may specify the effective date of eligibility under TUFs.

8.2 IMSC in its 12th Meeting held on 05.06.2002 clarified and discussed the effective date of eligibility of interest reimbursement under TUFs consequent to the amendments/modifications approved by the IMSC of TUFs from time to time. It was decided as under:-

IMSC approved that whenever a new machines or equipments which is equal or superior than the bench marked equipments or machines, already included in the existing list of items of the GR, is made eligible under TUFs, the TUFs benefits for such equipments may be extended for the loans disbursed after 01.04.1999. In case inclusion of any machinery/equipment is due to relaxation of norms laid down in the GR of TUFs, the effective date of eligibility of interest reimbursement would be applicable from the date of the meeting.

Accordingly as per clarification given by IMSC in its 12th Meeting that effective date of eligibility of interest reimbursement for any machinery/equipment included for relaxation in norms as per TUSF would be applicable from the date of meeting i.e. 23.03.2002. The projectile shuttleless looms with vintage life of 10 years with



minimum residual life of 10 years were made eligible for 5% interest subsidy from 23.03.2000 as IMSC on 23.03.2000 approved second hand projectile and rapier looms with 10 years vintage and with a residual life of minimum 10 years. The respondent no 2 in pursuance of decision taken by IMSC issued a Circular No. 3 (2002-2003 series) dated 31.07.2002. The petitioner paid last instalment of RTL 28.04.2006.

8.3 The petitioner applied for TUFS benefit to the respondent no 4 on 15.05.2006 in prescribed form T-1 and T-2. The respondent no 3 vide letter dated 13.08.2010 sanctioned the claim of the petitioner for Rs. 24,25,000/- for the interest reimbursement subsidy for machinery other than Projectile Shuttleless Looms and rejected the remaining claim of Rs. 2,75,75,000/- on RTL. The respondent no 3 vide letter no. IDBI.HO.TUFS.343 dated 21.09.2010 i.e. the impugned letter no 1 rejected the claim of the petitioner for interest reimbursement subsidy on the ground that essential eligibility condition under TUFS for projectile shuttleless loom was a residual life of 10 years and a maximum vintage life of 5 years when the petitioner purchased/imported the looms. The relevant contents of impugned



letter 1 issued by Assistant General Manager, TUFS Cell, LCG reproduced as under:-

Please refer to your letter no.HSIIDC.FIN:2010:6334,&t.07.09.2010 on the captioned subject. In this connection, it is observed that the term loan of Rs.300 lakh was sanctioned to the company on 30.03.1999 and the project was completed in March 2000. In terms of the para no.3.2(2)(i) "TYPE OF TEXTILE MACHINERY ELIGIBLE" of G.R. under TUFS (01-04-1999 to 31-03-2004) import of second hand projectile shuttleless loom with a minimum residual life of 10 years by the eligible applicant unit will be permitted subject to maximum expired life (vintage) of 5 years as reckoned from the year of manufacture.

In view of the above imported second hand projectile shuttleless looms having 9 years of vintage period procured by M/s K.C. Machine Works Ltd are considered ineligible under TUFS.

We suggest, you may please peruse book viz. Technology Upgradation Fund Scheme For Textile and Jute Industries published by Office of the Textile Commissioner and/or visit website of Office of the Textile Commissioner [www.txcindia.com] for details on TUFS.

8.3.1 The petitioner after rejection of claim vide impugned letter 1 again preferred representations justifying the availability of the benefit under TUFS by highlighting contents of Circular No. 1 (2000-2001 series) dated 17.04.2000 issued by the respondent no 2. However, the respondent no 3 vide letter no. IDBI.HO.TUFS.437



dated 18.11.2010 i.e. the impugned letter no. 2 again rejected the claim of the petitioner. The relevant contents of impugned letter 1 issued by Assistant General Manager, TUFS Cell, LCG reproduced as under:-

Please refer to your letter, no.HSIIDC:FIN:2010:7479, dt.04.11.2010 and HSIDC:FIN:2010:6334,dt.07.09.2010 on the captioned subject. In this connection, it may be noted that term loan Rs.300 lakh was sanctioned on 30-Mar-1999. In terms of para no.3.6(b) of Government Resolution on TUFS, "Whenever a new machine or equipment which is equal or superior than the bench marked equipments or machines, already included in the existing list of items of the GR, is made eligible under TUFS, the TUFS benefits for such equipments may be extended for the loans disbursed after 1-4-1999. In case inclusion of any machinery/equipment is due to relaxation of norms laid down in the GR of TUFS, the effective date of eligibility of interest reimbursement would be applicable only from the date of the meeting."

HSIIDC may please note that relaxation viz. "Projectile and Rapier looms with 10 years' vintage and with a residual life of minimum 10 years" was introduced vide circular no.1(2000-2001 series) dated 17-Apr-2000 by Office of The Textile Commissioner. Accordingly, imported second hand projectile shuttles looms having 9 years of vintage period with sanction of term loan Rs.300 lakh by HSIIDC on 30-Mar-1999 are ineligible under TUFS.

We suggest, you may please peruse book viz. Technology Up-gradation Fund Scheme for Textile and Jute Industries published by Office of the Textile Commissioner and/or visit website of Office of the Textile Commissioner (www.txcindia.com) for details on TUFS.



8.3.2 The respondent no 3 vide letter no. 50(8)/2011/IMS/190 dated 16/18.01.2013 i.e. the impugned letter no 3 informed the respondent no 4 that the petitioner is not eligible for benefit of TUFS. The relevant portion of the impugned letter no.3 is verbatim reproduced as under:

Please refer to your letter No. HSIIDC:APP:2012:3142 dated 6-7/12/2012 forwarding representation by M/s K.C. Fibres Ltd dt. 6.11.2012 regarding eligibility of imported second hand Projectile shuttless loom having 9 years of vintage period, From the documents enclosed with the letter, it appears that term loan was sanctioned on 30.3.1999 and was disbursed after 1.4.1999 and IDBI has rejected the interest subsidy under TUFS on the ground that with the company purchased looms the essential eligibility condition was 5 years whereas the looms purchased by the company were of 9 years vintage.

In this connection, it is informed that as per TUFS guidelines (1.4.1999 to 31.3.2004) para 3.2 of G.R. on page 6 (copy of the page 6 enclosed for ready reference) imported second hand projectile shuttless loom will be permitted subject to maximum expired life (vintage) of 5 years as reckoned from the year of manufacture. Vide Circular 1 (2000-2001) dated 17.04.2000 the condition of vintage increased from 5 years to 10 years. However, the Circular 1 (2000-2001) is applicable to cases where term loan has been sanctioned after the 5th IMSC meeting. Since the term loan in the instant case has been sanctioned on 30.3.1999 and disbursed on 1.4.1999 the condition of 5 years vintage is applicable to your case: Hence the investment in imported projectile shuttless loom made as referred by you is not eligible for interest reimbursement under TUFS.



8.4 The respondent no 1 and 2 in counter affidavit also stated that import of second hand projectile shuttleless looms as per erstwhile TUFS i.e. from 01.04.1999 to 31.03.2007 was eligible for subsidy benefit subject to maximum expired life (vintage) of 5 years as reckoned from the year of manufacture and with a minimum residual life of 10 years. However, IMSC in its 5th meeting held on 23.03.2000 increased the vintage period from 5 years to 10 years with a minimum residual life of 10 years and effective date of eligibility of interest reimbursement would be applicable only from the date of meeting. The benefit of TUFS was available for imported second hand projectile shuttle loom having maximum expired life (vintage) of 5 years as reckoned from the year of manufacture and with a minimum residual life of 10 years RTL on loans sanctioned prior to 23.03.2000. RTL sanctioned under TUFS on or after 23.03.2000 was eligible for machine having maximum expired life (vintage) of 10 years as reckoned from the year of manufacture with a minimum residual life of 10 years. The respondent no 2 also filed another counter affidavit in addition to counter affidavit earlier filed on behalf of the respondents no 1 and 2 wherein stated that the petitioner



imported 24 projectile shuttleless looms with a vintage of 9 years and residual life of 10 years but projectile shuttleless looms with a vintage of 5 years and residual life of 10 years were eligible for benefit of TUFS. Accordingly, 24 projectile shuttleless looms with a vintage of 9 years and residual life of 10 years were not found eligible for benefit of TUFS by the respondent 3/IDBI Bank vide impugned letters dated 21.09.2010 and 18.11.2010 i.e. the impugned letters 1 and 2. The respondent no 3 in counter affidavit stated that the respondent no 4 in terms of the TUFS (1999-2004) sanctioned RTL of Rs.300 lakh to the petitioner on 30.03.1999 for import and installation of 24 projectile shuttleless loom. The first disbursement of RTL was made after 01.04.1999 i.e. on 21.05.1999 to the petitioner and entire process of disbursement was completed in March, 2000. TUFS provided 5% interest reimbursement subsidy on RTL and to claim benefit under TUFS, the eligibility condition for second hand projectile shuttleless looms was minimum residual life of 10 years and a maximum vintage life of 5 years as reckoned from the year of manufacture. The Circular 1 (2000-2001) dated 17.04.2000 was applicable only to cases where term loan was



sanctioned after the 5th IMSC meeting. The condition of 5 years vintage life was applicable in case of the petitioner since the relaxation was introduced vide circular no. 1 dated 17.04.2000 and the loan was sanctioned on 30.03.1999. The respondent no 3 assessed the eligibility of the petitioner and found amount of Rs. 24.25 lacs eligible under TUFS out of the total amount of Rs. 300 lakh. The respondent no 4 in counter affidavit also took similar pleas.

9. It is established that the petitioner imported 24 projectile shuttleless looms with vintage life of 9 years as reckoned from the year of manufacture and with a minimum residual life of 10 years which were not eligible for 5% subsidy reimbursement as per relevant clauses of TUFS as detailed hereinabove. The vintage life was increased from 5 years to 10 years in view of circular no 1 which was made applicable from 23.03.2000 only and as such petitioner was not entitled to claim said benefit. Even the petitioner is not entitled to claim 5% subsidy reimbursement from 23.03.2000. The respondent no 3 was justified in rejection of claim of the petitioner vide impugned letters. The arguments advanced by the counsel for the petitioner are as mentioned hereinabove are considered in right



perspective but are meritless. The respondents no 1 and 2 have not taken contrary stand in counter affidavits and did not show any discrimination against the petitioner. The respondents have acted as per contents of TUFS and subsequent amendments/ modifications in TUFS. The present petition is devoid of any merit. The petitioner is not entitled to relief as prayed for. Hence petition is dismissed along with pending application if any.

DR. SUDHIR KUMAR JAIN
(JUDGE)

MAY 30, 2024
AM/ABK/AK