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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.159 OF 2010  
IN  
ARBITRATION PETITION NO.228 OF 2006

|                             |               |
|-----------------------------|---------------|
| Lite Containers Pvt. Ltd.   | ...Appellant  |
| V/s.                        |               |
| Indian Oil Corporation Ltd. | ...Respondent |

WITH  
CROSS OBJECTION (LODGING) NO.4 OF 2010  
IN  
APPEAL NO.159 OF 2010  
IN  
ARBITRATION PETITION NO.228 OF 2006

|                             |               |
|-----------------------------|---------------|
| Lite Containers Pvt. Ltd.   | ...Appellant  |
| V/s.                        |               |
| Indian Oil Corporation Ltd. | ...Respondent |

WITH  
APPEAL NO.160 OF 2010  
IN  
ARBITRATION PETITION NO.225 OF 2006  
WITH  
CROSS OBJECTION (LODGING) NO.5 OF 2010

|                             |               |
|-----------------------------|---------------|
| GDR Cylinders Pvt. Ltd.     | ...Appellant  |
| V/s.                        |               |
| Indian Oil Corporation Ltd. | ...Respondent |

WITH  
APPEAL NO.1154 OF 2010  
IN  
ARBITRATION PETITION NO.227 OF 2006  
WITH  
CROSS OBJECTION (LODGING) NO.6 OF 2010

|                         |              |
|-------------------------|--------------|
| JCLL International Ltd. | ...Appellant |
| V/s.                    |              |

Indian Oil Corporation Ltd.

...Respondent

WITH  
APPEAL NO.800 OF 2011  
IN  
ARBITRATION PETITION NO.232 OF 2006

Indian Oil Corporation Ltd.

...Appellant

V/s.

Verny Containers Pvt. Ltd.

...Respondent

WITH  
APPEAL NO.801 OF 2011  
IN  
ARBITRATION PETITION NO.231 OF 2006

Indian Oil Corporation Ltd.

...Appellant

V/s.

Verny Containers Pvt. Ltd.

...Respondent

WITH  
APPEAL NO.366 OF 2012  
IN  
ARBITRATION PETITION NO.224 OF 2006  
WITH  
CROSS OBJECTION (LODGING) NO.15 OF 2010

International Cylinders Pvt. Ltd.

...Appellant

V/s.

Indian Oil Corporation Ltd.

...Respondent

WITH  
APPEAL NO.478 OF 2013  
IN  
ARBITRATION PETITION NO.229 OF 2006  
WITH  
CROSS OBJECTION (LODGING) NO.17 OF 2010

M/s.Sapphire (India) Pvt. Ltd.

...Appellant

V/s.

Indian Oil Corporation Ltd.

...Respondent

WITH  
APPEAL NO.479 OF 2013

IN  
ARBITRATION PETITION NO.226 OF 2006  
WITH  
CROSS OBJECTION (LODGING) NO.16 OF 2010

Mahaveer Cylinders Ltd. ...Appellant  
V/s.  
Indian Oil Corporation Ltd. ...Respondent

WITH  
APPEAL NO.480 OF 2013  
IN  
ARBITRATION PETITION NO.222 OF 2006  
WITH  
CROSS OBJECTION (LODGING) NO.14 OF 2010

Tirupati Cylinders Ltd. ...Appellant  
V/s.  
Indian Oil Corporation Ltd. ...Respondent

WITH  
ARBITRATION APPEAL NO.1 OF 2015

M/s.Prathima Industries Pvt. Ltd. ...Appellant  
V/s.  
Indian Oil Corporation Ltd. ...Respondent

WITH  
ARBITRATION APPEAL NO.2 OF 2015

M/s.Prathima Industries Pvt. Ltd. ...Appellant  
V/s.  
Indian Oil Corporation Ltd. ...Respondent

WITH  
CROSS OBJECTION (LODGING) NO.4 OF 2015  
IN  
ARBITRATION APPEAL NO.1 OF 2015  
IN  
ARBITRATION PETITION NO.223 OF 2006

M/s.Prathima Industries Pvt. Ltd. ...Appellant  
V/s.  
Indian Oil Corporation Ltd. ...Respondent

Mr.Komal Singh for the Appellant in Appeal Nos.159 of 2010 and 160 of 2010.

Mr.Amit Shroff for the Appellant in Appeal Nos.366 of 2012, 478 of 2013, 479 of 2013, and 480 of 2013.

Ms.Gauri Godse with Mr.Rohit Joshi for the Appellant in ARAPP Nos.1 of 2015, 2 of 2015 and Cross Objection (Ldg.) No.4 of 2015.

Mr.Gaurav Joshi, Senior Counsel with Ms.Rutuja Patil, Ms.Niyathi Kalra and Mr.M. Himaytullah i/b Negandhi, Shah & Himayatullah for the Respondent in Appeal Nos.159 of 2010, 160 of 2010, 1154 of 2010, 366 of 2012, 478 of 2013, 479 of 2013, 480 of 2013, ARAPP Nos.1 of 2015, 2 of 2015 and for the Appellant in APP Nos.800 of 2011 and 801 of 2011 and Cross Objection (Ldg.) Nos.5 of 2010, 4 of 2010 and 6 of 2010.

Mr.Anil Singh, Additional Solicitor General on notice.

**CORAM : R.D. DHANUKA &  
A.K. MENON, JJ.**

**DATE : 1ST AUGUST, 2018.**

**P.C. :-**

1. Pursuant to an order dated 20<sup>th</sup> July, 2015 passed by the Division Bench of this Court in Appeal No.159 of 2010 along with other connected appeals, the Ministry of Petroleum & Natural Gas has passed an order dated 28<sup>th</sup> April, 2016 which reads thus :

“In view of the foregoing, the interests of natural justice would be served if the Ministry's direction conveyed vide letter dated 21.12.2000 is given effect and OMCs are advised to determine the price of LPG cylinders as per the then existing cost plus system for the period 1.7.1999 to 31.3.2001.”

2. During the course of argument, on the suggestion of the parties, a notice was issued to the learned Additional Solicitor

General. This Court instructed the learned Additional Solicitor General to take instructions as to whether the Ministry of Petroleum & Natural Gas can clarify the order dated 28<sup>th</sup> April, 2016 as to what it would mean insofar as formula for determination of price of LPG cylinders as per the then existing cost plus system for the period 1<sup>st</sup> July, 1999 to 31<sup>st</sup> March, 2001 is concerned and whether the Ministry can determine the formula.

3. Learned Additional Solicitor General on instructions from Director of Ministry of Petroleum & Natural Gas, Government of India - Mr.K.M. Mahesh states that all the suppliers who are the appellants and/or the respondents in this group of appeals as well the Indian Oil Corporation Limited would be heard by the Secretary, Ministry of Petroleum & Natural Gas. It is further stated that the Ministry of Petroleum & Natural Gas is also ready and willing to hear the other suppliers, whose matters are pending either before this Court or before the Arbitral Tribunal pertaining to the same issue if such suppliers and Indian Oil Corporation Limited are also agreeable. All the parties to these matters agree for such hearing from the Secretary, Ministry of Petroleum & Natural Gas and for such determination .

4. Learned advocate appearing for the Indian Oil Corporation Limited has agreed to convey this order to the other suppliers whose

matters on the identical issue are before the Arbitral Tribunal or before this Court for compliance within two weeks from today. Learned advocate for the Indian Oil Corporation Limited will convey to the Secretary, Ministry of Petroleum after communication of this order to those 80 suppliers. Those 80 suppliers shall inform the Secretary, Ministry of Petroleum & Natural Gas, if they agree to be heard by the Secretary, Ministry of Petroleum within one week from the date of communication from the Indian oil Corporation Limited. The Ministry of Petroleum & Natural Gas will thereafter fix a date of hearing. Advance notice to all the parties shall be issued to enable them to make proper representation before the learned Ministry of Petroleum & Natural Gas.

5. It is made clear that the Ministry of Petroleum & Natural Gas shall pass an order after complying with the principles of natural justice and shall make an endeavor to pass the same within three months from the date of the first hearing. The Ministry of Petroleum & Natural Gas shall determine the formula for determination of price of LPG cylinders in question for the period 1<sup>st</sup> July, 1999 to 31<sup>st</sup> March, 2001.

6. It is made clear that this Court has not expressed any views on the merit of the matter and more particularly on the determination of the formula. All the questions on fixation of formula

on merit are kept open.

7. After the communication of the order passed by the Ministry of Petroleum & Natural Gas to all the suppliers as directed aforesaid, the Indian Oil Corporation Limited then will apply the said formula, will decide the final price per cylinder in each of the individual case. It is made clear that the Indian Oil Corporation Limited in that case will comply with the principles of natural justice and will give full opportunity to all the suppliers of being heard on the issue of fixation of price.

8. It is made clear that once the formula is decided by the Ministry of Petroleum & Natural Gas, the Indian Oil Corporation Limited will apply the said formula and decide the claims of all the suppliers which were made before the Arbitral Tribunal, which are subject matter of these appeals and cross-objections.

9. It is made clear that the order of the Ministry of Petroleum & Natural Gas as well as the Indian Oil Corporation Limited fixing the price of supply may be challenged by the parties aggrieved by adopting such remedy as would be available in law and if so advised.

10. It is made clear that the amounts already deducted by the Indian Oil Corporation Limited from the bills of the appellants / suppliers will be subject to the outcome of fixation of price by the Indian Oil Corporation Limited and subject to the final orders as may be passed in appropriate proceedings.

11. If any claim for interest was made by these suppliers in the arbitral proceedings, the suppliers would be entitled to press such claim at the stage of computation of price by the Indian Oil Corporation Limited. If it is found that the Indian Oil Corporation Limited has wrongly deducted any amount from the bills of the appellants / suppliers or otherwise, the same shall be released by the Indian Oil Corporation Limited to each of the suppliers within eight weeks from the date of passing of the order.

12. In view of the aforesaid, all the arbitral awards which are subject matter of these appeals / cross-objections are set aside. The aforesaid appeals along with all the cross-objections are disposed of in aforesaid terms. There shall be no order as to costs.

**(A.K. MENON, J)**

**(R.D. DHANUKA, J.)**