IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2019

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.S.No.200 of 2015

Bharat Petroleum Corporation Limited
having its Tondiarpet Installation at
No.35, Vaidyanathan Street,
Tondiarpet, Chennai - 600 081.
and represented by its Territory Manager,
Mr.P.Anil Kumar ... Plaintiff

Vs

Mr.M.Veerasamy
Proprietor,
M/s.M.Amurtham Petroleum Agencies,
Pond - Villupuram Main Road,
Madagadipet & Post,
Pondicherry - 605 107. ... Defendant

Plaint filed under order IV Rule 1 of O.S. Rues read with Order VII Rule 1 of C.P.C., praying for judgment and decree as follows:

i)

ii)For Rs.94,42,376.18 (Rupees Ninety Four Lakhs Forty Two Thousand Three Hundred and Seventy Six and paise eighteen only) towards compensation payable in lieu of non furnishing of 'C' Forms as required under the Central Sales Tax Act with interest at 12% per annum from the date of the suit till the date of recovery;

iii)For costs of the suit

iv)For such other reliefs

For Plaintiff : Mr.O.R.Santhanakrishnan

For Defendant : Set ex-parte on 05.12.2018

JUDGMENT

The suit has been instituted for recovery of Rs.94,42,376.18 along with interest at 12% per annum from the date of the suit till the date of recovery.

2. The plaintiff is a Government of India Enterprises, coming under the Ministry of Petroleum and Natural Gas and engaged in manufacture of various ranges of essential petroleum products, like motor spirit, high speed diesel, lubricants, greases, LPG aviation turbine fuel etc. The defendant was appointed as a dealer of the plaintiff as per the license agreement dated 19.02.1996. It is the case of the plaintiff that the defendant had agreed to pay to the authorities concerned regularly and without fail the sales tax and other tax that may be levied. As such, the defendant was supplied with the petroleum products on his representation that he would produce relevant 'C' Forms. The plaintiff being the supplier is bound to submit 'C' Forms to the sales tax authorities in Tamil Nadu for the total value of product supplied to the other state customer, who availed concessional tax under CST.

3. The defendant was running the dealership in the Union Territory of Puducherry and only CST is applicable on the product value and the CST at the rate of 2% collected by the plaintiff in the invoice at the time of supply of product. The defendant being a dealer of the plaintiff, sells the product to the public after adding the local sales tax applicable in Puducherry. It is further averred in the plaint that the plaintiff has been collecting 'C' Form on the

monthly basis from the defendant, but it was stopped from the month of April 2012 onwards. Consequently, the plaintiff has been served with pre-assessment notice by the Commercial Tax Department, Tamil Nadu, directing them to produce the relevant 'C' Form, failing which, the plaintiff will be mulcted with differential taxes applicable to the State of Tamil Nadu. Despite the same is communicated to the defendant and he was assuring to produce 'C' Forms, but he failed to do so and hence, the suit.

4. Though the defendant had entered his appearance on receipt of the suit summons through his counsel, but however, he was set exparte for non filing of the written statement on 05.12.2018.

5. One Anbu Kannan, Territory Manager (Retail-Trichy) was examined as P.W.1 and marked the following documents as Exs.P1 to P19 as documentary evidence in order to prove the suit claim:-

Ex.P1 is the attested copy of dispensing Pump and Selling License Agreement dated 19.02.1996

Ex.P2 is the attested copy of VAT Registration Certificate dated 22.01.2007 from the Government of Tamil Nadu

Ex.P3 is the office copy of the letter dated 30.07.2012 sent by the plaintiff to the defendant

Ex.P4 is the reply letter dated 02.08.2012 sent by the defendant to the plaintiff

Ex.P5 is the reply letter dated 05.08.2012 sent by the defendant to the plaintiff

Ex.P6 is the attested photocopy of affidavit dated 05.08.2012 sworned by the defendant's brother

Ex.P7 is the office copy of the letter dated 24.08.2012 sent by the plaintiff to the defendant

Ex.P8 is the true copy of reply letter dated 29.08.2012 sent by the defendant to the plaintiff

Ex.P9 is the letter dated 18.09.2012 sent by the plaintiff to the defendant

Ex.P10 is the true copy reply dated 23.09.2012 sent by the defendant to the plaintiff

Ex.P11 is the letter dated 26.10.2012 by the plaintiff to the defendant

Ex.P12 is the reply dated 01.11.2012 sent by the defendant to the plaintiff

Ex.P13 is the reply dated 24.12.2012 sent by the defendant to the plaintiff

Ex.P14 is the letter dated 14.02.2013 sent by the defendant to the plaintiff

Ex.P15 is the letter dated 07.04.2013 sent by the defendant to the plaintiff

Ex.P16 is the letter dated 05.10.2013 sent by the defendant to the plaintiff

Ex.P17 is the attested photocopy of pre-assessment notice dated 20.11.2013

Ex.P18 is the office copy of lawyer notice 28.12.2013 sent by plaintiff's lawyer to the defendant

Ex.P19 is the certified copy of statement of accounts

6. The oral evidence of PW1 and the documents, Exs.P1 to P19 would reveal the defendant has not produced 'C' Forms and as such, the plaintiff is entitled to a sum of Rs.94,42,376.18 towards compensation payable in lieu of non furnishing of 'C' Forms as required under the Central Sales Tax Act.

7. Taking into consideration, the pleadings, the evidence of P.W.1 and Exs.P1 to P19, this Court is of the view that the plaintiff has proved his case and entitled to decree sought for in the suit. Accordingly, the Suit stands decreed with costs. However, the plaintiff is entitled for interest at 6% on Rs.94,42,376.18 from the date of suit till the date of realisation.

23.01.2019

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To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

K.KALYANASUNDARAM, J.,

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C.S.No.200 of 2015

23.01.2019

Taking into consideration, the pleadings, the evidence of P.W.1 and Exs.P1 to P19, this Court is of the view that the plaintiff has proved his case and entitled to decree sought for in the suit. Accordingly, the Suit stands decreed with costs.

date of de

from the date of suit to till the date of decree 24%

from the date of decree, till the date of payment 6%