

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.Nos.695 & 699 of 2021
and W.M.P.Nos.754 & 757 of 2021

M/s Balaji Enterprises (Pondy)
Private Limited,

Having its registered office at:
16, Zamindar Garden, Puducherry – 605 001.

Rep by its Director

... Petitioner in both WPs

Vs.

1.The Union of India,
Rep by: Chief Secretary to Government,
Government of Puducherry, Puducherry.

2.The Excise Commissioner,
Government of Puducherry,
Puducherry.

... Respondents in both WPs

3.The Puducherry Agro Products, Food & Civil Supplies
Corporation Limited,

(A Government of Puducherry undertaking)

Having its registered office at:
Agricultural Complex, Thattanchavady,
Puducherry – 605 009.

Rep. by its: Managing Director

... Respondent in W.P.No.695 of 2021

3.Puducherry Agro Service And Industries Corporation Limited,
(A Government of Puducherry undertaking)

Having its registered office at:
Agricultural Complex, Thattanchavady,
Puducherry – 605 009.

Rep. by its: Managing Director

... Respondent in W.P.No.699 of 2021

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents herein to pay the petitioner the sum of Rs.13,38,03,671/- (Rupees Thirteen crores thirty eight lakhs three thousand six hundred and seventy one only) together with interest accrued at the rate of 14% per annum till date of full payment and Rs.1,16,63,943/- (Rupees Once crore Sixteen lakhs Sixty three thousand Nine hundred and forty three only) together with interest accrued at the rate of 14% per annum till date of full payment respectively.

For Petitioner in both WPs : Mr.ARL.Sundaresan
for Ms.AL.Ganthimathi

For Respondents in both WPs : Mr.A.V.Ramalingam for R1 & R2
AGP Pondy

Mr.T.M.Naveen for R3

COMMON ORDER

These writ petitions have been filed for a Mandamus seeking for a direction to the third respondent in these petitions to pay the petitioner the sum of Rs.13,38,03,671/- (Rupees Thirteen crores thirty eight lakhs three thousand six hundred and seventy one only) and Rs.1,16,63,943/- (Rupees Once crore Sixteen lakhs Sixty three thousand Nine hundred and forty three only) respectively together with interest accrued at the rate of 14% per annum till date of full payment respectively.

2. The petitioner has filed before this Court the confirmation of balance issued by the third respondent on 13.06.2019 and 20.10.2020 in favour of the petitioner that a sum of Rs.13,38,03,671/- (Rupees Thirteen crores thirty eight lakhs three thousand six hundred and seventy one only) and Rs.1,16,63,943/- (Rupees Once crore Sixteen lakhs Sixty three thousand Nine hundred and forty three only) are due and payable to the petitioner towards the supplies effected by them to the third respondent in these petitions.

3. Since the third respondent has admitted the liability to the petitioner, this writ petition is maintainable. An affidavit has also been filed by the third respondent before this Court dated 29.01.2021, wherein, they have expressed their financial difficulty to pay the admitted dues of the petitioner. According to them, the Excise Department, Government of Pondicherry is now taking steps to conduct E-Auction for sub-leasing of the licence of IMFL shops of the second respondent Corporation. According to them, due to Covid -19 pandemic, transfers made in the Excise Department (Deputy Commissioner - Excise) and on account of upcoming assembly elections etc., the Excise Department is not able to complete the process and it is trying to do so at the earliest possible. According to them, as soon as the entire process of the E-Auction is completed and revenue is generated and once the financial condition of the second respondent improves, the second respondent has given an

undertaking that they will be able to pay the dues and liabilities of its creditors including the dues payable to the petitioner in this writ petition.

4. The said affidavit filed by the third respondent before this Court is recorded. It is made clear that the petitioner's claim is an undisputed claim. The petitioner seeks for early payment of its dues. In a similar set of facts in respect of another creditor, where also there was admission of liability on the part of the second respondent, a learned Single Judge of this Court by its order dated 20.01.2020 in WP No.23975 of 2019 passed the following order :-

"5. In view of the above facts and circumstances, at this stage, the writ petition is disposed of, recording the undertaking of the respondents to settle of dues and liabilities payable to the petitioner herein on priority basis. The writ petitioner is at liberty to approach the appropriate Forum in case there is any breach of the undertaking".

5. The learned counsel for the petitioner on instructions would submit that the petitioner will be satisfied, if the same order is passed in this case also.

6. The learned counsel appearing for the third respondent has also not raised any serious objections for passing similar orders in this writ petition also.

7. Accordingly, this writ petition is disposed of by recording the undertaking given in the affidavit filed by the third respondent to settle all its dues and liabilities payable to the petitioner on priority basis. No costs. Consequently, connected miscellaneous petitions are closed.

8. The learned counsel for the petitioner requested this Court to direct the third respondent to pay the admitted amount together with interest. With regard to the interest claim, this Court cannot pass any orders in these writ petitions as the same has not been admitted by the third respondent. The only observation that has been reiterated by this Court is that the third respondent shall settle all the dues and liabilities on priority basis as per their undertaking given before this Court.

22.02.2021

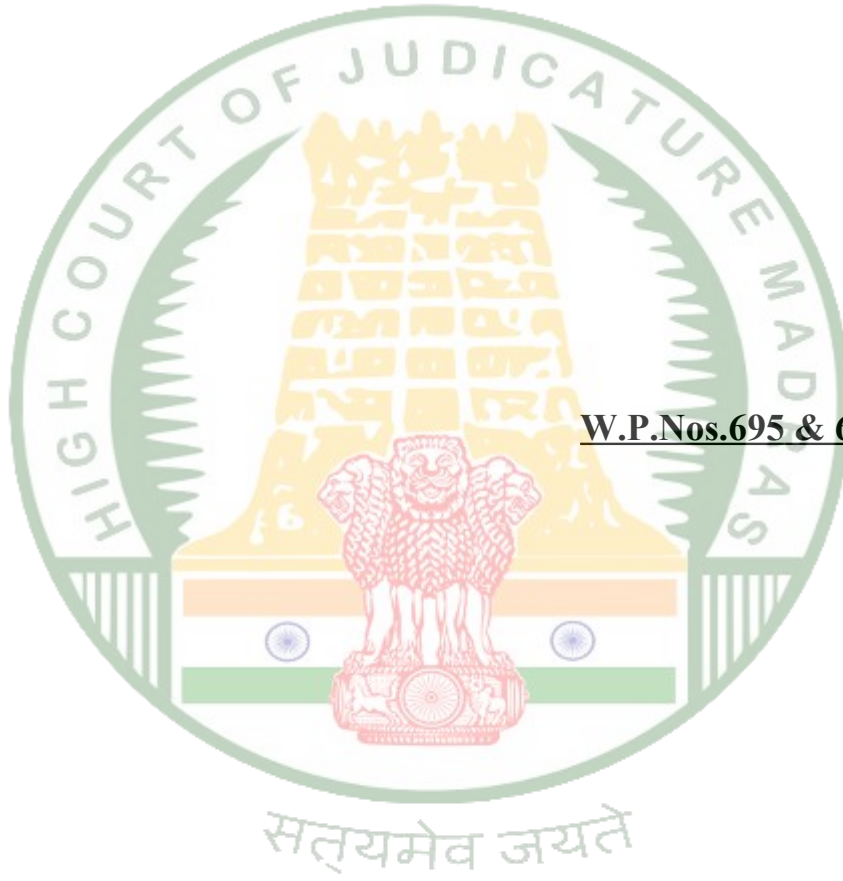
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Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
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ABDUL QUDDHOSE, J.
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