

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.16346 of 2020

M/s.Nithish Industries,
Rep by its Proprietor B.Nitish Harihar,
No.96, Suramangalam Main Road,
Salem - 638 009.

... Petitioner

Vs.

1. Union of India,
Rep by its Secretary,
Department of Civil supplies
Union territory of Puducherry,
Puducherry - 605 001.
2. The Puducherry Agro products,
Foods and Civil supplies Corporation limited,
Rep. by its Managing Director,
Agricultural Complex, Thattachavady,
Puducherry - 605 009.
3. The Department of Civil Supplies,
And Consumer Affairs, Puducherry,
Rep by its Director,
Thattanchavady, Puducherry - 605 009.

... Respondents
in both WPs

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the 2nd respondent to pay the sum of Rs.30,13,048.35 (Rupees Thirty Lakhs Thirteen Thousand and forty eight and paise Thirty five only) as per the their communication dated 20.05.2019 addressed to the petitioner within the stipulated time fixed by this Court.

For Petitioner : Ms.S.Gomathilakshmi

For Respondents: Mr.A.V.Ramalingam, AGP (Pdy)
for R1 & R3
Mr.T.M.Naveen for R2

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the second respondent to pay the admitted sum of Rs.30,13,048.35 (Rupees Thirty Lakhs Thirteen Thousand and forty eight and paisa Thirty five only), which is the sum payable by the second respondent to the petitioner towards the supplies made by them at the request of the second respondent.

2. The petitioner has filed before this Court the confirmation of balance issued by the second respondent on 20.05.2019 in favour of the petitioner admitting that a sum of Rs.30,13,048.35 (Rupees Thirty Lakhs Thirteen Thousand and forty eight and paisa Thirty five only) is due and payable to the petitioner towards the supplies effected by them to the second respondent. The details of supplies effected by the petitioner to the second respondent are as follows :-

Sno.	Description	Quality	Rate
1	BPT Steam Rice	2000	39.92
2	Ponmani / Idly Rice	5000	35.83
3	Mayuri Raw Rice	10000	30.80
4	White Ponni Raw Rice	4000	48.60
5	White Ponni Boiled Rice	5000	48.06
6	ADT-39 Boiled Rice	7000	31.82
7	Chinna Ponni Boiled Rice	1500	37.44
8	White Ponni Raw Idysal	2000	29.98
9	Ponni Boiled Idisal	15000	27.88
10	IR 20 Raw Rice	5000	30.85
11	Black Ellu (Sesame till)	500	102.86
12	White Ellu (Sesame till)	300	150.00
13	Jaggery (free from moisture)	49000	58.20
14	Wheat	750	33.35
15	Rava (Sooji - packed in 1 Kg)	100000	43.50

16	Maida (packed in 1 Kg)	100000	39.20
17	Dry Chilies (round)	4000	386.05
18	Pepper	3600	615.14
19	Jeeragam (cumin seed)	5000	246.06
20	Sombu (Saunt)	3500	99.70

3. Since the second respondent has admitted the liability to the petitioner, this writ petition is maintainable. An affidavit has also been filed by the second 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 second 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 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 second 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 of the second respondent to settle all its dues and liabilities payable to the petitioner amounting to Rs.30,13,048.35 (Rupees Thirty Lakhs Thirteen Thousand and forty eight and paise Thirty five only) on priority basis. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi2

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- 2.The Managing Director,
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+1 cc to M/s.M.RajaSekhar, Advocate Sr.No. 10495

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SKY (CO)
RMP (17/03/2021)

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