

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 3314 of 2021

Date of Decision: 05.05.2021

Punjab Service Centre

.....Petitioner

VERSUS

Indian Oil Corporation Limited and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Harsh Aggarwal, Advocate for the petitioner.

Mr. Ashish Kapoor, Advocate for the respondents.

ALKA SARIN, J.

Heard through video conferencing.

The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the letters dated 13.01.2021 (Annexure P-7), 23.01.2021 (Annexure P-8) and 02.02.2021 (Annexure P-10) whereby the appeal filed by the petitioner has been refused to be forwarded by the respondents to the Dispute Resolution Panel and has been returned since it was not accompanied with a pre-deposit of Rs.5,00,000/-. It has also been prayed that a direction be issued to the respondents to constitute the Appellate Tribunal in terms of the Marketing Dispute Guidelines.

The facts in brief are that the petitioner was operating a Retail Outlet dealership of the Indian Oil Corporation Limited (IOCL). During an inspection on 24.10.2019 certain deviations were noticed by the officials of IOCL and as a result the sales and supplies of the Retail Outlet were suspended. A show cause notice was issued to the petitioner who replied to the same and on 10.07.2020 (Annexure P-2) the Retail Outlet dealership of

the petitioner was terminated. The petitioner filed CWP No.12303 of 2020 in this Court challenging the inspection report, the show cause notice and the termination order. Before this Court the respondents contended that the petitioner has an alternate remedy of filing an appeal under the Marketing Discipline Guidelines (MDG). As a result, vide order dated 10.12.2020 (Annexure P-4) CWP No.12303 of 2020 was dismissed. However, the petitioner was given liberty to avail his remedy of appeal before the prescribed authority in accordance with law. It was further ordered that since the petitioner has been agitating his grievance before this Court, therefore, if the petitioner files the appeal before the appropriate authority within a period of thirty days then the limitation for filing the said appeal shall be deemed to have been condoned and the concerned authority shall decide the appeal of the petitioner on merits.

In January 2021 the petitioner submitted his appeal to IOCL for adjudication by the Appellate Authority / Dispute Resolution Panel. The appeal was accompanied by an application for exemption from deposit of Rs.5,00,000/-. The respondents, however, vide the impugned letters declined to entertain the appeal without the pre-deposit of Rs.5,00,000/- and returned the same to the petitioner.

Learned counsel for the petitioner has contended that the petitioner's appellate remedy under the MDG has been curtailed by imposing a condition of pre-deposit. He further submits that due to the Covid-19 Pandemic and closure of the retail outlet the petitioner cannot afford to pay such a huge amount as a pre-deposit. It is also contended that the condition of a pre-deposit for entertaining an appeal is illegal. *Per contra* learned counsel for the respondents has submitted that the petitioner is

bound by the clauses of the MDG and since the MDG has a requirement of a pre-deposit the petitioner is bound to comply with the same.

I have heard learned counsel for the parties. The MDG is not under challenge in the present writ petition. No doubt the MDG requires a pre-deposit of Rs.5,00,000/- as appeal fee which has to be deposited by the dealer preferring an appeal. However, the petitioner had along with its appeal also filed an application for exemption from deposit of the appeal fee of Rs.5,00,000/-. The respondents have returned the appeal and the application to the petitioner for the reason that the appeal fee was not deposited. This Court is of the opinion that once the petitioner has filed the appeal accompanied with an application for exemption from deposit of the appeal fee, the respondents ought to have put up the same for consideration before the Appellate Authority / Dispute Resolution Panel. It is for the Appellate Authority / Dispute Resolution Panel to accept or reject the application. Further, the second prayer sought in the present writ petition no longer survives as according to counsel for the respondents the Appellate Authority / Dispute Resolution Panel is very much in existence.

In view of the discussion above, the present writ petition is disposed off as under :

- a) The petitioner may re-present its appeal along with the application for exemption from deposit of the appeal fee to the respondents within fifteen days from today;
- b) On the appeal along with the application for exemption from deposit of the appeal fee being re-presented to the respondents, they shall put up the

same before the Appellate Authority / Dispute Resolution Panel for a decision thereon, in accordance with law;

- c) Since the petitioner had in compliance of the earlier order dated 10.12.2020 passed by this Court in CWP No.12303 of 2020 (Annexure P-4) filed it's appeal within thirty days of the passing of the said order, the re-presentation of the appeal along with the application for exemption from deposit of the appeal fee shall be deemed to be within the time granted by this Court on 10.12.2020.

Disposed off.

(ALKA SARIN)
JUDGE

5th May, 2021
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO