IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.8320 of 2022
and
W.M.P.No.9978 of 2022

M/s. Cooking Gas Agency,
3A, Malaviya Avenue, 1st Street,
Thiruvanmiyur,
Chennai-600041.
Rep by its Partner MR. Ramanthan Krishnan ... Petitioner

Vs

1. The Executive Director,
   Indian Oil Corporation Limited,
   Marketing Division,
   139, Nungambakkam High Road,
   Chennai-600034.

2. Deputy General Manager (LPG Sales).
   500, Anna Salai,
   Teynampet,
   Chennai-600 018 ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records culminating in the order dated 24.03.2020 bearing Ref.No.TNLS/382 passed by the 1st respondent and quash the same.

For Petitioner	...	Mr. Krishna Srinivas for S. Ramasubramaniam Associates
For Respondents	...	Mr. Abdul Saleem for M/s. A.A.V.Partners

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O R D E R

The present petition has been filed seeking the relief of quashment of the impugned order dated 24.03.2020 passed by the 1st respondent.

2. It is the case of the petitioner that the petitioner is a registered Partnership firm which consists of 22,000 customers, had been issued with a show cause notice dated 20.12.2019 by the 2nd respondent, based on some complaints received by the Corporation, through online on its web portal with regard to the service charges being collected by the petitioner's representatives for frequent checks of appliances, though the same is mandatory only once in five years. Subsequently, another show cause notice was issued by the 2nd respondent on 23.12.2019 and the petitioner had submitted detailed replies for both show cause notices on 04.01.2020 & 07.01.2020 and the said replies were rejected by the 2nd respondent vide order dated 31.01.2020 and a fine of Rs.1,66,869,99/- was imposed. On payment of 25% of the said amount, the petitioner had preferred an appeal before the 1st respondent and the appeal was

mechanically rejected on 24.03.2020, confirming the order of the 2nd repsondent, on the ground that a sum of Rs.200/- is being charged from the customers towards annual mandatory checks, further the petitioner was directed to pay the balance amount of fine as per the order dated 31.01.2020. Aggrieved by the same, the petitioner has come up with the present petition seeking the relief of quashment of the impugned order dated 24.03.2020.

3. Learned Counsel appearing for the petitioner submits that though the impugned order had mechanically been passed by the 1st respondent herein, confirming the order of the 2nd respondent, on the ground that charges are being collected towards annual checks of the appliances, however, said charges are being collected only on the basis of the circular dated 09.09.2020 issued by the corporation, on voluntary requests made by the customers. Since, the impugned order had come to be passed by the respondent without even affording an opportunity of personal hearing to the petitioner, the said order is liable to be quashed.

4. Per Contra, the learned counsel appearing for the respondents submits that though the circular dated 09.09.2020 had been issued by the Corporation fixing mandated charges of Rs.200/- (Rupees Two Hundred only)

towards inspection of appliances, which is mandatory only once in five years, however, in the present case, the complaints are being received from the customers stating that the petitioner agency is charging Rs.200/- from the customers on yearly basis as though the inspection is mandatory for every year, without carrying out any inspection and the bills towards the same are provided without GST component and signature. Therefore, the alleged impugned order has come to be passed and the same cannot be found fault with. Hence, the present petition seeking the relief of quashment of the impugned order is liable to be dismissed.

5. Heard the learned counsel on the either side and perused the materials placed before this Court.

6. On the basis of the contentions and counter contentions advanced on the either side and on perusal of the materials available on record, though the learned counsel for the petitioner claims that the charges towards inspection of appliances are being collected only in accordance with the circular dated 09.09.2020 issued by the Corporation, which is denied by the learned counsel appearing for the respondents stating that the mandatory check is only once in

five years. Further, the petitioner merely relies on the circular without pointing to the specific clause which mandates yearly check. That being the position, this Court is of the opinion, that collection of charges towards inspection of appliances is not consonance with the circular and the said act is illegal and therefore, the impugned order cannot be found fault with. Hence, the prayer sought for in this Writ Petition cannot be acceded to and this Writ Petition deserves to be dismissed.

7. For the reasons aforesaid, this petition is devoid of merits and, accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

24.01.2022

NHS
Index: Yes/No
Internet: Yes
Speaking/Non-Speaking order

To

1. The Executive Director,
   Indian Oil Corporation Limited,
   Marketing Division,
   139, Nungambakkam High Road,
   Chennai-600034.

2. Deputy General Manager (LPG Sales).
   500, Anna Salai,
   Teynampet,
   Chennai-600 018

M.DHANDAPANI, J.

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