



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.5500 of 2012

K.Balasaraswathy

... Petitioner

Vs.

1.Indian Oil Corporation Limited,
represented by its Executive Director
(Retail Sales),
Indian Oil Bhavan,
G.9, Aliyavar Jung Marg,
Bandra (East) Mumbai 400 051.

2.The Executive Director
(Tamil Nadu State Office),
Indian Oil Bhavan,
IOCL Marketing Division,
139, Nungambakkam High Road,
Chennai 600 034.

3.The Chief Divisional Retail Sales Manager,
M/s.Indian Oil Corporation Limited,
Madurai Divisional Office, Race Course Road,
Chokkikulam, Madurai 625 002.

4.The Accounts Officer,
Kappalur Terminal, IOCL Depot,
SIDCO Industrial Estate,
Kappalur, Madurai 625 008.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of 3rd respondent, dated 31.12.2011 and 17.03.2012 (E.Mail) and to quash the same in so far as levying of penalty and interest against the petitioner and to direct the respondent Corporation to refund the said amount which has been deducted from the SAP account of the petitioner with interest.

For Petitioner : Mr.V.Nagarajan
for Mr.G.Vidhya Maheswaran

For Respondents : Mr.K.Muraleedharan



ORDER

The present Writ Petition is filed challenging the order passed by the third respondent under which the writ petitioner has been directed to pay a penalty and interest for the default in making payments and for the delay payments made by the petitioner.

2. Admittedly, the petitioner is one of the dealers of the first respondent Corporation. According to the respondent Corporation, after the receipt of the goods, the petitioner dealer has made payments belatedly and for the first belated payment, the respondent Corporation would impose a penalty of Rs.1,000/- and for the subsequent penalties it gets increased to Rs.3,000/- and Rs.5,000/- respectively. Calculating on the above said basis, the respondent Corporation has issued the impugned order under which the petitioner has been directed to pay a penalty of Rs.1,79,000/- and an interest of Rs.65,200/- towards the belated payments made by the petitioner/dealer. The said order is under challenge in the present Writ Petition.

3. The learned Counsel appearing for the petitioner brought to the notice of this Court, an order passed by the learned Single Judge in W.P.(MD)Nos.1881 to 1884 and 1888 to 1894 of 2012, dated 04.06.2019. After discussing the contentions of the dealer and the respondent Corporation, the learned Single Judge has arrived at a view that the respondent Corporation is a State within the meaning of Article 12 of the Constitution of India and it should conduct their affairs in a fair and reasonable manner. He has further held that the Corporation can levy penalty at the rate of Rs.1,000/- and cannot be at a progressive rate. In otherwords, there can be a levy of Rs.1,000/- only. On the said finding, this Court has set aside the impugned communications in those Writ Petitions to the extent where an excessive amount was charged as penalty by the respondent Corporation. This Court has also reduced the interest of rate to 6% from the date of debiting till the date of payment.

4. Since the facts and circumstances are similar, this Court is inclined to pass the following order:

i. The impugned order in the Writ Petition, dated 31.12.2011, is set aside and remitted back to the third respondent.

ii. The third respondent shall issue a fresh order in accordance with the orders passed by this Court in W.P.(MD)Nos.1881 to 1884 and 1888 to 1894 of 2012, dated 04.06.2019, after affording an opportunity to the petitioner

iii. If there is any default in future, the respondent Corporation has to follow the orders of this Court mentioned supra.



5.The Writ Petition stands allowed to the extent as stated above. No costs.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.Indian Oil Corporation Limited,
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- 4.The Accounts Officer,
Kappalur Terminal, IOCL Depot,
SIDCO Industrial Estate,
Kappalur, Madurai 625 008.

+1 CC to M/s.G.VIDHYAMAHESWARAN, Advocate (SR-25807
[F] dated 15/06/2022)

W.P. (MD) .No.5500 of 2012

15.06.2022

MGJ(28.06.2022) 3P 6C

<https://hcservices.ecourts.gov.in/hcservices/>