



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2022

CORAM

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.975 of 2012

and

M.P. (MD) Nos.1 to 3 of 2012

Revathi Fuels represented by its Proprietor,
V.P.Selvi. ... Petitioner

Vs.

1.Indian Oil Corporation,
represented by its Executive Director,
Marketing Division, Southern Region,
Indian Oil Bhavan,
139, Mahatma Gandhi Road, Chennai-34.

2.The Chief Divisional Sales Manager,
Indian Oil Corporation Limited,
Madurai Divisional Office,
No.2, Race Course Road,
Chokkikulam, Madurai-625 002.

3.The Assistant Manager, (RS)
Tuticorin (RSA), Tuticorin District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the order, dated 04.01.2012, passed by the 3rd respondent and to quash the same.

For Petitioner : No appearance
For R1 & R2 : No appearance
For R3 : Mr.K.Muraleedharan

O R D E R

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 delayed 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 penalty of Rs.2,14,422/- towards the belated payments made by the petitioner/dealer. The said order is under challenge in the present Writ Petition.

3.It was 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 on 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 04.01.2012, 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. Consequently, connected miscellaneous petitions are closed.

Sd/-

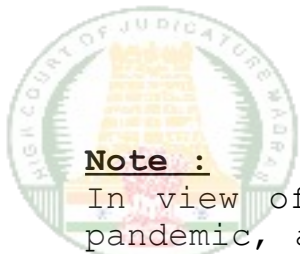
Assistant Registrar (CS II)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

Tmg



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.The Executive Director,
Indian Oil Corporation,
Marketing Division, Southern Region,
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- 2.The Chief Divisional Sales Manager,
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MGJ(28.06.2022) 3P 4C