

30.01.2024
Sl No.64,65,66
Court No.8
(gc)

**MAT 2359 of 2023
CAN 1 of 2024
CAN 2 of 2024**

**Indian Oil Corporation Ltd. & Ors.
Vs.
Indane LPG Distributors Association, W.B.**

With

**MAT 2360 of 2023
CAN 1 of 2024
CAN 2 of 2024**

**Indian Oil Corporation Ltd. & Ors.
Vs.
Indane LPG Distributors Association, W.B.**

With

**MAT 2361 of 2023
CAN 1 of 2024
CAN 2 of 2024**

**Indian Oil Corporation Ltd. & Ors.
Vs.
Indane LPG Distributors Association, W.B.**

Mr. Jaydip Kar, Sr. Adv.,
Mr. Amit Kr. Nag,
Mr. Partha Banerjee,
Ms. Ranjabati Ray
...for the Appellant/IOCL
In MAT 2359 of 2023.

Mr. Amit Kr. Nag,
Mr. Partha Banerjee,
Ms. Ranjabati Ray
...for the Appellant/IOCL
In MAT 2360 of 2023
& MAT 2361 of 2023.

Mr. Kalyan Bandopadhyay, Sr. Adv.,
Mr. Sirsanya Bandopadhyay,
Mr. Niladri Bhattacharjee,
Mr. Soham Bandyopadhyay,
Ms. Deblina Chattaraj,
Ms. Priyanka Kundu,
Ms. Angana Dutta,
Mr. Pratik Acharjee,
...for the Respondent.

1. By consent of the parties, all the appeals and the connected applications are taken up together and disposed of by this common order.

Re: CAN 1 of 2024
In
MAT 2359 of 2023

2. There is a delay of 37 days in filing the memorandum of appeal.
3. Sufficient cause being shown for not being able to file the memorandum of appeal within the period of limitation.
4. The delay of 37 days in filing the memorandum of appeal is condoned.
5. Accordingly, the application for condonation of delay is allowed and disposed of.

Re: CAN 1 of 2024
In
MAT 2360 of 2023

1. There is a delay of 37 days in filing the memorandum of appeal.
2. Sufficient cause being shown for not being able to file the memorandum of appeal within the period of limitation.
3. The delay of 37 days in filing the memorandum of appeal is condoned.

4. Accordingly, the application for condonation of delay is allowed and disposed of.

Re: CAN 1 of 2024
In
MAT 2361 of 2023

1. There is a delay of 37 days in filing the memorandum of appeal.
2. Sufficient cause being shown for not being able to file the memorandum of appeal within the period of limitation.
3. The delay of 37 days in filing the memorandum of appeal is condoned.
4. Accordingly, the application for condonation of delay is allowed and disposed of.

Re: MAT 2359 of 2023
CAN 2 of 2024
With
MAT 2360 of 2023
CAN 2 of 2024
With
MAT 2361 of 2023
CAN 2 of 2024

5. The principal grievance of the appellant is that after the learned Single Judge has arrived at a finding that the writ petition is not maintainable, it was not open for the learned Single Judge to decide the matter on merits. Mr. Kalyan Bandopadhyay, learned Senior Counsel appearing on

behalf of the respondent as a proposition of law did not dispute.

6. We find in Paragraph 50 of the impugned order that there is a clear finding that the writ petition is not maintainable in the present form as the Associations registered under the W.B. Societies Registration Act, 1961 cannot sue or be sued on its' own names and they are to be represented by the President, or the Secretary or any of the office bearers in the meeting of the Governing Body of the Associations. However, the learned Single Judge has not dealt with the matter on merits as well. Once the Court is of the view that the writ petition is not maintainable at the instance of the Association due to defect or otherwise of the entity applied, the Court should not enter into the realm of controversy and decide the issue on merits. Only on such consideration, we set aside the impugned order.
7. We are allowing the appeals only on the ground that it was not open for the learned Single Judge to enter into merits of the matter once a finding is arrived at that the writ petition is not maintainable. It is

needless to mention that we have not gone into the merits of the matter.

8. Accordingly, the appeals and the connected applications are disposed of.

9. However, there shall be no order as to costs.

10. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)