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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

55 WRIT PETITION NO. 103 OF 2025

M/s Amit Gas Service,
Shivaji Road Court Complex,
Dondaicha, Tq. Sindkheda,
Dist. Dhule
Thr. its Proprietor
Subhash s/o Uttam Thakur

VERSUS

1. Union of India
Thr. Secretary for Petroleum
Department, New Delhi
2. The Chief General Manager,
Indian Oil Corporation Ltd.
Bandra, Mumbai
3. The Divisional LPG Sales Head,
Indian Oil Corporation Ltd.
Aurangabad

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Mr S. C. Yeramwar, Advocate for petitioner
Mr Anand Bhandari, Advocate for respondent Nos.2 & 3

**CORAM : MANGESH S. PATIL
AND
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 6th January, 2025

PER COURT:

1. The petitioner, who is LPG Distributor of the respondents is soliciting a direction for deciding his appeal in terms of Marketing Discipline Guidelines 2022 (for short 'MDG 2022')

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2. In the earlier round, when his appeal was not being accepted and entertained, he had approached this Court in Writ Petition No.3341/2024 and was allowed to withdraw the petition with liberty to prefer an appeal. Even the time spent in prosecuting that remedy was directed to be excluded. His stand is that he had thereafter preferred the appeal. Pursuant to the interim arrangement in the form of agreement, he had solicited concession of twenty installments for making payment of the penalty, but was instead granted 12 installments, of which he has deposited six installments and that being the prerequisite contained in Clause 3.11, his appeal should be decided on its own merits.

3. Learned advocate for respondent Nos.2 and 3 tenders across the bar affidavit-in-reply of respondent Nos.2 and 3 and places before us the guidelines i.e. MDG 2022. He submits that, in spite of concession granted by this Court, the petitioner had failed to make necessary deposit which is a prerequisite for entertaining appeal under Clause 3.11 of MDG 2022. Even in the earlier round, it was pointed out that, only on such deposit being made that appeal would be entertainable, that this Court had noted the submissions in the order. It is being pointed out that, by failing to prefer the appeal, strictly in

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compliance with clause 3.11 of MDG 2022, the petitioner cannot be allowed to seek decision on his appeal.

4. Learned Advocate Mr. Bhandari for respondent Nos.2 and 3 also submits that, by requesting for making the deposit by way of installments, the petitioner has waived his right to challenge the decision. Rather, he entered into a separate agreement and once having made the arrangement without any demur, he cannot be allowed to revert back and claim adjudication of his appeal.

5. We have considered the rival submissions and perused the papers.

6. There is no dispute about the facts referred to herein above. By virtue of Clause 3.11 of the MDG 2022, a distributor is entitled to prefer an appeal, provided he makes deposit equivalent to 25% of the fine or Rs.10,00,000/- whichever is less. Admittedly, the petitioner did not comply with this even when he was granted concession of preferring appeal by excluding stipulation as regards period within which the appeal could be preferred, precisely noting that by virtue of clause 3.11, it was incumbent on his part to make the deposit. Having withdrawn the petition with liberty with such a

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concession, the petitioner has failed to make the deposit. Though it is not the matter of right of appeal under any statute, but is by virtue of agreement/arrangement between the parties inter se, once having approached this Court, having granted the indulgence expressly excluding the time spent in prosecuting the writ petition, the petitioner had failed to make necessary deposit, which is a prerequisite for his right of appeal. He cannot be allowed to reprobate and take advantage of the installments deducted from the deposit.

7. There is no merit in the petition. The writ petition is dismissed.

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)

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