IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 22456 of 2023
AND
WMP NO. 6492 OF 2024

M/s. S.K.Agency
Rep. By Its Proprietor,
Mrs. P.S. Hepsibha, No. 206 , H- Block,
Casagrand Asta Apartment, Korattur,
Chennai 53

... Petitioner

Vs

1. The Secretary
Department Of Commerce, Ministry Of Commerce And Industry, Government Of India, Room No. 424, Vanijya Bhawan,
New Delhi 110 011

2.The State Trading Corporation Of India Ltd., (a Governmetn Of India Enterprise), The Chairman And Managing Director, Jawahar Vyapar Bhawan, Tolstoy Marg, New Delhi 110 001

3.The Branch Manager
The State Trading Corporation Of India Ltd., Stc Trade Centre, Guindy, Chennai 32

4.The Managing Director
Puducherry Agro Products, Food And Civil

Supplies Corporation Ltd., (A Governmetn Of Puducherry Undertaking), Agricultural Complex, Thattanchavady, Puducherry 605 009

Respondent(s)

PRAYER

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd and 3rd respondent to disburse the Excess trade margin collected to the tune of Rs. 27,58,201/- along with interest for the delay period at 18 percent p.a., from 15.03.2019 within an appropriate time frame as may be fixed by this Honble Court.

For Petitioner : Ms.Bhuvaneshwari

For Respondents : Mr. Diwakar, Senior Panel Counsel For R1
Mr. K.V.Prakash For R2 and R3
Mr. T.M. Naveen - For R4

ORDER

The facts relating to the present writ petition and the relief sought for and the grievance expressed by the petitioner and also the defence taken on the side of the respondents was captured in the earlier order passed by this Court on 01.07.2025 and the same is extracted hereunder.

" *When this writ petition came up for hearing on 25.06.2025, this Court heard the counsel on either side and passed the following order :*

"The writ petition has been filed for the issue of writ of mandamus directing the 2nd and 3rd respondents to disburse the excess trade margin collected to the tune of Rs.27,58,201/- along with interest for the delay period at 18 % p.a., from 15.03.2019.

2. This Court after hearing the learned counsel on either side and after perusing the materials on record and also the counter affidavit that has been filed by the 2nd and 3rd respondents, finds that the entire dispute revolves around the deduction towards trade margin at 1% on the unsupplied quantity to the tune of Rs.25,16,700/- and the further amount that was deducted towards legal expenses to the tune of Rs.2,67,030/-. The same is evident from the e-mail dated 10.04.2019 that was sent to the petitioner. The petitioner is now seeking for payment of Rs.27,58,201/- from the 2nd and 3rd respondents. This is in view of the fact that the 4th respondent owe money to the 3rd respondent, which resulted in arbitration proceedings being initiated and an award came to be passed on 03.01.2019. This award was subsequently setaside by the Principle District Judge at Puducherry in Arbitration. O.P.No.17 of 2019 by order dated 22.02.2021. The specific case of the petitioner is that the 3rd respondent has received from the 4th respondents a sum of Rs.8,35,01,560/- and out of this, the 3rd respondent released only a sum of Rs.7,96,41,314/- to the petitioner.

3. There is absolutely no clarity in the counter affidavit that has been filed by the 2nd and 3rd respondent. If really there is a serious dispute on the amount that has been claimed by the petitioner, this Court cannot exercise its jurisdiction under Article 226 of the Constitution of India, and the parties will have to be relegated to arbitration as provided under the Contract. However, if the amount claimed by the petitioner is not in dispute, and a deduction has been made by the STC only as a trade margin at the rate of 1% on the unsupplied quantity and there is no such provision available under the agreement, that issue can be gone into by this Court.

4. Learned Standing Counsel appearing on behalf of the respondents 2 and 3 shall provide clarity in this regard. Post the matter on 01.07.2025 under the caption "Part Heard Case".

2. When the matter was taken up for hearing today, the learned Standing Counsel appearing on behalf of the respondents

2 and 3/State Trading Corporation of India Ltd. (STCIL) submitted that as per the back-to-back agreement entered with the petitioner on 04.08.2016, any deduction made by the 4th respondent in respect of quantity/quality/delayed supply or any other reasons, it will be to the account of the supplier. The learned Standing Counsel further submitted that the 3rd respondent did not receive the amount that was deducted by the 4th respondent towards penalty for delay in supply and therefore, the 3rd respondent, as per the agreement, paid to the petitioner only a sum of Rs.7,96,41,314/-. The learned Standing Counsel also brought to the notice of this Court, paragraph 10 of the counter affidavit, wherein, it has been stated that as and when the amounts deducted by the 4th respondent is settled to the 3rd respondent, the balance amount payable to the petitioner will also be settled.

3. On carefully considering the submission of the learned Standing Counsel for the respondents 2 and 3 and the counter affidavit filed by the respondents 2 and 3, it is seen that there was a delay in supply of goods, as a result of which, there was a dispute between the STCIL and the 4th respondent. Ultimately, after the award passed by the Arbitrator was set aside, the 4th respondent *was supposed to settle the entire amount to the STCIL, including the amount which they had deducted towards penalty for delay in supply of goods. However, what has been settled to the STCIL is only a sum of Rs.8,35,01,560/-. According to the respondents 2 and 3, a sum of Rs.27,58,201/- was deducted towards unsupplied quantity which is yet to be refunded by the 4th respondent to STCIL. As and when this amount is paid to the STCIL, the amount that has been deducted from the petitioner towards 1% trade margin will be paid to the petitioner.*

4. In the light of the above clarity given by the respondents 2 and 3, there shall be a direction to the 4th respondent to clarify this Court, as to whether the amount that was deducted from the respondents 2 and 3 towards penalty for delayed supply of goods was paid to the respondents 2 and 3. If the amount has not been paid, it has to be settled to the respondents 2 and 3 and they in turn, will have to settle the amount to the petitioner. On the other hand, if the amount has already been settled to the respondents 2 and 3, a direction can be issued to the respondents 2 and 3 to settle the amount to the petitioner.

5. The learned counsel for the 4th respondent shall take *instructions in this regard and report to this Court.*

6. Post this writ petition under the caption "Part Heard Case" on 08.07.2025.

2. When the writ petition was taken up for hearing today, the learned counsel for the fourth respondent submitted that as per the award passed by the Arbitrator, a total sum of Rs.2,41,50,162.50/- was levied as penalty against the third respondent for delayed supply of rice. The learned counsel submitted that insofar as unsupplied quantity of rice, there is no question of making any payment to the third respondent. Learned counsel further submitted that this award was ultimately interfered under Section 34 of the Arbitration and Conciliation Act, 1996 in Arbitration O.P.No.17 of 2019 by the Principal District Judge, Puducherry by order dated 22.02.2021. Subsequent to the above order, the fourth respondent had settled a sum of Rs.8,35,01,560/-. Thus, the fourth respondent has maintained the stand that the penalty that was levied against the third respondent to the tune of Rs.2,41,50,162.50/- was for delayed supply of rice.

3. Learned Standing Counsel appearing on behalf of the third respondent submitted that the third respondent has been following up with the fourth respondent for the amount that was deducted towards penalty and recently a

letter dated 19.06.2025 was addressed by the third respondent to the fourth respondent demanding this amount. It is further submitted that if this amount is not paid, the third respondent will initiate proceedings against the fourth respondent for recovery of the amount that was deducted towards penalty.

4. It becomes clear from the above submissions made by the counsel appearing for the respondents 3 and 4 that what was deducted by the fourth respondent by way of penalty was towards the delay in supply of rice. It has nothing to do with unsupplied quantity of rice. Therefore, the dispute between the respondents 3 and 4 with respect to the amount that was deducted towards penalty has nothing to do with the claim that has been made by the petitioner from the third respondent. The dispute pertains to the delay in supply of rice and whereas the dispute between the petitioner and the third respondent pertains to deduction of 1% trade margin on the unsupplied quantity of rice.

5. On carefully going through the agreement between the petitioner and the third respondent, it is seen that the third respondent will release payment to the supplier only to the extent received from the fourth respondent and after deduction of the trade margin. If any deduction is made by the fourth respondent in respect of quality / quantity / delayed supply or any other reasons, it will have a cascading effect even on the supplier viz., the petitioner.

6. As stated supra, the deduction of Rs.25,16,700/- made by the third respondent from the petitioner is towards 1% of trade margin on the unsupplied quantity of rice. This issue is neither covered in the agreement between the respondents 3 and 4 nor in the back to back agreement which the third respondent had with the petitioner. In other words, the deduction towards trade margin for the unsupplied quantity was not even contemplated in any of the agreements. What is provided in the agreement is only the deduction made for delayed supply.

7. The averment that has been made in the affidavit filed in support of the writ petition at Paragraphs 9 and 10 has not even been properly refuted in the counter affidavit filed by the third respondent. The petitioner has taken a very clear stand that the third respondent has deducted Rs.27,58,201/- excess trade margin, which is 1% out of the unsupplied quantity of Rs.25.16 Crores. Such deduction of 1% trade margin on the unsupplied quantity of rice was not even contemplated in the agreement. For this averment made in the affidavit, there is no effective rebuttal except referring to the arbitration proceedings and the deduction that was made by the fourth respondent towards penalty. Hence, this Court holds that there is absolutely no justification for the third respondent to retain 1% towards trade margin for the unspplied quantity of rice.

8. The upshot of the above discussion leads to the only conclusion that the third respondent is liable to pay a sum of Rs.27,58,201/- which has been deducted from the total amount payable to the petitioner. There is no dispute regarding this amount and it was retained by the third respondent only on the assumption that they are entitled to retain 1% of trade margin towards unsupplied quantity and whereas, it is not provided under the agreement. Hence, there shall be a direction to the third respondent to settle the amount of Rs.27,58,201/- to the petitioner within a period of four weeks from the date of receipt of a copy of this order. If this amount is not settled to the petitioner within a period of four weeks as directed by this Court, the third respondent has to repay this amount with interest at the rate of 6% per annum from 15.03.2019 till the date of actual payment.

9. In the result, this writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

08-07-2025

KST
Index:Yes/No
Speaking/Non-speaking order

Internet:Yes
Neutral Citation:Yes/No

To

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N.ANAND VENKATESH J.

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