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IN THE HIGH COURT OF JUDICATURE AT MADRAS

| Reserved on | Pronounced on |
|-------------|---------------|
| 16.06.2026 | 25.06.2026 |

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 172 OF 2021

AND

W.M.P. NO. 232 OF 2021

1. K.T.V. Oil Mills Pvt. Ltd.
(Erstwhile KTV Oil Mills – Partnership Firm)
Rep. By KTV Kannan, Director
(Erstwhile Partner in Firm)
No.48/310, Thambu Chetty Street
Chennai 600 001.
2. M/s.K.T.V. Health Food Pvt. Ltd.
B-69, SIPCOT Industrial Complex
Gummidipoondi, Chennai 600 201.
Rep. By the Director, Mr. K.T.V.Kannan .. Petitioners

- Vs -

1. The Board of SIPCOT
Rep. By its Chairman/the Principal Secretary
To Government, Govt. Of Tamil Nadu
Industries Department
No.19-A, Rukmani Lakshmi pathy Road
Egmore, Chennai 600 008.
2. The Chairman/Managing Director
State Industries Promotion Corporation
Of Tamil Nadu Ltd. (SIPCOT)



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No.19-A, Rukmani Lakshmipathy Road
Post Box No.7223, Egmore
Chennai 600 008.

3. The General Manager
State Industries Promotion Corporation
Of Tamil Nadu Ltd. (SIPCOT)
No.19-A, Rukmani Lakshmipathy Road
Post Box No.7223, Egmore
Chennai 600 008.

.. Respondents

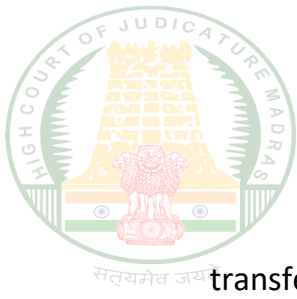
Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the impugned order No.P-II/SIGC/95/KTV/2006 dated 13.08.2020 passed by the 2nd respondent herein and quash the same and direct the respondents to give approval for the transfer of the leasehold rights over plot No.B-69, F5, Gummidipoondi Industrial Complex from the 1st petitioner Firm to the 2nd petitioner company without insisting on payment of current land cost.

For Petitioners : Mr. T.R.Rajagopalan, SC, for
Mr. A.S.Alaguraja

For Respondents : Mr. M.P.Rajavelayutham

ORDER

The impugned order passed by the 2nd respondent calling upon the petitioner to pay the differential cost along with processing fee for the purpose of



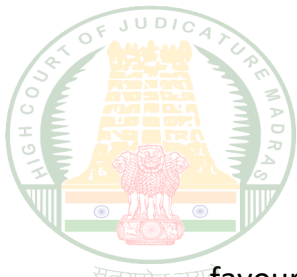
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transfer of leasehold rights over the land allotted to the 1st petitioner to the 2nd petitioner is put in issue before this Court through the present petition.

2. It is the case of the petitioners that the 1st petitioner was registered as a partnership firm in the year 1980 which belongs to one family consisting of the 1st petitioner, viz., KTV Kannan his brother, KTV Narayanan and brother-in-law B.Babu, which was certified as a SSI unit engaged in refining importing, marketing and packaging of edible oil.

3. It is the further averment of the 1st petitioner that the 2nd petitioner is a private limited company registered and incorporated under the Indian Companies Act, 1956 on 9.8.2002 of which, the 1st petitioner, Duraibabu and Mrs.Latha Narayanan, wife of KTV Narayanan were the promoters-cum-shareholders and Directors of the company, who belong to one family.

4. It is the further case of the 1st petitioner that the firm purchased the leasehold property measuring 2.72 acres through the Debt Recovery proceedings under the sale certificate dated 1.2.2007 registered as Document No.40/2007 and after the purchase the 2nd respondent executed a modified lease deed in

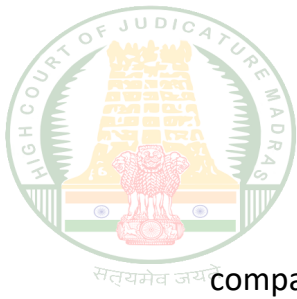


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favour of the 1st petitioner herein dated 30.05.2007 in respect of the said industrial plot whereupon the 1st petitioner acquired the right to set up a oil refinery business in the said industrial plot.

5. It is the further case of the petitioner that the family members of the 1st petitioner promoted an incorporated company, viz., the 2nd petitioner in the year 2002 for the purpose of enlarging the business activities of the 1st petitioner. The partners of the 1st petitioner became the 100% promoter and shareholders and were made Directors in the 2nd petitioner company. KTV Kannan, his brother KTV Narayanan's wife, Mrs.Latha Narayanan and S.Durai Babu, the sister's husband of the 1st petitioner, viz., KTV Kannan were promoters and Directors of the 2nd respondent company and the family members held the 100 per cent share in the 2nd petitioner company.

6. It is the further case of the 1st petitioner that for the purpose of centralising the business activities, the 1st and 2nd petitioners entered into a Slump Sale Agreement dated 13.12.2007 in and by which the ongoing business along with its assets and liabilities of the 1st petitioner firm stood transferred to the 2nd petitioner company and that 100% of the shares of the 2nd petitioner



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company was held by the family members of the 1st petitioner. Thereafter, the 1st petitioner, vide their communication dated 20.12.2007, prior to transfer of business, in complying with the terms and conditions of the 2nd respondent, as specified in the Modified Lease Agreement, sought for change of leasehold right over the said industrial plot from the 1st petitioner to the 2nd petitioner. The petitioners took all relevant and reasonable steps including meeting the officials of the 2nd and 3rd respondent and in response to the same, as requested by the 2nd respondent, necessary documents relating to the constitution of the 2nd petitioner was furnished to the 2nd respondent on 23.1.2008.

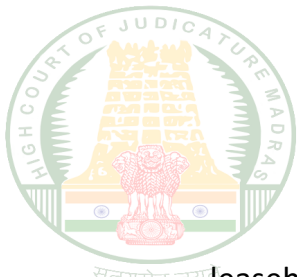
7. It is the further case of the petitioner that after the passage of 7 months, communication dated 9.7.2008 was received from the 2nd respondent according approval for the transfer of leasehold rights of the 1st petitioner to the 2nd petitioner subject to payment of differential land cost of Rs.53,31,200/- and processing fee of Rs.7500/-. It is the further case of the petitioners that objection was raised to the said charge of 100% differential cost of land instead of the 50% differential cost which was given in a similar circumstance in respect of another concern and sought for revised approval order. However, vide communication dated 8.7.2009, after a lapse of almost one year, the 2nd respondent, vide its



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communication, rejected the request of the petitioner. It is the further case of the petitioner that the guidelines/office order issued by the respondents in the year 1994 was still in force, which clearly shows that the 2nd respondent is required to approve the case of the petitioners without insisting upon payment of differential land cost.

8. It is the further case of the petitioners that the partnership firm as well as the firm are run only by the family members and upon transfer, the family members of the 2nd petitioner company were holding the 100% shares and as there is no change or substantial change in the ownership of the unit either by transfer of share or otherwise, no differential cost is chargeable from the petitioners. It is the further case of the petitioners that subsequently, the 2nd petitioner has transferred 50% of the shares to M/s.Adani Wilmar Ltd., retaining the majority of the Directors among the family members. When clauses 1 and 2 of the Office Order dated 12.12.1994 provided for not levying any differential cost in respect of the transfer within the family and where no more than 50% of the shares are transferred, differential cost cannot be levied. However, without following the aforesaid circular, vide the impugned order dated 13.08.2020, the 2nd respondent had made a demand of Rs.1,77,42,560/- for the transfer of

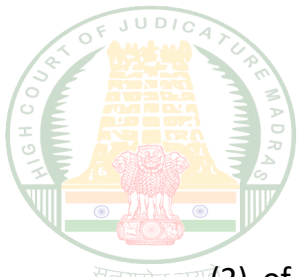


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leasehold rights in favour of the 2nd petitioner company as 100% differential plot cost at the prevailing plot cost of Rs.66.50 lakhs per acre. Therefore, left with no efficacious remedy, the present writ petition has been filed challenging the said impugned order.

9. Learned senior counsel appearing for the petitioner, at the outset submitted that the differential cost of Rs.1,77,42,560/- levied for the transfer of lease hold rights is contrary to Office Order No.46/94 dated 12.12.1994. It is the further submission of the learned senior counsel that the company has not been transferred to any other third party, but the partnership firm has been converted to a company and the entire shares of the company has been held by the family members of the 1st petitioner. Therefore, for the said transfer from the partnership firm to the company, viz., the 1st petitioner to the 2nd petitioner, no differential plot cost is leviable as clause (1) of the aforesaid office order would squarely stand attracted.

10. It is the further submission of the learned senior counsel that upon the 2nd petitioner transferring 50% shares to Adani Wilmar, further differential cost at the rate of Rs.66.50 Lakhs per acre has been levied, which is also against clause

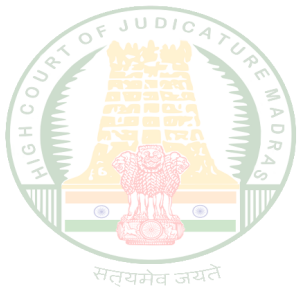


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(2) of the aforesaid office order, as differential cost is imposable only in case where the transfer is more than 50% of the shareholding. However, the transfer of shares is only to the extent of 50% and all the other rights are retained by the 2nd petitioner's family members and, therefore, no differential cost is leviable.

11. It is the further submission of the learned senior counsel that even as early as in the year 2007, the 2nd respondent had recognised the transfer of rights from the 1st petitioner to the 2nd petitioner family members, as they being one and the same and, therefore, the 2nd respondent ought to have granted approval for the said transfer and not dragged the issue for more than 13 years.

12. It is the further submission of the learned senior counsel that the deemed approval of the transfer of rights from the 1st petitioner to the 2nd respondent has been acknowledged by the 2nd respondent, which would be evident from the fact that the maintenance charge and other bill of invoice were raised only in the name of the 2nd petitioner and even the impugned order demanding the payment of differential cost from the 2nd respondent is a clear acknowledgment of the fact of granting deemed approval of the transfer of the 1st petitioner to the 2nd petitioner.

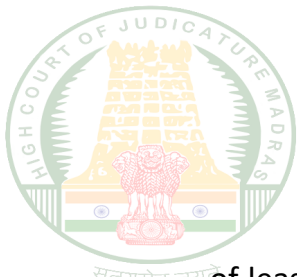


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13. It is the further submission of the learned senior counsel that the deemed approval of transfer of leasehold rights from the 1st petitioner to the 2nd petitioner by holding the 100% shares with the family and the subsequent transfer of only 50% of the shares from the 2nd petitioner to Adani Wilmar, which is within the permissible limit and not more than 50% would attract clause (2) of the Office Order dated 12.12.1994 and, therefore, no differential cost is chargeable on the 2nd petitioner. Therefore, the impugned order passed by the 2nd respondent is liable to be set aside and this writ petition has to be allowed.

14. Per contra, learned standing counsel for the respondents, relying on the various office orders passed rejecting the plea for waiver of differential land cost submitted that the shareholding pattern of the 1st petitioner and 2nd petitioner varies and that the 1st petitioner represented by KTV Kannan, the said KTV Kannan only holds 5% of the shares in the 2nd petitioner while the other shares are held by the relatives within the family.

15. It is the submission of the learned counsel that as per the office order No.1/2005 dated 5.1.2005, 100% differential land cost has to be paid for transfer



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of leasehold rights in respect of non-functioning units and since the 1st petitioner proposed to transfer its leasehold rights of the subject plot to the 2nd petitioner before implementation of the project and the said KTV Kannan was holding only 5% of the shares in the 2nd petitioner, the 2nd petitioner is bound to pay 100% differential land cost and, therefore, it cannot seek for waiver of payment of differential land cost.

16. It is the further submission of the learned counsel that the request of the petitioners for waiver of differential land cost has been considered by the Board of SIPCOT and it was decided to reject the said request and further the Board, vide its resolution dated 21.7.2020 had further directed respondents 2 and 3 to collect differential land cost as already demanded by finding out whether the allottee has transferred 50% of the shareholding to the new incumbent, viz., Adani Wilmar and if so, to review the said transfer with reference to the controlling interest as per the Companies Act, 2013 and demand differential land cost in case the controlling interest is transferred to the new incumbent.



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17. It is the further submission of the learned counsel that only upon such consideration, approval for transfer of leasehold rights of the plot from the 1st petitioner to the 2nd petitioner was granted subject to remittance of 100% differential land cost of Rs.1,77,42,560/- at the prevailing plot cost of Rs.66.50 lakhs per acre. Rightly appreciating the shareholding pattern of the 1st and 2nd petitioner and also the subsequent share of 50% to Adani Wilmar, the impugned order demanding 100% differential cost had come to be passed by the 2nd respondent after rejection of the representation of the 2nd petitioner by the Board of SIPCOT and the same being on the basis of the various Office Orders issued by the respondents from time to time, no interference is warranted with the order impugned herein and, accordingly, prays for dismissal of the present petition.

18. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record as also the relevant materials to which this Court's attention was drawn.



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19. Certain facts, which are undisputed, which are necessary for the consideration of the issue placed before this Court, could be succinctly stated as under :-

- i) The lands which are under the possession and occupation of the petitioners was bought by way of auction sale through DRT proceedings;
- ii) Modified lease deed was executed between the 1st petitioner and SIPCOT in respect of the said lands;
- iii) The 1st petitioner is a partnership firm which was a family partnership;
- iv) The said lease deed was entered into between the 1st petitioner and SIPCOT on 30.05.2007;
- v) The business of the 1st petitioner/partnership firm was transferred to the 2nd petitioner vide a Slump Sale Agreement on 13.12.2007;
- vi) The 2nd respondent/company also belonged to the very same family of the 1st petitioner and the entire shareholding of the 2nd petitioner was held by the family members on the date of the agreement;



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- vii) The transfer of rights of the 1st petitioner to the 2nd petitioner through the Slump Sale Agreement was informed to the 2nd respondent vide communication dated 20.12.2007;
- viii) Records and documents relating to the constitution of the 2nd petitioner was called for to which the details sought for were provided by the 2nd petitioner on 23.1.2008;
- ix) Vide communication dated 9.7.2008, approval was accorded for transfer of leasehold rights from the 1st petitioner to the 2nd petitioner upon payment of differential land cost and processing fee, which were quantified as Rs.53,31,200/- and Rs.7500/- respectively;
- x) Further Office Order No.46/1994 was pointed out by the petitioners to claim that no differential land cost could be levied as the transfer of leasehold rights is within the members of the family.
- xi) Communications emanated on this between the petitioners and the 2nd respondent and in the meantime,



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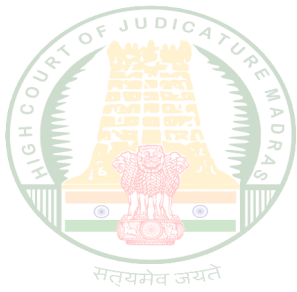
the 2nd petitioner transferred 50% of the shares held by the family members of the 2nd petitioner to M/s.Adani Wilmar Ltd. While retaining the majority of the Directors among the family members;

- xii) Approval for the said share transfer was sought for to which the impugned order was issued demanding Rs.1,77,42,560/- being the differential land cost.

20. In the aforesaid factual position, which is undisputed, the issue which arises for consideration in the present case is –

“In the facts and circumstances of the case whether differential cost of land could be levied by the 2nd respondent, more particularly, with reference to Clauses (1) and (2) of the Office Order No.46/1994 dated 12.12.1994.”

21. On the aforesaid position of facts, this Court has to appreciate the same on the basis of clauses (1) and (2) of Office Order No.46/1994 dated 12.12.1994 and for better understanding, the same is quoted hereunder :-



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“The Board at its meeting held on 29.11.94 approved the policy on change in management on allotment of plots in the Industrial Complexes developed by SIPCOT as follows :

1) If there is any change in the shareholding pattern due to induction of new partner/directors, and where more than 50% of the shareholding is retained by the original promoter of the unit, such transfer can be approved without insisting on payment of current land cost.

2) If there is a total change or substantial change (more than 50%) in the ownership of the unit by transfer of shares to new persons, the current land cost should be collected. The new incumbent will be asked to pay the difference in land cost after adjusting the plot deposit paid by the original promoters.”

22. Clause (1) above provides where there is change in the shareholding pattern due to induction of new partner/directors and where more than 50% of the shareholding is retained by the original promoter of the unit, such transfer can be approved without insisting on payment of current land cost. Where there is total change or substantial change of ownership, which is more than 50%, by transfer of shares to new persons, Clause (2) provides for current land cost to be collected and the new incumbent will be asked to pay the difference in land cost after adjusting the plot deposit paid by the original promoters.



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23. In the present case, as detailed above, the 1st petitioner was initially a partnership firm of which the brothers and brother-in-law, viz., sister's husband were partners, which firm had entered into the modified lease deed with the 2nd respondent during the SARFAESI proceedings and the lands were given on lease. Thereafter, on the basis of the slum Sale Agreement dated 13.12.2007, the business of the 1st petitioner along with all its assets and liabilities were taken over by the 2nd respondent/company, which was also floated by the very same family, in business interests, of which the entire shareholding was under the control of the family members of the firm as also the company. In fine, the 1st petitioner and the 2nd petitioner are only different legal entities for the purposes of business interest, but otherwise, the ownership of the company and the firm wrested in the very same family, which is borne out by record and not in dispute, though it is claimed by the 2nd respondent that there is change of shareholding amongst the members of the family. However, it is to be pointed out that the shareholders are the same and there is no change but for the pattern of the shareholding and the control of the company rested in the same family and, therefore, for all other purposes the control of the 1st petitioner and the 2nd petitioner remained with the very same family.



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24. In such a backdrop, clause (1) of the Office Order No.46/94 dated 12.12.1994 clearly leans in favour of the petitioners as the shareholding pattern of more than 50% is retained by the original promoter of the unit, viz., within the very same family.

25. Further, it is also to be pointed out that the concept of '*relative*' to bring in the spouse of brother and sister within the ambit of relative has also been considered by the Board and vide Office Order No.11/2020 dated 11.03.2020, the spouse of brother and sister have also been brought within the meaning of relative and approval has been accorded by the Board for transfer of leasehold rights from one legal entity to another, both owned by the relatives without collecting differential land cost.

26. Therefore, the first leg of transfer of the assets and liabilities of the 1st petitioner to the 2nd petitioner company would not result in collection of any differential land cost by the 2nd respondent as the transfer has taken place within the family by adopting the '*relative concept*' prescribed by the Board vide its Office Order No.11/2020 dated 11.03.2020 and to that extent the transfer of leasehold rights or shares from one legal entity to another, both owned by the



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relatives would not attract differential land cost. Therefore, to that extent the initial order of the 2nd respondent dated 9.7.2008 directing the 2nd petitioner to pay the differential land cost of Rs.53,31,200/- along with processing fee of Rs.7500/- for the purpose of granting approval for the transfer of leasehold rights from the 1st petitioner to the 2nd petitioner is grossly arbitrary and unjustified and the same is unsustainable.

27. Coming to the second limb of the contention, on which the impugned order rests, which is on account of the imposition of differential land cost of Rs.1,77,42,560/- along with processing fee of Rs.7500/- on account of the parting with of 50% of the shares to Adani Wilmar Ltd. is concerned, clause (2) of the Office Order No.46/64 dated 12.12.1994 clearly stipulates that the total change or substantial change in the shareholding pattern of a particular company, more particularly with reference to ownership of the unit by transfer of shares to new persons, if it exceeds 50%, then the new incumbent would be liable to pay the different in land cost after adjusting the plot deposit paid by the original promoters.



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28. From the above, while differential land cost can be collected upon transfer of shares to the new incumbent, however, such levy is permissible only when the shareholding threshold crosses more than 50% and not otherwise. In the present case, it is the specific case of the petitioners that only 50% of the shares have been transferred to M/s.Adani Wilmar. In fact, in the counter filed by the respondents, there is a categorical admission that only 50% of the shares have been transferred while the balance 50% is with the family members of the petitioner company.

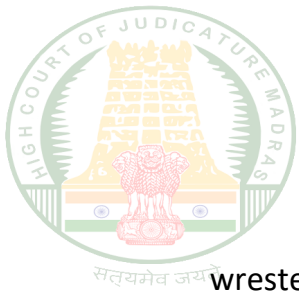
29. In the counter, while the aforesaid fact of the holding of M/s.Adani Wilmar Ltd. to the extent of 50% shares, has been spelt out by the 2nd petitioner in their representation dated 11.03.2019 as averred by the 2nd respondent in the counter, there is a further averment that the Board of SIPCOT had directed that in case the allottee had transferred 50% shareholding to the new incumbent, SIPCOT has to review the same with reference to the controlling interest as per the Companies Act, 2013 and only if the controlling interest is transferred to the new incumbent, demand of differential land cost has to be made.



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30. In the present, it is the specific case of the petitioner that only 50% of the shares have been transferred to M/s.Adani Wilmar Ltd. and there is also a categorical averment in the affidavit that the majority of the Directors has been retained among the family members of the 2nd petitioner, thereby implying that the controlling interest has been held by the family members of the 2nd petitioner. Further, in clear and unambiguous term, it has been prescribed in the Office Order No.46/64 dated 12.12.94 that the threshold limit of shareholding should be more than 50% so as to enable the 2nd respondent to levy differential land cost and if the shareholding limit is upto or equal to 50%, there is no mention about the collectability of differential land cost upon such transfer of shares.

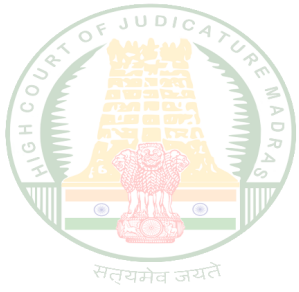
31. When clause (2) of Office Order No.46/64 dated 12.12.1994 has clearly stipulated the above, which stares on the face of the 2nd respondent, without revisiting the same, the 2nd respondent has no power to demand differential land cost from the 2nd petitioner or from the new incumbent, as provided for in the aforesaid office order. Therefore, in the light of the fact that shares only to the extent of 50% alone is alleged to have been parted with by 2nd petitioner to M/s.Adani Wilmar Ltd., and that it is also claimed that controlling interest is also



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wrested only with the family members of the 2nd petitioner, differential land cost cannot be demanded by the 2nd respondent towards such transfer of shares as it would be against clause (2) of Office Order No.46/1994 dated 12.12.1994 and also the Board's direction, as noted above. However, upon establishing the person/entity holding controlling interest, demand, if any, could be made towards such transfer of shares on the basis of the Board's direction by adhering to the provisions of the Companies Act.

32. For the reasons aforesaid, the impugned order dated 13.08.2020 passed by the 2nd respondent demanding differential land cost and processing fee from the petitioners for the transfer of the leasehold right from the 1st petitioner to the 2nd petitioner is set aside. Insofar as the transfer of shares to M/s.Adani Wilmar Ltd., is concerned, demand, if any, to be made for differential land cost for such share transfer, the same shall be done only in accordance with the Board's direction by finding out the stakeholder, who holds the controlling interest in the company by applying the provisions of the Companies Act, 2013.



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33. The writ petition is allowed to the extent noted above with the aforesaid observations and directions. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

25.06.2026

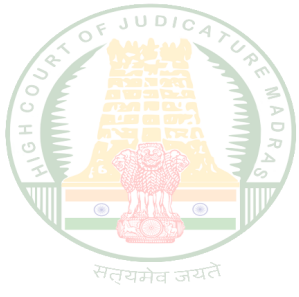
Index : Yes / No

GLN

To

1. The Chairman/ Principal Secretary
to Government/Board of SIPCOT
Government of Tamil Nadu
Industries Department
No.19-A, Rukmani Lakshmipathy Road
Egmore, Chennai 600 008.
2. The Chairman/Managing Director
State Industries Promotion Corporation
Of Tamil Nadu Ltd. (SIPCOT)
No.19-A, Rukmani Lakshmipathy Road
Post Box No.7223, Egmore
Chennai 600 008.
3. The General Manager
State Industries Promotion Corporation
Of Tamil Nadu Ltd. (SIPCOT)
No.19-A, Rukmani Lakshmipathy Road
Post Box No.7223, Egmore
Chennai 600 008.

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Case Citation: (2026) ibclaw.in 3441 HC



W.P. No.172/2021

M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NO.172 OF 2021**

**Pronounced on
25.06.2026**