

Republic of Iraq
Federal Supreme Court
Ref. 216 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 4/9/2023 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul Rahman Suleiman, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: General Manager of the General Company for Food Trading/ being in this capacity / being in this capacity-his agent the official jurist Hayder Yousef Madhoush .

The Defendants: 1- Minister of Trade and Industry in Kurdistan Region of Iraq/ being in this capacity.
2- Director-General of the General Directorate of Trade in Erbil/ being in this capacity.

The Claim

The plaintiff claimed through his agent that his department (the General Company for Food Trade) is one of the self-financing companies based on the provisions of the Public Companies Law No. (22) of 1997, and it is the body responsible for delivering the ration card items to the region and the governorates, and since the introduction of the ration card system in 1991, nominal amounts are collected from the citizen for processing the ration card items, income is credited to the account of the said department to meet operational expenses, and the mechanism used is that the amounts of revenues obtained from the sale of food basket items in the branches (Erbil, Duhok, Sulaymaniyah), amounting to (400) dinars, of which the amount of (50) Iraqi dinars is subtracted by the agent's profitability per individual within the boundaries of the governorates of the region, and the defendants must, after collecting these amounts from the food agents, send them to the department (plaintiff / General Company for Food Trade) with a certified instrument for its account, but the defendants refrained from transferring those Amounts without right or legal justification, despite their explicit and clear acknowledgment of the consequences of such amounts according to the minutes of the meeting held

saady

Republic of Iraq
Federal Supreme Court
Ref. 216 / federal /2023



Kurdish text

between the plaintiff (the above company) and the defendants, as well as the letters and correspondence proving this, the revenues achieved from the sale of ration card items from 1/1/2004 to 30/9/2021 based on the value of the processed materials and the number of individuals amounted to (118,207,463,050) one hundred and eighteen billion two hundred and seven million four hundred and sixty-three thousand and fifty Iraqi dinars, so the plaintiff requested this court, based on Article (93/4th) of the Constitution, to rule obliging the defendants to pay the aforementioned amounts while charging them fees and expenses. The lawsuit was registered with this court in number (216 / federal / 2022) and the legal fee was collected for it in accordance with Article (21 / First) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, and the defendants shall be informed of its petition and documents following item (2nd) of the same article, and for the lapse of the period stipulated in the aforementioned item without receiving an answer from the defendants, the court set a date for pleading in accordance with Article (21/3rd) of the Rules of Procedure and shall inform the parties of it, on the appointed day, the court was formed, and the plaintiff's agent attended, and the defendants or their representatives did not attend despite the notification in accordance with the law, and he began to conduct the public presence pleading, the plaintiff's agent repeated what was stated in the lawsuit petition and requested a ruling accordingly, and the court assigned him to highlight what supports his claim, so he highlighted the letter issued by the Kurdistan Regional Government - Ministry of Trade and Industry - General Directorate of Trade No. (8407) on 16/10/2022 with its attachment, the letter issued by the Ministry of Commerce No. (727) on 28/3/2017 entitled to the General Secretariat of the Council of Ministers, which includes that (the ration card allowances distributed to citizens in the Kurdistan region were transferred to this ministry, whose amounts have not been transferred to date or in coordination with the Ministry of Finance to deduct them from the region's allocations determined under the Federal General Budget Law) were linked within the case papers, and the court also reviewed its list submitted on 22/1/2023 with its attachments, and to complete its audits, the court decided to introduce the Minister of Finance / being in this capacity as a third person in the case to clarify from him what is necessary to resolve it, his agent, the official jurist, Amer Abbas Qadir, attended, and after the court completed its clarification, it decided to remove him from the lawsuit. The

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plaintiff's agent repeated his previous statements and requests, and after the court completed its scrutinies, and nothing remained to be said, the end of the argument was made clear, and the court issued the following judgment:

The Decision

Upon scrutiny and deliberation by the Federal Supreme Court, it was noted that the conclusion of this lawsuit is a request for judgment in the amount of one hundred and eighteen billion, two hundred and seven million, four hundred and sixty-three thousand and fifty Iraqi dinars, and to oblige the defendants to this amount, which is the proceeds of the sale of food basket items at nominal prices by food agents in the company's branches in Erbil, Dohuk, and Sulaymaniyah, which the defendants refrain from transferring without right or legal justification and charging the defendants with the maintenance of a department Plaintiff to institute a lawsuit for an incident of association or independent for other amounts after the public presence pleading and the court's review of the letter issued by the Kurdistan Regional Government / Ministry of Trade and Industry / General Directorate of Trade in Erbil No. (8407) on 16/10/2022 presented by the plaintiff's agent subject to a rent, accompanied by a meeting minutes at the General Directorate of Trade in Erbil between representatives of the General Company for Food Trade and the General Directorate of Trade in the region and its annex Table of revenues and expenses for the governorates of the region for the period from 1/1/2004 to 30/9/2021 included in the field of revenues achieved from the sale of card items Ration for the period from 1/1/2004 to 30/9/2021 based on the value of the processed materials and the number of individuals, an amount of one hundred and eighteen billion, two hundred and seven million, four hundred and sixty-three thousand and fifty dinars which is it the amount claimed, and for the court to review the letter of the second defendant mentioned above and his request to reserve this lawsuit due to the existence of the memorandum of understanding attached to the letter and their willingness to implement the terms of the agreement and the approval of the plaintiff's agent / being in this capacity on this request in the session of 8/11/2022 and for the court's rejection of the request for authorization (for submission by the second defendant as stated in the aforementioned letter) and for the court to review the letters presented by the plaintiff's agent No. (24045) on 11/8/2022 issued by the Ministry of Finance/

saady

Republic of Iraq
Federal Supreme Court
Ref. 216 / federal /2023



Kurdish text

Budget Department / Expenses Section / 401 addressed to the Accounting Department / Office of the Director General, which includes the referral of letter No. (11928) on 28/7/2022 for consideration according to the return and for the court to review the last letter issued by the General Company for Food Trading / Financial Affairs Department / Budget and Financial Planning Division containing the request to deduct the amount claimed from the federal budget allocated to the region and transfer the amount to the company's account which opened at the Head Office at Rafidain Bank / Mansour / 57 / numbered (520421), and to review the court of the plaintiff's letter / in addition to his job No. (Mim. Waw. / 2061) on 21/6/2022 addressed to the General Secretariat of the Council of Ministers / Department of Government Coordination and Citizens Affairs, as well as the letter of the General Secretariat of the Council of Ministers / Department of Government Coordination and Citizens Affairs No. (Ta.Jim.Mim/04/19540) on 30/5/2022 addressed to the Ministry of Commerce / Minister's Office, as well as the letter of the High Commission for Human Rights / National Office No. (1308) on 19/4/2022 containing recommendations for the need to provide sufficient financial allocations for the ration card project for the Ministry of Commerce / Company General for Food Trade and Deduction of the amounts due to the region from the year 2003 until the date of the letter from the federal budget, as well as the letter issued by the Ministry of Commerce / Planning and Follow-up Department No. (S171) on 28/3/2017 addressed to the General Secretariat of the Council of Ministers / Government Follow-up and Coordination Department, which includes a request for guidance regarding the confirmation of the transfer of ration card allowances distributed to citizens in the Kurdistan region and for the court to enter the Ministry of Finance as a third person for clarification, which its agent clarified in his regulation dated 18/6/2023 that his client's department is financing the amounts allocated to the ration card and the food basket for the account of the Ministry of Commerce, including the share of the Kurdistan region, and his client's department has nothing to do with the distribution of amounts to the governorates, and for the court to review the list of the plaintiff's agent dated 22/1/2023, which includes all the priorities of delivering foodstuffs under fundamental statements to the branches of the Kurdistan region, and that the prepared materials are (oil, sugar, rice, beans, chickpeas, lentils, and paste) After contemplating this lawsuit, this court finds that the Federal Budget Law No. (13) of 2023 dealt with the issue

saady

Republic of Iraq
Federal Supreme Court
Ref. 216 / federal /2023



Kurdish text

of financial dues between the federal government and the Kurdistan Regional Government for the years (2004) until (2022) after being audited by the Federal Financial Audit Bureau in coordination with the Financial Audit Bureau in the region based on the rights and obligations stipulated in the special federal budget laws for each fiscal year as stipulated in Article (12/1st) of the above law, therefore, this lawsuit in the presence of the above treatment contained in Law No. 13 of 2023 is futile and deserves a response to it, the Federal Supreme Court decided the following:

First: Ruling on dismissing the plaintiff's lawsuit, Director General of the General Company for Food Trading, in addition to his job, as it has become useless with the presence of Article (12/First) of Law No. (13) of 2023 of the Federal Budget of the Republic of Iraq for the fiscal years (2023-2024-2025).

Second: The plaintiff / in addition to his job charges and expenses, and the judgment was issued by final agreement and binding on all authorities based on Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and (4 and 5) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and has been made clear on 18/Safar/1445 Hijri corresponding to 4/9/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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