

Republic of Iraq
Federal Supreme Court
Ref. 243 / Federal / 2022



The Federal Supreme Court (F.S.C.) convened on 30.11.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Galeb Amer Shneen, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed Rajab, Ayoub Abbas Salih, Abed Alrahman Sulaiman Ali, Diyar Muhammad Ali, and Monther Ebrahim Hussain who are authorized to judge in the name of the people, they made the following decision:

The plaintiff: Deputy Managing Director of Al-Hassanin Food Products Co. Ltd. / in addition to his job - his attorney, Ali Hussein Allawi Al-Lami.

The defendant: The Speaker of the Iraqi Council of Representatives/ in addition to his post – his representatives the legal consultant Haithem Majed Salim and the legal official Saman Muhsen Ebrahim.

The claim:

The plaintiff claimed, through his representative, that the dissolved Revolutionary Command Council issued the law Ratifying the Memorandum of Association of the Arab-Iraqi Companies for the Development of Livestock No. (10) of 1984, of which Article (17/d) stipulates that (the Arab-Iraqi company shall be exempted from all

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customs duties and the like on All that it imports and exports and is related to its operations). In the various sectors, public funds are sanctified and their protection is the duty of every citizen, as exempting the aforementioned company from taxes and fees represents a waste of public funds. 2. It conflicts with Article (10) of the Competition and Anti-monopoly Law No. (14) of 2010, which prohibited competition and prevented monopoly, and its conflict with Article (9/Second) of the Customs Tariff Law No. (22) of 2010, which prohibited the implementation of any law or instructions It contradicts its provisions and contradicts it with the Iraqi Products Protection Law No. (11) for the year 2010, which came to protect the local product, and Article (17) of the Investment Law No. (13) for the year 2006, as exemptions from fees and taxes were provided for raw materials and materials used in production and parts spare. And because the plaintiff is one of the most important importers of foodstuffs, including (chicken and its accessories), which makes his work is similar to the activity and work of the company, and therefore allows the Arab-Iraqi company to import without restrictions and without imposing fees and taxes, which deprives the

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local product and importers of competition. By canceling the text of Article (17/d) of Law No. (10) of 1984 ratifying the Memorandum of Association of Arab-Iraqi Companies or amending it. The case was registered with this court under the number (243 / Federal / 2022), and the legal fee was collected according to the provisions of Article (21 / First) of the Internal Regulations of the Federal Supreme Court No. (1) for the year 2022, and the defendant is notified of its petition and documents following Paragraph (Second) of the same The aforementioned article, and the representative of the defendant, the Speaker of the House of Representatives, responded with the answering list dated 11/13/2022, summarizing it that the lawsuit filed by the plaintiff is of no capacity and his litigation is not valid, since the company has a legal personality represented by the authorized manager in accordance with the laws and regulations, and this is what was settled by the judgment of this court in Its Resolution No. (217 / Federal / 2022) on 10/11/2022, as Article (130) of the Constitution indicated that laws and regulations remain in force unless they are canceled or amended and that the law under challenge is still in force and represents a legislative option that does not

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contradict any of Constitutional texts, in addition to the plaintiff's request being outside the jurisdiction of the court specified in Article (93/First) of the Constitution. Therefore, they requested a judgment dismissing the case and charging the plaintiff with judicial fees, expenses, and attorney's fees. After completing the procedures required by the aforementioned internal system of the court, a date for the pleading was set in accordance with the provisions of Article (21/Third) thereof, and the parties were notified of it. On the appointed day, the court was formed, and the representative of the plaintiff and the representative of the defendant attended the public pleading proceeded, and the representative of the plaintiff repeated what came In the petition of the lawsuit and the request for a judgment according to it, the defendant's attorney responded and requested the dismissal of the lawsuit for the reasons contained in the answering list attached to the case papers, and the attorneys of the two parties repeated their statements and previous requests, as there was nothing left to say, the court decided the conclusion of the pleading and issued the following ruling:

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The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff's case included a request for a ruling to cancel the text of Paragraph (d) of Article (17) of Law No. (10) of 1984 ratifying the Memorandum of Association of Arab-Iraqi Companies for Livestock Development, which states (the Arab-Iraqi company is exempted from all customs duties and the like on all that it imports and what it exports and is related to its operations) for its violation of the provisions of Articles (16, 25 and 26) of the Constitution of the Republic of Iraq, as well as its contradiction with Article (10) of the Competition and Prevention of Monopoly Law No. (14) of 2010 and other laws thereof Customs Tariff Law No. (22) of 2010, Law of Protection of Iraqi Products No. (11) of 2010, and Investment Law No. (13) of 2006...By examining the case papers and documents and defenses of the defendant's attorneys, the court finds that each company has an authorized manager to be appointed From among its members or from third parties with expertise and specialization in the field of the company's activity, and his terms of reference and powers are determined by the board of directors of the

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company or the general body, and the delegated manager undertakes all the work necessary to manage the company and conduct its activity within the terms of reference and The powers specified to him by the authority that appointed him following what was stipulated in Articles (121 and 123) of the Companies Law No. (21) of 1997 as amended and since the minutes of the founding meeting of Al-Hassanin Food Products Company Limited dated 1/3/2016 gave the delegated director the right to represent the company Before the official departments and the management of its business, and since the lawsuit was filed by the deputy managing director of the company and was not filed by the managing director of the company in addition to his job, therefore the plaintiff's litigation in the lawsuit is undirected, and if the litigation is not directed, the court shall decide on its own to dismiss the lawsuit without entering into its basis according to what Article (80/1) of the Civil Procedure Law No. (83) for the year (1969), as amended, stipulated that and for the aforementioned, the Federal Supreme Court decided to dismiss the claim of the plaintiff, the deputy managing director of Al-Hassanin Food Products Co., Ltd., and to charge him with all judicial

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expenses, including attorney's fees of the defendant, in addition to his job, an amount of one hundred thousand dinars, distributed between them in accordance with the law, the judgment was issued by absolute agreement based on the provisions of Articles (94) of the Constitution of the Republic of Iraq for the year 2005 and (5 / second) of the Federal Supreme Court Law No. (30) for the year 2005 amended by Law No. (25) for the year 2021 and understood publicly on 5 / Jumada Awla/ 1444 AH corresponding to the 11/30/2022 ad.

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