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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3483/2019**

**INDEPENDENT POWER PRODUCERS ASSOCIATION OF
INDIA**

..... Petitioner

Through: Mr. Abhishek A. Rastogi, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Monika Arora, CGSC with Mr.
Praveen Singh and Mr. Harsh Ahuja,
Advocate for UOI.

Ms. Sonu Bhatnagar, Senior Standing
Counsel with Mr. Vaibhav Joshi, Ms.
Anushree Narain and Ms. Venus
Mehrotra, Advocates for R-2 and R-3.

**CORAM:
JUSTICE S.MURALIDHAR
JUSTICE PRATEEK JALAN**

ORDER

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05.04.2019

CM APPL. 15943/2019 (for exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 3483/2019 & CM APPL. Nos. 15942/2019

2. This writ petition has been filed by the Independent Power Producers Association of India, seeking the following reliefs:

“(a) Pass an appropriate writ, order or direction quashing the Circular No. 34/8/2018-G8T, dated 01.03.2018 as modified by Circular No. 46/20/2018-GST, dated 06.06.2018 to the extent they seek to levy GST on sale of REC scrips; or

(b) Pass an appropriate writ, order or direction or any other appropriate writ directing the formation of a High-Level Committee to examine the issue of levy of GST on trading margins on sale of REC scrips and intermediaries in the transaction; and/or

(c) Pass an appropriate writ, order or direction declaring that explanation to Section 2(102) to the CGST Act be given prospective effect from 01.02.2019; and

(d) Pass any other Order(s) as this Hon'ble Court may deem fit in the given facts and circumstances of the present case.”

3. In para 31 of the present petition, it is stated as under:

“31. The Petitioner has not filed any other proceedings in respect of this subject matter either in this Hon'ble Court or the Hon'ble Supreme Court of India.”

4. When asked specifically whether the present Petitioner had earlier filed a petition seeking the same relief, Mr. Rastogi, learned counsel for the Petitioner, disclosed that indeed the present Petitioner had filed W.P. (C) 3246/2019 seeking the same relief which had come up before a Division Bench comprising Justice S. Ravindra Bhat and Justice Prateek Jalan, on 1st April 2019. That petition was dismissed as withdrawn, when the *locus standi* of the Petitioner to seek relief on behalf of its individual members was questioned. Mr. Rastogi states that the said petition was withdrawn with liberty to file separate petitions on behalf of the individual members. He states one such member of the Petitioner Association has individually filed W.P. (C). No. 3484 of 2019 which is also listed today.

5. Nowhere in the present petition are the above facts concerning the filing

of the earlier petition and its withdrawal been mentioned. On the contrary in para 31 an incorrect statement has been made that the Petitioner had not filed any such petition earlier in this Court. Mr. Rastogi tries to explain away this lapse as 'inadvertent' and because he still does not have a copy of the order dated 1st April 2019, which had permitted the withdrawal of the earlier petition with liberty to the individual members to file petitions.

6. The above explanation is not satisfactory. With the counsel on both occasions being the same, and being fully aware of the facts, it was imperative for the Petitioner to have made a full and correct disclosure of all the material facts concerning the filing of the earlier petition by the same Petitioner seeking the same relief. That not having been done, the Court dismisses the present petition with cost of Rs. 1,00,000/- which would be paid by the Petitioner to the Delhi High Court Legal Services Committee ('DHCLSC') on or before 30th April 2019 and placing on record the proof of payment of such costs.

7. The Registry will place this petition before the Court for directions in the event the costs as directed are not deposited by the Petitioner within the time stipulated.

S.MURALIDHAR, J

PRATEEK JALAN, J

APRIL 05, 2019

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