IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.29054 of 2011 and 20637 to 20650 of 2012
and
M.P. No.1 of 2011 and WMP No.21844 in W.P. No.29054 of 2011

BHARAT PETROLEUM CORPORATION LTD.
REP. BY ITS MANAGER FINANCE - (S/S)
SOUTHERN REGION 1ST FLOOR NO.1
RANGANATHAN GARDEN OFF. 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI-40.
... PETITIONER in WP No.29054 of 2011

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20637 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20638 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20639 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20640 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20641 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20642 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20643 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20644 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20645 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20646 of 2012

BHARAT PETROLEUM CORPN.LTD.
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LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20647 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20648 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20649 of 2012

BHARAT PETROLEUM CORPN.LTD.
(REP BY ITS MANAGER FINANCE-(S/S)
LAKSHMI SOUTHERN REGL. OFFICE NO.1
RANGANATHAN GARDEN OFF 11TH MAIN ROAD
ANNA NAGAR (WEST) CHENNAI 40
... PETITIONER in WP No.20650 of 2012

Vs.

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.29054 of 2011

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
DUGAR TOWERS EGMORE CHENNAI 8
... RESPONDENT in WP No.20637 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
DUGAR TOWERS EGMORE CHENNAI 8
... RESPONDENT in WP No.20638 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
DUGAR TOWERS EGMORE CHENNAI 8
... RESPONDENT in WP No.20639 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
DUGAR TOWERS EGMORE CHENNAI 8
... RESPONDENT in WP No.20640 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
DUGAR TOWERS EGMORE CHENNAI 8
... RESPONDENT in WP No.20641 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
DUGAR TOWERS EGMORE CHENNAI 8
... RESPONDENT in WP No.20642 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
DUGAR TOWERS EGMORE CHENNAI 8
... RESPONDENT in WP No.20643 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
DUGAR TOWERS EGMORE CHENNAI 8
... RESPONDENT in WP No.20644 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
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... RESPONDENT in WP No.20645 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
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... RESPONDENT in WP No.20648 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
DUGAR TOWERS EGMORE CHENNAI 8
... RESPONDENT in WP No.20649 of 2012

THE DEPUTY COMMISSIONER (CT-I) LTU
LARGE TAX PAYERS UNIT
DUGAR TOWERS EGMORE CHENNAI 8
... RESPONDENT in WP No.20650 of 2012

These Writ Petitions are filed under Article 226 of Constitution of India, praying

Prayer in WP No.29054 of 2011:

To call for the records on the files of the Respondent herein in TNGST. 1021809 dated 13.12.2011 and quashing the same as illegal and contrary to law and without jurisdiction.

Prayer in WP No.20637 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1982-1983 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20638 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1983-1984 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20639 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1984-1985 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20640 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1985-1986 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20641 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1986-1987 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20642 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1987-1988 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20643 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1988-1989 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20644 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1989-1990 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20645 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1990-1991 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20646 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1991-1992 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20647 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1992-1993 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20648 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1993-1994 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20649 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1994-1995 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20650 of 2012:

To call for the records on the files of the respondent herein in TNGST 1021809/1995-1996 dated 3.11.2011 and issue a writ of certiorari under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

For Petitioner : Mr. N. Prasad in all the Writ Petitions.

For Respondent : Mr. V. Veluchamy Government Advocate in all the Writ Petitions.

COMMON ORDER

These writs on hand are filed questioning the validity of the intimation letter issued by the respondent on 13.12.2011 and 03.11.2011 in W.P. No.29054 of 2011 and in other writ petitions respectively. The learned counsel for the petitioners made a submission that the intimation letter lasts its statutory sanctity, in view of the fact that the interest amounts sought to be claimed from the petitioners are with reference to the years from 1982-83 to 1995-96. In view of the fact that the intimation itself is highly belated, the petitioners have chosen to challenge the same on the ground that the very claim is futile.

2. This Court is of the considered opinion that the adjudication on merits may not be required in this case as the intimation given in the impugned proceedings are related to the purchase tax dues allegedly paid belatedly by the petitioners for the year from 1982-83 to 1995-96 under the TNGST Act.

3. This court is of the considered opinion that any action under the statute is expected to be initiated within a reasonable period of time. Even in the absence of any time limit prescribed, the Courts have taken consistent view that lapsed/settled matters cannot be reopened after the prolonged period, which would affect the rights of the other parties. In the instant case, the tax due claimed is of the years 1982-83 to 1995-96. The petitioners were under the impression that they have settled the tax dues and completed the return formalities. After a lapse of 15 years from 1996, the impugned intimation is given stating that the respondent has proposed to levy interest on the purchase tax paid from the year 1982-83. Except the figures in numbers, no other details are provided. The order, to some extent, is cryptic and therefore, once cannot expect the petitioner to reply properly as after the lapse of many years in case of purchase tax paid in the year 1982-83, if an intimation

letter is given levying interest in the year 2011, the lapse is about 28 years. This apart, the learned counsel for the petitioner made a submission that the purchase tax was paid during the year 1997 in entirety. Even thereafter, no action was taken by the department levying any interest. At the first time, the impugned intimation was given after a lapse of 14 years from the year 1997. This being the admitted fact, this Court is of the considered opinion that such notice cannot be allowed to be proceeded as the same would cause not only prejudice but such belated actions are unlawful.

4. The respondent/Commercial Tax Department is bound to look into the case for administrative delay in initiating steps to claim interest and identify lapses, negligence and dereliction of duties on the part of the officials and initiate all necessary action under the Rules on force. The officials, who caused revenue loss to the State must be held accountable and liable.

5. This being the factum, the impugned intimation letter is not in consonance with the established principles and accordingly quashed. Accordingly, these Writ Petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

bga

To

The Deputy Commissioner (CT-I) LTU,
Large Tax Payers Unit,
Dugar Towers, Egmore, Chennai 600 008.

Copy to :

The Principal Secretary/Commissioner,
Commercial Taxes, Ezhilagam, Chepauk, Chennai-5.

+2ccs to M/s.N.Inbarajan, Advocate Sr No.36458

W.P.Nos.29054 of 2011
and
20637 to 20650 of 2012

SRII (CO)
PR (11/10/2021)