IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.29056 of 2011 and 20611 to 20621 of 2012
and
M.P. No.1 of 2011 in W.P. No.29056 of 2011

HINDUSTAN PETROLEUM CORPORATION LTD.
REP. BY GENERAL MANAGER
SOUTH ZONE ANIL KUMAR BHAN 4TH FLOOR
THALAMUTHU NATARAJAN BUILDING 1
GANDHI IRWIN ROAD EGMORE CH-8
... PETITIONER in WP No.29056 of 2011

HINDUSTAN PETROLEUM CORPN. LTD
(REP. BY ITS GENERAL MANAGER
SOUTH ZONE P.P.NADKARNI) 4TH FLOOR
THALAMUTHU NATARAJAN BUILDING 1
GANDHI IRWIN ROAD EGMORE CHENNAI-8.
... PETITIONER in WP No.20611 of 2012

HINDUSTAN PETROLEUM CORPN. LTD
(REP. BY ITS GENERAL MANAGER
SOUTH ZONE P.P.NADKARNI) 4TH FLOOR
THALAMUTHU NATARAJAN BUILDING 1
GANDHI IRWIN ROAD EGMORE CHENNAI-8.
... PETITIONER in WP No.20612 of 2012

HINDUSTAN PETROLEUM CORPN. LTD
(REP. BY ITS GENERAL MANAGER
SOUTH ZONE P.P.NADKARNI) 4TH FLOOR
THALAMUTHU NATARAJAN BUILDING 1
GANDHI IRWIN ROAD EGMORE CHENNAI-8.
... PETITIONER in WP No.20613 of 2012

HINDUSTAN PETROLEUM CORPN. LTD
(REP. BY ITS GENERAL MANAGER
SOUTH ZONE P.P.NADKARNI) 4TH FLOOR
THALAMUTHU NATARAJAN BUILDING 1
GANDHI IRWIN ROAD EGMORE CHENNAI-8.
... PETITIONER in WP No.20614 of 2012

HINDUSTAN PETROLEUM CORPN. LTD
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THALAMUTHU NATARAJAN BUILDING 1
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... PETITIONER in WP No.20615 of 2012

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THALAMUTHU NATARAJAN BUILDING 1
GANDHI IRWIN ROAD EGMORE CHENNAI-8.
... PETITIONER in WP No.20616 of 2012

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THALAMUTHU NATARAJAN BUILDING 1
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... PETITIONER in WP No.20617 of 2012

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... PETITIONER in WP No.20618 of 2012

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... PETITIONER in WP No.20619 of 2012

HINDUSTAN PETROLEUM CORPN. LTD
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SOUTH ZONE P.P.NADKARNI) 4TH FLOOR
THALAMUTHU NATARAJAN BUILDING 1
GANDHI IRWIN ROAD EGMORE CHENNAI-8.
... PETITIONER in WP No.20620 of 2012

HINDUSTAN PETROLEUM CORPN. LTD
(REP. BY ITS GENERAL MANAGER
SOUTH ZONE P.P.NADKARNI) 4TH FLOOR
THALAMUTHU NATARAJAN BUILDING 1
GANDHI IRWIN ROAD EGMORE CHENNAI-8.
... PETITIONER in WP No.20621 of 2012

Vs.

THE DEPUTY COMMISSIONER(CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.29056 of 2011

THE DEPUTY COMMISSIONER (CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20611 of 2012

THE DEPUTY COMMISSIONER(CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20612 of 2012

THE DEPUTY COMMISSIONER(CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20613 of 2012

THE DEPUTY COMMISSIONER(CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20614 of 2012

THE DEPUTY COMMISSIONER (CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20615 of 2012

THE DEPUTY COMMISSIONER (CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20616 of 2012

THE DEPUTY COMMISSIONER(CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20617 of 2012

THE DEPUTY COMMISSIONER(CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20618 of 2012

THE DEPUTY COMMISSIONER (CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20619 of 2012

THE DEPUTY COMMISSIONER (CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20620 of 2012

THE DEPUTY COMMISSIONER(CT-II) LTU
LARGE TAX PAYERS UNIT DUGAR TOWERS
EGMORE CHENNAI-8.
... RESPONDENT in WP No.20621 of 2012

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

Prayer in WP No.29056 of 2011:

To call for the records on the files of the Respondent herein in TNGST. 0540163/1981-82 dated 12.12.2011 and quashing the same as illegal and contrary to law and without jurisdiction.

Prayer in WP No.20611 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1981-82 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20612 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1983-84 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20613 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1988-89 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20614 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1989-90 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20615 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1990-91 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20616 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1991-92 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20617 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1992-93 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20618 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1993-94 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20619 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1994-95 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20620 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1995-96 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction under Article 226 of the Constitution of India quashing the said proceedings of the respondent herein.

Prayer in WP No.20621 of 2012:

To call for the records on the files of the respondent herein in TNGST/ 0540163/ 1996-97 dated 9.11.2011 and issue a writ of certiorari or anyother appropriate Writ, Order or direction 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 12.12.2011 and 09.11.2011 in W.P. No.29056 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 1981-82 to 1996-97. 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 1981-82 to 1996-97 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 1981-82 to 1996-97. The petitioners were under the impression that they have settled the tax dues and completed the return formalities. After a lapse of 14 years from 1997, the impugned intimation is given stating that the respondent has proposed to levy interest on the purchase tax paid from the year 1981-82. 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 1981-82, if an intimation letter is given levying interest in the year 2011, the lapse is about 29 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 petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

bga

To
The Deputy Commissioner (CT-II) 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.29056 of 2011
and
20611 to 20621 of 2012

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