IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.21051, 21052, 21053, 21054, 21056 & 21058 of 2023
and
W.M.P.Nos.20418, 20419, 20420, 20421, 20426, 20428, 20424, 20425, 20427, 20429, 20431, 20432, 20435, 20436, 20437, 20438, 20439, 20441 of 2023

M/s.Chennai Petroleum Corporation Limited,
Represented by its Deputy General Manager,
(Finance) Mrs.Vidya Rajan,
536, Mount Road,
Teynampet,
Chennai – 600 018. ... Petitioner
(in all W.Ps.)

Vs

1. The Deputy Commissioner (ST)-III,
Large Tax Payers Unit,
Chennai – 600 035.

2. The Additional Commissioner (Non GST),
Office of the Principal Secretary/Commissioner of
Commercial Taxes, Chepauk,
Chennai – 600 005.

3. The Additional Commissioner (Intelligence) (FAC),
   Office of the Principal Secretary/Commissioner of
   Commercial Taxes, Chepauk,
   Chennai – 600 005.

4. The Additional Commissioner (Legal),
   Office of the Principal Secretary/Commissioner of
   Commercial Taxes, Chepauk,
   Chennai – 600 005.

5. The Sales Tax Appellate Tribunal
   New City Civil Court Buildings,
   High Court Employees,
   Chennai – 600 104.

6. Indian Oil Corporation Limited,
   Southern Region,
   'Indian Oil Bhavan',
   No.139, Uthamar Gandhi Salai,
   Chennai – 600 034. ... Respondents
   (in all W.Ps.)

<u>Prayer in W.P.No.21015 of 2023:</u> Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the files of the first respondent herein in TIN/33491560843/2014-2015 to 2017-2018 dated 10.07.2023, in so far as it relates to the assessment period April to December, contained in assessment year 2016-2017, served on the fifth respondent herein, and quash the same, while directing the first respondent to forebear from proceeding with recovery, pending disposal of the revisions filed by the petitioners in R.P.Nos.29 to 33 of 2017 before the

second respondent and R.P.Nos.35 to 40 of 2019, before the fourth respondent herein, as prayed for by the petitioners through their letter dated 07.07.2023, enclosing their counsel's letter dated 06.07.2023.

Prayer in W.P.No.21052 of 2023: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the files of the first respondent herein in TIN/33491560843/2014-2015 to 2017-2018 dated 10.07.2023, in so far as it relates to the assessment year 2015-2016, served on the fifth respondent herein, and quash the same, while directing the first respondent to forebear from proceeding with recovery, pending disposal of the appeal filed by the Petitioners before the Hon'ble Sales Tax Appellate Tribunal in T.A.No.54 of 2017 and T.A.No.99 of 2019, arising out the assessment year 2015-2016, as prayed for by the Petitioners through their counsel's letter dated 30.06.2023.

Prayer in W.P.No.21053 of 2023: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the files of the first respondent herein in TIN/33491560843/2014-2015 to 2017-2018 dated 10.07.2023, in so far as it relates to the assessment year 2014-2015, served on the fifth respondent herein, and quash the same, while directing the first respondent to forebear from proceeding with recovery, pending disposal of the revisions filed by the petitioners before the Hon'ble Sales Tax Appellate Tribunal in T.A.No.46 of 2017 and T.A.No.98 of 2019, arising out of the assessment year 2014-2015, as prayed for by the petitioners through their counsel's letter dated 30.06.2023.

Prayer in W.P.No.21054 of 2023: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the files of the first respondent herein in TIN/33491560843/2014-2015 to 2017-2018 dated 10.07.2023, in so far as it relates to the assessment period May and June 2017, contained in assessment year 2017-2018, served on the fifth respondent herein, and quash the same, while directing the first respondent to forebear from proceeding with recovery, pending disposal of the revisions filed by the petitioners in R.P.No.2 of 2021, arising out of the assessment period May and June 2017 and contained in the assessment year 2017-2018, pending before the second respondent, herein, as prayed for by the petitioners through their letter dated 07.07.2023, enclosing their counsel's letter dated 06.07.2023.

Prayer in W.P.No.21056 of 2023: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the files of the first respondent herein in TIN/33491560843/2014-2015 to 2017-2018 dated 10.07.2023, in so far as it relates to the assessment year 2013-2014, served on the fifth respondent herein, and quash the same, while directing the first respondent to forebear from proceeding with recovery, pending disposal of the appeals filed by the petitioners before the fifth respondent Sales

Tax Appellate Tribunal in T.A.No.122 of 2016 and T.A.No.36 of 2021, arising out the assessment year 2013-2014, as prayed for by the petitioners through their counsel's letter dated 30.06.2023.

Prayer in W.P.No.21058 of 2023: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the files of the first respondent herein in TIN/33491560843/2014-2015 to 2017-2018 dated 10.07.2023, in so far as it relates to the assessment period April to October 2014, contained in the assessmeny year 2014-2015, served on the fifth respondent herein, and quash the same, while directing the first respondent to forbear from proceeding with recovery, pending disposal of the revisions filed by the petitioners in R.P.No.26 of 2016 before the third respondent herein, for the period April to October 2014 and arising out of the assessment year 2014-2015, as prayed for by the petitioners through their letter dated 07.07.2023, enclosing their counsel's letter dated 06.07.2023.

For Petitioner : Mr.N.Prasad
(In all W.Ps.)

For Respondents :
For R1 to R4 : Mr.V.Prashanth Kiran
Government Advocate
(In all W.Ps.)

COMMON ORDER

By this common order all the writ petitions are being disposed after hearing the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 to 4 at length and with the consent of the learned Government Advocate for the respondent after dispensing with the requirement of filing counter.

2. In these writ petitions, the petitioner has challenged Impugned Recovery Notices and Garnishee notice sent to the sixth respondent / Indian Oil Corporation Limited.

3. The petitioner appears to have suffered adverse orders under the provisions of the Tamil Nadu Value Added Tax Act, 2006, (hereinafter referred to as TN VAT Act, 2006) for the Assessment Years 2007-2008 to 2015-2016. It is informed that the petitioner has paid the disputed tax.

4. As far as, penalty is concerned, the petitioner has secured an interim order from the Tribunal for these Assessment Years. It is

confirmed by both the learned counsel for the petitioner and the respondents that the main appeal itself is likely to be heard on 21.07.2023 by the Tribunal.

5. Both the learned counsel for the petitioner and the respondents also confirms that as for as amount for rest of the Assessment Years which is sought to be recovered from the amount due from the sixth respondent / Indian Oil Corporation Limited / Garnishee to the petitioner. Proceedings intiated pursuant to Section 57 of the TN VAT Act, 2006, have been allowed by way of remand by the third respondent in R.P.No.26 of 2016 on 10.07.2023 and in R.P.Nos.29 to 33 of 2017 by the second respondent on 12.07.2023.

6. As far as the rest of the Revision Petitions for the Assessment Years 2016-2017 & 2017-2018 are concerned, the cases were heard by the fourth respondent and orders have been reserved on 06.07.2023.

7. As far as the demand covered by the provisional assessment under Section 25 of the TN VAT Act, 2006 for the month between January 2017 and April 2017 is concerned, they are governed by orders of this Court dated 11.02.2020 in W.P.Nos.16044 to 16049 of 2017 and order dated 17.07.2020 in W.P.Nos.24981 & 24982 of 2017.

8. It appears that the respondents have issued the Impugned Recovery Notice without properly taking note of the stay that was granted by the Tribunal in the appeals that are pending before it for the Assessment Year 2007-2008 to 2015-2016.

9. The petitioner has also paid the tax for these Assessment Years. As far as the rest of the Assessment Years for 2016-2017 & 2017-2018, which is covered partly by the Impugned Recovery Notice as mentioned above, some of the demands have been set aside and the cases have been issued back to the Assessing Officer to pass a fresh order. Therefore, I find, there is no justification in the Impugned Recovery Notice to recover the amounts from the sixth respondent/Garnishee.

10. Considering the above, the impugned order stands quashed. The respondents are to await for the final order to be passed by the Tribunal for the assessment year 2007 to 2008 to 2015 to 2016, which is likely to be taken up for hearing on 21.07.2023 and for the orders to be passed for rest of the months in terms of the orders that have been passed by the second and the third respondent on 10.07.2023 and 12.07.2023 in terms of the final order to be passed, pursuant to the order dated 11.02.2020 and 17.07.2020 in the writ petitions mentioned above.

11. These writ petitions stand allowed with the above observations and directions. No cost. Consequenlty, connected miscellaneous petitions are closed.

14.07.2023

Neutral Citation: Yes/No
Index : Yes/No
Speaking/Non-Speaking Order
rgm

Note: Issue order copy on 17.07.2023

To

1. The Deputy Commissioner (ST)-III,
   Large Tax Payers Unit,
   Chennai – 600 035.

2. The Additional Commissioner (Non GST),
   Office of the Principal Secretary/Commissioner of
   Commercial Taxes, Chepauk,
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3. The Additional Commissioner (Intelligence) (FAC),
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C.SARAVANAN, J.

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