IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE THIRTIETH DAY OF DECEMBER TWO THOUSAND AND TWENTY FOUR

:PRESENT:
THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE DR. JUSTICE G.RADHA RANI

WRIT PETITION NOS: 17833 AND 17860 OF 2017

Between:

M/s. Bharat Petroleum Corporation Limited,, rep. by its Chief Manager-Finance, Mrs. N. Lakshmi, No.1, Ranganathan Gardens, Off 11th Main Road, Anna Nagar, Chennai.

Petitioner in both W.Ps.

AND

1. Assistant Commissioner (CT), LTU,, Secunderabad Division, Hyderabad.
2. State of Telangana., rep. by its Principal Secretary to Government, Revenue (CT-II) Department, Telangana Secretariat, Hyderabad

Respondents in both W.Ps.

W.P.No.17833 of 2024

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction –

(a) quashing the order of the 1st Respondent dated 26.4.2017 in AO No.22390 levying penalty under Section 53(1) of the Telangana VAT Act, 2005 for the year 2013-14 as illegal, arbitrary, without jurisdiction and in violation of principles of natural justice

(b) declare that no penalty under Section 53 of the Telangana VAT Act, 2005 can be levied in the absence of any specific definition to the expression under declaration of tax and (c) Rule 25(8) of the Telangana VAT Rules, 2005 which defines under declaration of tax cannot be basis for levy of penalty under Section 53 and consequently declare it as invalid.

IA NO: 1 OF 2017

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of recovery of the disputed penalty of Rs.10,75,640/- for the year 2013-14 pursuant to the impugned order of the 1st Respondent dated 26.4.2017 pending disposal of WP 17833 of 2017, on the file of the High Court.

W.P.No.17860 of 2024:

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction - (a) quashing the order of the 1st Respondent dated 26.4.2017 in AO No.22392 levying penalty under Section 53(1) of the Telangana VAT Act, 2005 for the year 2014-15 as illegal, arbitrary, without jurisdiction and in violation of principles of natural justice (b) declare that no penalty under Section 53 of the Telangana VAT Act, 2005 can be levied in the absence of any specific definition to the expression under declaration of tax and (c) Rule 25(8) of the Telangana VAT Rules, 2005 which defines under declaration of tax cannot be basis for levy of penalty under Section 53 and consequently declare it as invalid.

IA NO: 1 OF 2017

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of recovery of the disputed penalty of Rs.6,64,066/- for the year 2014-15 pursuant to the impugned order of the Respondent dated 26.4.2017, pending disposal of WP 17860 of 2017, on the file of the High Court

These petitions coming on for hearing, upon perusing the Petitions and the affidavits filed in support thereof and upon hearing the arguments of Sri KARTHIK RAMANA PUTTAMREDDY, Advocate for the Petitioner in both W.Ps. and GP FOR COMMERCIAL TAX for the Respondents in both W.Ps., the Court made the following.

ORDER:

Parties through their counsel.

Sri Karthik Ramana Puttamreddy, learned counsel for the petitioner(s) submits that the legal questions involved in these matters are almost similar to what are involved in W.P.No.21355 of 2018. The penalties are founded upon the assessment order(s), which are subject matter of challenge in W.P.Nos.16149 & 16130 of 2017 and 21355 of 2018. This Court has already protected the petitioner(s) in the said matters. Thus, similar protection may be granted.

The prayer is reasonable.

Counter(s) be filed within two weeks. Rejoinder, if any, may be filed within two weeks therefrom.

List on 03.02.2025 for final hearing with W.P.No.21355 of 2018.

Maintaining parity, till next date of hearing, no coercive steps be taken against the petitioner(s) pursuant to the impugned order(s).

SD/-K.SREERAMA MURTHY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. Assistant Commissioner (CT), LTU,, Secunderabad Division. Hyderabad.
2. The Principal Secretary to Government, Revenue (CT-II) Department, State of Telangana, Telangana Secretariat, Hyderabad (1 & 2 by RPAD)
3. One CC to SRI KARTHIK RAMANA PUTTAMREDDY Advocate [OPUC]
4. Two CCs to GP FOR COMMERCIAL TAX, High Court at Hyderabad. [OUT]
5. Two spare copies

HIGH COURT

SPJ & GRRJ

DATED:30/12/2024

List on 03.02.2025 for final hearing with W.P.No.21355 of 2018

ORDER

WP.Nos.17833 & 17860 of 2017

DIRECTION