

Court No. 8
28.02.2024
(AD 12-13)
(S. Banerjee)

MAT 1849 of 2023
Hindustan Petroleum Corporation Limited & Ors.
Vs.
M/s. CLS Limited & Anr.

with

MAT 2510 of 2023

CAN 1 of 2023
CAN 2 of 2023

Mr. Kishore Datta, Sr. Advocate
Mr. Biswanath Chatterjee
Mr. Soham Krishna Chatterjee

... for the appellants

Mr. Debabrata Saha Roy
Mr. Pingal Bhattacharyya
Mr. Neil Basu
Mr. Sankha Biswas

... for the respondent

The appeal is arising out of an order dated 24th August, 2023 in a writ petition in which the writ petitioner has challenged a circular dated 4th January, 2018 issued by CGM (LPG Sales) of Hindustan Petroleum Corporation Limited. Learned single Judge after hearing the learned counsel for the parties have restrained respondent nos. 2, 3 and 4 from giving effect to the impugned circular dated 4th January, 2018 till disposal of the SLP 2424 of 2020 pending before the Hon'ble Supreme Court.

Mr. Chatterjee, learned counsel for the appellants has submitted that the circular dated 4th January, 2018 has not been issued by the HPCL. The HPCL has issued a circular on 9th January, 2019 which is not under challenge.

It appears that the circular dated 4th January, 2018 was issued by the CGM (LPG Sales) to State LPG heads and in pursuance thereof HPCL has issued the circular dated 9th January, 2018. The contents of the said circular are verbatim reproduction of the circular dated 4th January, 2018 issued by the CGM (LPG Sales) and circulated to all the oil companies. It appears that the same circular was the subject-matter of challenge in Bombay High Court and in Madras High Court. The learned single Judge has taken note of the judgement of the Bombay High Court order dated 30th September, 2019 in WP No. 8753 of 2018 and the decision of the Madurai Bench of Madras High Court in WP(MD) Nos. 24844-24849 of 2019 and thereafter passed the impugned order. The order of the Bombay High Court was against the circular issued by the Bharat Petroleum Corporation Limited and said identical circular issued Indian Oil Corporation Limited, was the subject-matter of challenge before the Madurai Bench of Madras High Court. It is not in dispute that the SLP has been preferred by the BPCL and the Hon'ble Supreme Court has adjourned the SLP till 5th September, 2023. We have been informed that the matter is still pending.

In view of the fact that the orders passed by the Bombay High Court and the Madras High Court have not been stayed by the Hon'ble Supreme Court, the stay of the said notification by the learned single Judge does not call for any interference at this stage.

Under such circumstances, we do not find any reason to interfere with the order.

MAT 1849 of 2023 stands dismissed. However, there shall be no order as to costs.

Re: MAT 2510 of 2023

Paper-books filed in MAT 1849 of 2023 shall be treated as paper-books for this matter.

Re: CAN 1 of 2023

This is an application for condonation of delay of 55 in filing the instant appeal.

Sufficient cause have been shown to justify the delay in filing the appeal.

The application for condonation of delay is thus allowed.

List the appeal on 6th March, 2024.

(Uday Kumar, J.)

(Soumen Sen, J.)