

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.8076 OF 2009  
(Arising out of S.L.P. (C) No.7194 of 2008)

Bharat Petroleum Corporation Limited ...Appellant(s)

Versus

State of Punjab & Ors. ...Respondent(s)

O R D E R

Heard learned counsel on both sides.

Leave granted.

Writ Petition was filed by the appellant-assessee [Bharat Petroleum Corporation Limited] under Rule 21(1) and Rule 21(2) of the Punjab Value Added Tax Rules, 2005. The case of the appellant was that the Order of Assessment disallowing input tax credit on the purchase value of the product was illegal. This Assessment Order was challenged by the appellant before the High Court by way of writ petition without exhausting statutory remedy of appeal under the Punjab Value Added Tax Act, 2005. In the circumstances, *vide* impugned judgment, the High Court has dismissed the writ petitions directing the appellant herein to exhaust the statutory remedy. However, after directing the assessee to exhaust the statutory remedy,

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the High Court has made observations on the merits of the case. Hence, this civil appeal.

We are of the view that it would be open to the assessee to challenge the Order of Assessment by filing appeal before the First Appellate Authority which will decide the matter on merits, uninfluenced by the observations made in the impugned judgment of the High Court. The appeal, if any, to be filed by the assessee within a period of four weeks. If appeal is so filed, then, the Appellate Authority will decide the matter in accordance with law.

The civil appeal is allowed accordingly.

.....J.  
[S.H. KAPADIA]

.....J.  
[AFTAB ALAM]

New Delhi,  
December 04, 2009.



JUDGMENT