

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.5778, 5781 & 5782 OF 2009  
(Arising out of S.L.P.(C) No.7220, 7633 & 8036/2009)

M/s Hindustan Petroleum Corporation Ltd. ...Appell  
etc.. ant(s)

Versus

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

CIVIL APPEAL NOS.5779 & 5780 OF 2009  
(Arising out of S.L.P.(C) No.7266 & 7619/2009)

M/s Bharat Petroleum Corporation Ltd. ...Appellant(s)

Versus

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

## ORDER

Leave granted.

Writ Petitions were filed by the appellants-assesseees (HPCL & BPCL) under Rule 21(1) and Rule 21(2) of the Punjab Value Added Tax Rules, 2005. The case of the appellants 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 appellants before the High Court by way of writ petitions without exhausting statutory remedy of Appeal under the Punjab Value Added Tax Act, 2005. In the circumstances,

....2/-

CA...@ SLP(C) 7220/09 etc...contd..

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vide impugned judgment, the High Court has dismissed the Writ Petitions directing the appellants herein to exhaust the statutory remedy. However, after directing the assesseees to exhaust the statutory remedy, the High Court has made observations on the merits of the case. Hence, these Civil

Appeals.

We are of the view that it would be open to the assesseees to challenge the Order of Assessment by filing Appeal(s) 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(s), if any, to be filed by the assesseees within a period of four weeks. If appeal is so filed, then, the Appellate Authority will decide the matter in accordance with law.

Civil Appeals are allowed accordingly.

.....J.  
(S.H. KAPADIA)

.....J.  
(AFTAB ALAM)

New Delhi,  
August 24, 2009.  
ITEM NO.59

COURT NO.3

SECTION III

SU P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).7220/2009

(From the judgement and order dated 05/11/2008 in CWP No.4588/2008 of the HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

M/S HINDUSTAN PETROLEUM CORP.LTD.

Petitioner(s)

VERSUS

STATE OF PUNJAB & ANR.

Respondent(s)

(With appln(s) for permission to file addl. documents and prayer for interim relief)

WITH S.L.P.(C) Nos.7266 of 2009

(With prayer for interim relief and office report)

S.L.P.(C) Nos. 7619, 7633 & 8036 of 2009

(With appln.(s) for taking additional document on record and with prayer for interim relief and office report)

Date: 24/08/2009 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA

HON'BLE MR. JUSTICE AFTAB ALAM

For Petitioner(s)

Mr. Alok Yadav, Adv.

Mr. M.P. Devanath, Adv.

Mr. Abhishek Anand, Adv.

For Respondent(s)

Mr. Ajay Pal, Adv.

Mr. Sumeer Kumar Shrivastava, Adv.  
Mr. Rajesh Singh, Adv.

UPON hearing counsel the Court made the following  
ORDER

Leave granted.

Civil Appeals are allowed in terms of the signed order.

(N. ANNAPURNA)  
COURT MASTER

(MADHU SAXENA)  
COURT MASTER

(Signed order is placed on file)