

S U 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

WRIT PETITION (CIVIL) NO(s). 176 OF 2010
(FOR PREL. HEARING)

BHARAT PETROLEUM CORP.LTD.& ANR.

Petitioner(s)

VERSUS

STATE OF KERALA & ORS.

Respondent(s)

(With appln(s) for ex-Parte stay)

Date: 10/05/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE SWATANTER KUMAR

For Petitioner(s)

Mr. R.F. Nariman, Sr.Adv.
Mr. Parijat Sinha, Adv.
Ms. Reshmi Rea Sinha, Adv.
Mr. S.C. Ghosh, Adv.
Mr. Vikram Ganguly, Adv.
Mr. T.K. Majumdar, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

In numerous sections of Kerala General Sales Tax Act, 1993 read with Kerala Value Added Tax Act, 2003, an expression is used, which reads as under:

"...if the appellant furnishes sufficient security to the satisfaction of the concerned officer in such form and in such manner, as may be prescribed."

In our view, the above expression needs to be interpreted. The reason for our saying so is that this Court finds in numerous cases, instituted by Public

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Sector Corporations having positive net worth and huge turnover, that the Department is insisting on cash deposits even though such Public Sector Corporations are in a position to secure the debt, if any, at a future date depending on the outcome of the pending proceedings. Whether the Department could insist on pre-deposit of taxes of huge amount(s) even when giant Public Sector Corporations being one of the Nav Ratnas could secure the outstandings in terms of their assets (un-encumbered).

In the present case, Bharat Petroleum Corporation Ltd. has filed Writ Petition directly in this Court under Article 32 of the Constitution. We are of the view that since the above question(s) is an important question of law and of public importance having economic consequence, it would be in the fitness of things that we grant liberty to the Bharat Petroleum Corporation Ltd. to file an independent writ petition in the High Court under Article 226 of the Constitution

for decision on the above question(s).

In view of what is stated hereinabove, learned senior counsel appearing for Bharat Petroleum Corporation Ltd. seeks permission to withdraw the Writ Petition with liberty to move the High Court.

Writ Petition is, accordingly, dismissed as withdrawn.

(N. Annapurna)
AR-cum-PS

(Madhu Saxena)
Asstt. Registrar