

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY**

Tuesday, the 30th day of November 2021 / 9th Aagraharyana, 1943
WP(C) NO. 23325 OF 2021(S)

PETITIONER:

KERALA PRADESH GANDHI DARSHANVEDHI (REG.NO.TVM/TC/487/2018),
REPRESENTED BY ITS CHAIRMAN, DR.M.C DILEEPKUMAR, HAVING REGISTERED
OFFICE AT 'SOWPARNIKA', TC 22/2609 KOCHAR ROAD, SASTHAMANGALAM,
THIRUVANANTHAPURAM-695 010.

RESPONDENTS:

1. UNION OF INDIA REPRESENTED BY THE FINANCE SECRETARY, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI, 110 001.
2. THE SECRETARY MINISTRY OF PETROLEUM & NATURAL GAS, GOVERNMENT OF INDIA, SHASTRI BHAVAN, NEW DELHI-110 001.
3. THE GOODS AND SERVICES TAX COUNCIL REPRESENTED BY ITS SPECIAL SECRETARY, OFFICE OF THE GST COUNCIL SECRETARIAT, 5TH FLOOR, TOWER II, JEEVAN BHARTI BUILDING, JANPATH ROAD, CONNAUGHT PLACE, NEW DELHI-110 001.
4. STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
5. BHARAT PETROLEUM CORPORATION LIMITED REPRESENTED BY ITS CHAIRMAN & MANAGING DIRECTOR, BHARAT BHAVAN, 4 AND 6 CURRIMBOY ROAD, BALLARD ESTATE, MUMBAI 400 001.
6. INDIAN OIL CORPORATION LIMITED (IOCL) REPRESENTED BY ITS CHAIRMAN, REFINERIES DIVISION, SCOPE COMPLEX, CORE 2,7, INSTITUTIONAL AREA LODHI ROAD, NEW DELHI 011.
7. HINDUSTAN PETROLEUM CORPORATION LIMITED REPRESENTED BY ITS CHAIRMAN, PETROLEUM HOUSE, 17, JAMSHEDJI TATA ROAD, MUMBAI-400 020.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to pass an interim order directing the 4th respondent to refrain from charging or levying the sales tax, additional sales tax and cess on petrol and diesel till the same is included under the GST regime.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C), this Court's Order dated 08/11/2021 and upon hearing the arguments of M/S ARUN.B.VARGHESE, AISWARYA V.S., VARNA MANOJ Advocates for the petitioners, M/S SRI.JAGADEESH LAKSHMAN, CGC for R1 & R2, SRI.P.R.SREEJITH, Standing Counsel for R3, Advocate General and SRI.V.TEKCHAND, SENIOR Government Pleader for R4, the court passed the following:

S. MANIKUMAR, CJ & SHAJI P. CHALY, J.

W.P.(C) No. 23325 of 2021 (S)

Dated this the 30th day of November, 2021.

ORDER

S. MANIKUMAR, CJ.

Sri. P. R Sreejith, learned Standing Counsel for the Central Board of Indirect Taxes and Customs, handed over a copy of the letter dated 29th November, 2021 of the Director of Goods and Services Tax Council, New Delhi and submitted that the petroleum products could not be brought under the GST regime.

2. Even though the matter was taken in the 45th GST Council meeting, three issues seemed to have been considered by the Council, for bringing the petroleum products under the GST regime, i.e., (i) the matter involves high revenue implications, (ii) requires larger deliberations and (iii) during pandemic times, it would be difficult to bring petroleum products under GST regime. We are not satisfied with the reasons. There should be some discussion and genuine reasons, as to why petroleum products cannot be brought under the GST regime.

3. Further, pandemic period cannot be cited as a reason. It is well known that even during pandemic period, several decisions were taken involving revenue, after deliberations.

4. We direct Sri. P. R Sreejith, learned Standing Counsel for the Central Board of Indirect Taxes and Customs, to file a detailed statement with reference to the observations made above and the prayers sought for.

Post the matter in the second week of December, 2021 along with W.P.(C) No. 15055 of 2021.

sd/-

**S. MANIKUMAR,
CHIEF JUSTICE.**



sd/-

**SHAJI P. CHALY,
JUDGE.**

Rv

