

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 16457 of 2021**

=====
JAY MAA LAKHU PETROLEUM

Versus

STATE OF GUJARAT
=====

Appearance:

MR SIRAJ R GORI(2298) for the Petitioner(s) No. 1

for the Respondent(s) No. 2,3

MR TRUPESH KATHIRIYA, ASST.GOVERNMENT PLEADER/PP(99) for the  
Respondent(s) No. 1
=====**CORAM: HONOURABLE MS. JUSTICE SONIA GOKANI**

and

**HONOURABLE MR. JUSTICE HEMANT M.  
PRACHCHHAK****Date : 29/10/2021****ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)**

1. The petitioner is engaged in the business of petroleum dealership. It is aggrieved and dissatisfied by the order passed by the respondent no.3 on 11.08.2021 whereby the directions are issued to the banker of the petitioner to attach the bank account. The further directions also have gone on 19.08.2019 to the IOCL Petroleum Company to stop the supply of the petroleum product to the petitioner which, according to the petitioner, is completely arbitrary action and could not be sustained under the law.

2. According to the petitioner, it is a registered dealer requiring to file monthly or quarterly return to the commercial tax officer. It has been lamented that their own lawyer along with the Chartered Accountant had, in connivance with each other, not paid the huge amount of the goods and services tax and also had misguided and misled the VAT authorities and therefore, the present petition with the following reliefs: -

*“(A) This Hon’ble Court may be pleased to admit and allow this petition;*

*(B) This Hon’ble Court may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, quashing and setting aside the impugned orders passed by the respondent no.3 on 11.08.2021, whereby the Bank Account of the petitioner firm bearing No. 43880200000089 with Bank of Baroda, Deodar Branch (District: Banaskantha) is attached/freezeed and directing the Respondent No.3 to withdraw instructions contained in the letter dated 19.08.2019 to the IOCL;*

*(C) This Hon’ble Court may be pleased to direct the respondent no.2 to sympathetically decide and pass appropriate order qua the detailed representation preferred by the petitioner on 13.09.2021 requesting the respondent no.2 to grant installments for making payment towards taxing liability arising out of the returns filed on behalf of the petitioner in the peculiar facts of the case;*

*(D) Pending admission and final disposal of the present petition, be pleased to direct the respondents to pass appropriate order, staying the implementation, execution and operation of the orders dated 11.08.2021 passed by the respondent no.3 herein, whereby the Bank Account of the petitioner firm bearing No. 43880200000089 with Bank of Baroda, Deodar Branch (District:*

*Banaskantha) is attached/freeze and directing the respondent no.3 to withdraw instructions contained in the letter dated 19.08.2019 to the IOCL;*

*(E) Be pleased to pass such other and further orders as may be deemed fit and proper."*

3. On hearing learned advocate Mr. Siraj Gori appearing for the petitioner and on an advance copy, learned Assistant Government Pleader Mr. Trupesh Kathiriya appearing for the respondent - State, we could notice that the FIR had been lodged on 07.08.2021 by one Karshanbhai Velaji complaining and alleging against some of the persons before the Deesa North Police Station, Banaskantha for the offences punishable under Sections 406, 420, 465, 467, 468 and 471 of the Indian Penal Code.

3.1. There is yet another FIR which has been filed by the Additional Commissioner of State Tax on 14.10.2021 with the very police station for the offences punishable under Sections 406, 420, 465, 467, 468, 471, 167, 120(B) of the Indian Penal Code and Sections 13(1)(b) and 13(1)(c) of the Prevention of Corruption Act where the present petitioner also has been named.

4. The prayer sought for at para 38(b), concerns the bank account, requested to be considered at this stage in wake of the pendency of the FIR. Petitioner has also shown its

readiness to pay the amount of taxes so far not paid due to the reasons stated above.

5. We could notice that there is already a detailed representation made by the petitioner on 13.09.2021 requesting the respondent no.2 to grant the installment for making the payment towards the outstanding tax liability during the pendency of this FIR.

6. Let such representation be considered by the respondent no.2 wherein the request for installment of the amount including the request for withdrawal of the instructions given to the IOCL also be considered within two (2) weeks from the date of receipt of writ of this order. This shall need to be considered in accordance with law without being influenced by disposal of this matter.

7. The Court has chosen not to enter into the merits of the matter in wake of the pendency of the criminal complaint, however, before any liability is fixed by virtue of investigation carried out in accordance with law. The authority concerned may decide such representation in accordance with law.

8. The outcome if disfavours the petitioner, he shall be at liberty to avail the legal recourse.

9. The present petition stands disposed of accordingly.  
Direct service is permitted.

**(SONIA GOKANI, J)**

**(HEMANT M. PRACHCHHAK,J)**

Bhoomi