

**(1998) 08 SC CK 0006**

**Supreme Court of India**

**Case No:** Civil Appeal No. 4253 of 1998, (Arising out of SLP (C) No. 2547 of 1986) with No's. 4254 to 4284 of 1998

Union of India (UOI) and Another

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

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**Date of Decision:** Aug. 25, 1998

**Acts Referred:**

- Constitution of India, 1950 - Article 366

**Citation:** (2000) 10 SCC 482

**Hon'ble Judges:** M. M. Punchhi, C.J; M. Srinivasan, J; K. T. Thomas, J

**Bench:** Full Bench

**Final Decision:** Dismissed

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**Judgement**

@JUDGMENTTAG-ORDER

CA No. 4253 of 1998 [@ SLP (C) No. 2547 of 1986], CAs Nos. 4258-59 of 1998 (@ SLPs Nos. 18651-52 of 1995), CAs Nos. 4260-82 of 1998 (@ SLPs Nos. 21208-30 of 1995), CA No. 4283 of 1998 (@ SLP No. 24520 of 1995)

1. Leave granted.

2. In this batch of appeals the common appellant is the Union of India and its officers. The appellants are discharging their statutory functions under the Indian Telegraph Act, 1885 for the purpose of providing telecommunication facilities in providing telephone connections to the subscribers. The respondents herein are the respective States of Haryana, Orissa, Uttar Pradesh and Andhra Pradesh. In their respective sales tax statutes, the State Governments have made amendments so as to redefine the words "purchase" and "sale" in order to bring those in conformity with the definitions given in Article 366 of the Constitution. The respective assessing authorities under those laws have assessed sales tax on the rentals being charged for supply of telephones. The aggrieved Union of India filed writ petitions in the

respective High Courts challenging the levy. Those writ petitions were dismissed suggesting to the writ petitioners that an alternative remedy lay in the form of a statutory appeal. Challenging those respective orders of the High Courts, the Union of India and others have approached this Court by way of these appeals.

3. Having heard learned counsel for the parties at length, we are of the view that these are the matters which should not have been dismissed by the respective High Courts in suggesting an alternative remedy. The question raised was pristinely legal which required determination as to whether provision of telephone connections and instruments amounted to sale and even so why was the Union of India not exempt from payment of sales tax under the respective statutes. The respondents counter such stance. We think the question raised was fundamental in character and need not have been put through the mill of statutory appeals in the hierarchy. For this reason alone, we set aside the respective impugned orders of the High Courts and remit the writ petitions back to them for decision in accordance with law. The recovery of tax would stand stayed till the disposal of the writ petitions. Ordered accordingly. No costs.

CA No. 4254 of 1998 [@ SLP (C) No. 14822 of 1992] CA No. 4255-57 of 1998 (@ SLPs Nos. 1609-11 of 1994) CA No. 4284 of 1998 (@ SLP No. 22643 of 1997)

4. Leave granted.

5. Here in these matters the respective High Courts have kept pending before them the writ petitions, but by interim directions had ordered the appellants to pay 50% of the demand before the disposal of the writ petitions. The respective State Governments had filed their counter-affidavits. On approaching this Court, the appellants had obtained stay orders regarding payment of 50% of the dues. These orders of the respective High Courts would stand reversed for identical reasons as given in the above cases. It would now be expected of the respective High Courts to decide the writ petitions on merits. The appeals would stand allowed in these terms. No costs.