

(2015) 03 SC CK 0116

SUPREME COURT OF INDIA

Case No: Petition for Special Leave to Appeal (C) No. 27873 of 2010

Union of India

APPELLANT

Vs

Star Television News Ltd.

RESPONDENT

Date of Decision: March 25, 2015

Citation: (2015) 373 ITR 528 : (2015) 12 SCC 665

Hon'ble Judges: A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench: Division Bench

Advocate: Mukul Rohatgi, Attorney General and P.S. Narsimha, Additional Solicitor General of India (D.L. Chidananda, S.A. Haseeb, Kavin Gulati, Ms. Diksha Rai, Ajay Sharma, Mrs. Gargi Khanna, Pritesh Kapur, Parvesh Thakur, B.V. Balaram Das and Mrs. Anil Katiyar, Advocates, with them), for the Petitioner; Porus F. Kaka, Senior Advocate (Venkita Subramoniam T. R., Vikas Srivastava, J.P. Singh, Dinesh Chawla, Harish K., Parag M., A. Agnihotri, Shivaji M. Jadhav, Kamal Mohan Gupta, S.C. Tiwari, Jatin Zaveri, Neel Kamal Mishra, Alok Yadav, Somnath Shukla, Praveen Kumar, Rashmikumar Manilal Vithlani, Vimal Chandra S. Dave, Ms. Neelam Kalsi, Arun K. Sinha, Aarohi Bhalla, P. Chetan, Ms. Sujata Kurdukar, Surya Kant, Pradeep Kumar Yadav, S.R. Wadhwa, Kaushal Yadav, Sumit Goel, Ms. Anubha Gupta, for M/s. Parekh and Co., Anis Ahmed Khan, Ms. Meenakshi Midha, Pranab Kumar Mullick, Ms. Arna Das, Rameshwar Prasad Goyal, M. C. Dhingra, Siddharth Mittal, Anupam Yadav, S.K. Sabharwal, Ankur S. Kulkarni, S. Bindlish, Anand Srivastava, Ms. Shweta S. Parihar, for M/s. Lex Regis Law Offices, Y. Raja Gopala Rao, Ms. Y. Vismai Rao, Hitendra Nath Rath, P. Sudheer Kumar Reddy, Sanjeev Malhotra, Ms. Sonia Mathur, Rajiv K. Garg, Vineet Garg, Dr. Kailash Chand, R.K. Kapoor, Ms. S. Rama, Ms. Shweta Kapoor, P. Jitendra Kalkan, Pranesh, Dipesh Sinha, Amit Sharma, Anupam Lal Das, Gaurav Dhingra, Rajat Navet, Pradeep Kumar Bakshi, Kushagra Pandit, Ranjan Kumar, Rajeev Kumar, Ms. Shardha, and Ms. Kavita Jha, Advocates, with him), for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. Delay condoned.

2. In all these special leave petitions filed by the Union of India, the correctness of the judgment dated August 7, 2009, rendered by the Bombay High Court in a batch of writ petitions is questioned. In those writ petitions filed by various assessee, the validity of sections 245HA(1)(iv) and 245HA(3) of the Income-tax Act, 1961, as amended by the Finance Act, 2007, was challenged. The High Court, by a detailed judgment, found the aforesaid provisions to be violative of article 14, etc., but at the same time, it did not invalidate these provisions as the High Court was of the opinion that it was possible to read down the provisions of section 245HA(1)(iv) in particular to avoid holding the provisions as unconstitutional. The conclusion so arrived at is summed up in paragraph 54 of the impugned judgment, which reads as under page 106 of 317 ITR :

"54. From the above discussion having arrived at a conclusion that fixing the cut-off date as 31st March, 2008, was arbitrary the provisions of section 245HA(1)(iv) to that extent will be also arbitrary. We have also held that it is possible to read down the provisions of section 245HA(1)(iv) in the manner set out earlier. This recourse has been taken in order to avoid holding the provisions as unconstitutional. Having so read, we would have to read section 245HA(1)(iv) to mean that in the event the application could not be disposed of for any reasons attributable on the part of the applicant who has made an application under section 245C. Consequently, only such proceedings would abate under section 245HA(1)(iv). Considering the above, the Settlement Commission to consider whether the proceedings had been delayed on account of any reasons attributable on the part of the applicant. If it comes to the conclusion that it was not so, then to proceed with the application as if not abated. Respondent No. 1 if desirous of early disposal of the pending applications, to consider the appointment of more Benches of the Settlement Commission, more so as the Benches where there is heavy pendency like Delhi and Mumbai."

3. We are of the opinion that it is a well-considered judgment of the High Court and does not call for any interference. All these special leave petitions are accordingly dismissed.