

ITEM NO.1

COURT NO.15

SECTION IIIA

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

Petition(s) for Special Leave to Appeal (C) No(s).27873/2010

(Arising out of impugned final judgment and order dated 07/08/2009  
in WP No.952/2008 passed by the High Court of Bombay)

UNION OF INDIA

Petitioner(s)

VERSUS

STAR TELEVISION NEWS LIMITED

Respondent(s)

(Office report)

WITH

SLP(C) No.19956/2010

(With Office Report)

SLP(C) No.19968/2010

(With appln.(s) for directions and Office Report)

SLP(C) No.19969/2010

(With Office Report)

SLP(C) No.19970/2010

(With Office Report)

SLP(C) No.19972/2010

(With Office Report)

SLP(C) No.19973/2010

(With Office Report)

SLP(C) No.19974/2010

(With Office Report)

SLP(C) No. 19975/2010

(With Office Report)

SLP(C) No. 19976/2010

(With Office Report)

SLP(C) No. 19977/2010

(With Office Report)

SLP(C) No. 19978/2010

(With Office Report)

SLP(C) No. 19979/2010

(With Office Report)

SLP(C) No. 19981/2010

(Permission to file rejoinder affidavit and Office Report)

SLP(C) No. 19982/2010

(With Office Report)

SLP(C) No. 19983/2010

(With Office Report)

SLP(C) No. 19984/2010

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SLP(C) No. 19985/2010

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SLP(C) No. 19986/2010  
(With Office Report)  
SLP(C) No. 19987/2010  
(With Office Report)  
SLP(C) No. 19988/2010  
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SLP(C) No. 19989/2010  
(With Office Report)  
SLP(C) No. 19990/2010  
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SLP(C) No. 19991/2010  
(With Office Report)  
SLP(C) No. 19992/2010  
(With Office Report)  
SLP(C) No. 19993/2010  
(With Office Report)  
SLP(C) No. 19994/2010  
(With Office Report)  
SLP(C) No. 19995/2010  
(With appln.(s) for directions and Office Report)  
SLP(C) No. 19996/2010  
(With Office Report)  
SLP(C) No. 19997/2010  
(With Office Report)  
SLP(C) No. 19998/2010  
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SLP(C) No. 19999/2010  
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SLP(C) No. 20000/2010  
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SLP(C) No. 24005/2010  
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SLP(C) No. 25057/2010  
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(C/delay in filing SLP and c/delay in refiling SLP and Office  
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(C/delay in filing SLP and Office Report)  
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(C/delay in filing SLP and Office Report)  
SLP(C) No. 5800/2015  
(C/delay in filing SLP and Office Report)  
SLP(C) No. 4700/2015  
(C/delay in filing SLP and Office Report)  
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(C/delay in filing SLP and Office Report)

C.A. No. 2429/2015  
 (C/delay in filing SLP)  
 C.A. No. 2430/2015  
 (C/delay in filing SLP)  
 SLP(C) No. 5799/2015  
 (C/delay in filing SLP and office report)  
 C.A. No. 2428/2015  
 (C/delay in filing SLP)  
 SLP(C) No. 8927/2015  
 (C/delay in filing SLP Office Report)  
 C.A. No. 2880/2015  
 (C/delay in filing SLP)  
 SLP(C) No. 8916/2015  
 (C/delay in filing SLP and Office Report)  
 SLP(C) No. 8920/2015  
 (C/delay in filing SLP Office Report)

Date : 25/03/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI  
 HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

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For Respondent(s) Mr.Porus F.Kaka, Sr.Adv.  
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 Mr.Parag M., Adv.  
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Mr. Kamal Mohan Gupta, Adv.

Mr.S.C.Tiwari, Adv.  
 Mr. Jatin Zaveri, Adv.

Mr. Neel Kamal Mishra, Adv.

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Mr. Sumit Goel, Adv.

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Mr. Pranab Kumar Mullick, Adv.

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Mr. Rameshwar Prasad Goyal, Adv.

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Mr. Sanjeev Malhotra, Adv.

Ms. Sonia Mathur, Adv.

Mr. Rajiv K. Garg, Adv.  
Mr. Vineet Garg, Adv.  
Dr. Kailash Chand, Adv.

Mr. R. K. Kapoor, Adv.  
Ms. S. Rama, Adv.  
Ms. Shweta Kapoor, Adv.  
Mr. Anis Ahmed Khan, Adv.

Mr. Pradeep Kumar Yadav, Adv.  
Mr. S. R. Wadhwa, Adv.  
Mr. P. Jitendra Kalkan, Adv.

Mr. Pradeep Kumar Yadav, Adv.  
Mr. S. R. Wadhwa, Adv.  
Mr. Pranesh, Adv.

Mr. Pradeep Kumar Yadav, Adv.  
Mr. S. R. Wadhwa, Adv.  
Mr. Sanjeev Malhotra, Adv.

Mr. Dipesh Sinha, Adv.  
Mr. Amit Sharma, Adv.  
Mr. Anupam Lal Das, Adv.

Ms. Arna Das, Adv.  
Mr. Gaurav Dhingra, Adv.

Mr. Rajat Navet, Adv.  
Mr. Pradeep Kumar Bakshi, Adv.  
Mr. Kushagra Pandit, Adv.

Mr. Ranjan Kumar, Adv.  
Mr. Rajeev Kumar, Adv.

Ms. Sharddha, Adv.  
Ms. Kavita Jha, Adv.

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

Delay condoned.

In all these special leave petitions filed by the Union of India, the correctness of judgment dated 07.08.2009 rendered by the Bombay High Court in a batch of writ petitions is questioned.

In those writ petitions filed by various assesseees, the validity of Sections 245 HA(1)(iv) and 245HA(3) of the Income Tax Act, 1961, as amended by 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 petitions 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:

"54. From the above discussion having arrived at a conclusion that fixing the cutoff 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 Commissioner 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."

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 and the appeals are accordingly dismissed.

(SATISH KUMAR YADAV)  
COURT MASTER

(SUMAN JAIN)  
COURT MASTER

(Signed order in C.A.No.2429/2015, C.A.No.2430/2015, C.A.No.2428/2015 and C.A.No.2880/2015 is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.2429 OF 2015

UNION OF INDIA & ORS.

.....APPELLANTS

VERSUS

GURMEET KALRA

.....RESPONDENT

WITH

CIVIL APPEAL NO.2430 OF 2015

CIVIL APPEAL NO.2428 OF 2015

CIVIL APPEAL NO.2880 OF 2015

O R D E R

Delay condoned.

In all these appeals filed by the Union of India, the correctness of judgments dated 16.09.2014 and 23.09.2014 rendered by the Bombay High Court in a batch of writ petitions is questioned. In those writ petitions filed by various assesseees, the validity of Sections 245 HA(1)(iv) and 245HA(3) of the Income Tax Act, 1961, as amended by 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 petitions 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:

"54. From the above discussion having arrived at a conclusion that fixing the cutoff 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 Commissioner 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."

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 appeals are accordingly dismissed.

.....J.  
(A.K. SIKRI)

.....J.  
(ROHINTON FALI NARIMAN)

NEW DELHI;  
MARCH 25, 2015.