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SLP(C)No. 2883-2885 OF 2001

ITEM No.34

Court No. 2

SECTION IIIA  
A/N MATTER

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 (Civil) No.2883-2885/2001

(From the judgement and order dated 09/10/2000 in ITR 280-282/97  
of The HIGH COURT OF KERALA AT ERNAKULAM)

M/S. KERALA LIQUOR CORPORATION

Petitioner (s)

VERSUS

COMMNR. OF INCOME TAX, COCHIN  
(With prayer for interim relief)  
(With office report)

Respondent (s)

Date : 12/07/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA  
HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Petitioner (s) Mr. T.L.V. Iyer, Sr.Adv.  
Mr. Subramonium Prasad.,Adv.  
Mr. S.N. Jha, Adv.

For Respondent (s) Mr. H.N. Salve, S.G.  
Mr. Rajiv Tyagi, Adv.  
Mr. B.V. Balaram Das,Adv.

UPON hearing counsel the Court made the following  
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Leave granted.  
The civil appeals are allowed. No order as to costs.

.SP1 (N. Annapurna) (Shelly Sengupta)  
Court Master Court Master

(Signed order is placed on the file.)

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IN THE SUPREME COURT OF INDIA@@  
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CIVIL APPELLATE JURISDICTION@@

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CIVIL APPEAL NOS.4071-4073 OF 2001@@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC  
(Arising out of S.L.P.(C) Nos.2883-2885/2001)

M/s. Kerala Liquor Corporation .....Appellant(s)

versus

Commnr. of Income Tax, Cochin ...Respondent(s)

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Delay in filing the respondent's appearance is condoned.  
Leave granted.

These appeals arise on references to the High Court of Kerala of questions of law under Section 256(1) of the Income Tax Act. The High Court has come to the conclusion that it is not necessary for it to answer the questions but that the matter requires fresh consideration at the hands of the Tribunal, in view of what is stated, principally, in paragraph seven of its judgment.

It is, fairly, not disputed that the approach of the High Court is not correct and that the High Court ought to have answered the questions that were referred to it, having regard to the facts found by the Tribunal and on the basis thereof. Accordingly, it is necessary to restore the references to the file of the High Court to be heard and disposed of afresh, having due regard to the jurisdiction of the High Court in such matters.

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The appeals are allowed. The order under appeal is set aside. The References (I.T.R.Nos.280, 281 and 282/1997) are restored to the file of the High Court of Kerala to be heard and disposed of afresh.

No order as to costs.

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(S.P. Bharucha)@@

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.....J.@@

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(Y.K. Sabharwal) @@

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New Delhi,@@

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July 12, 2001. @@

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