

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).2800/2012

(From the judgement and order dated 23/12/2011 in WT No.1144/2008 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

M/S PREMIER POLYFILM LTD. Petitioner(s)

VERSUS

STATE OF U.P.& ORS. Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment,exemption from filing O.T. and prayer for interim relief and office report)

WITH SLP(C) NO. 3170 of 2012

(With appln(s) for exemption from filing O.T. and prayer for interim relief and office report

SLP(C) NO. 3207 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment,exemption from filing O.T. and prayer for interim relief and office report)

SLP(C) NO. 3297 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 3482 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment and office report)

SLP(C) NO. 3572 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 3724 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 3739 of 2012

(With prayer for interim relief and office report)

SLP(C) NO. 3746 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 3765 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment,exemption from filing O.T. and c/delay in filing process fee and with prayer for interim relief and office report)

SLP(C) NO. 3766 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgmentand prayer for interim relief and office report)

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SLP(C) NO. 3777-3778 of 2012

(With prayer for interim relief and office report)

SLP(C) NO. 3783 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 3795 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment,exemption from filing O.T. and prayer for interim relief and office report)

SLP(C) NO. 4009 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 4059 of 2012

(With appln(s) for exemption from filing O.T. and exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 4167 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

SLP(C) NO. 4185 of 2012

(With prayer for interim relief and office report)

SLP(C) NO. 4188 of 2012

(With prayer for interim relief and office report)

SLP(C) NO. 4215 of 2012

(With prayer for interim relief and office report)

SLP(C) NO. 4510 of 2012

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

Date: 03/02/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Petitioner(s) Mr.Pankaj Bhatia, Adv.
 Mr.Manoj Kumar, Adv.
 For Dr. Kailash Chand,Adv.

 Mr.Shashi Kumar, Adv.
 MrManish Shanker, Adv.
 For Ms. Minakshi Vij, Adv.

 Mr. Syed Shahid Hussain Rizvi, Adv.

 Mr.Kavin Gulati, Adv.
 Ms.Rashmi Singh, Adv.
 Mr.Anupam Mishra, Adv.
 For Mr. T. Mahipal, Adv.

: 3 :

 Suman Ahsan, Adv.
 Mr.Sanjeev Kumar, Adv.
 For M/S. Khaitan & Co., Advs.

 Mr.Dhruv Agarwal, Sr.Adv.
 Mr.Manoj Saxena, Adv.
 Mr.Shwetank Sailakwal, Adv.
 Mr.Nishit Agarwal, Adv.
 Mr. Vipin Kumar Jai, Adv.

 Mr. P.S.Sudheer, Adv.
 Mr.Rishi Maheshwari, Adv.

 Mr Pavanshree Agrawal, Adv.

 Mr.Nikhil Sharma, Adv.
 Mr.Amit Kumar Singh, Adv.
 Ms.Tulika Prakash, Adv.

 Mr.Ajay Aggarwal, Adv.
 Mr.Rajan Narain, Adv.

 Mr.Sanjeev Behal, Adv.
 Mr.Ankur Mittal, Adv.
 Mr.Pranav Kumar Jha, Adv.

 Mr.T.V.S.Raghavendra Sreyas, Adv.
 For Mr.Nikhil Nayyar, Adv.

For Respondent(s) Mr.Sunil Gupta, Sr.Adv

Mr.Shail K.Dwivedi, AAG
Mr.G.V.Rao, Adv.
Mr.Manoj Kr.Dwivedi, Adv.
Ms.Vandana Mishra,Adv.
Mr.Ashutosh Sharma, Adv.
Mr.Aviral Shukla, Adv.
Mr.Abhinav Shrivastav, Adv.

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

Rest of the matters except SLP(C)No.3765/2012:

Application(s) for exemption from filing Official Translation
is allowed.

Notice to the respondents.

Learned counsel appears and accepts notice on behalf of all
the respondents in all the matters.

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Leave granted.

In these Civil Appeals, the appellants and others are
questioning the correctness or otherwise of the common judgment and
order passed by the High Court of Judicature of Allahabad in Writ
Tax No.1484 of 2007 etc. dated 23.12.2011.

In the Writ Petitions filed, the appellants and others had
questioned the constitutional validity of the U.P. Tax on Entry of
Goods Into Local Areas Act, 2007 ('U.P.Act, 2007' for short).

We have heard learned counsel for the parties on the prayer
made for grant of interim relief and also perused the records.

We are not inclined to grant the blanket stay order as prayed
for by the appellants. Accordingly, we pass the following order :

I. The operation of the impugned judgment and order is stayed
subject to the appellants in each case depositing 50% of the accrued
tax liability/arrears under the U.P.Act, 2007 and furnish bank
guarantee for the balance amount within four weeks from today. It
goes without saying, that the aforesaid deposit shall be made after
adjusting the amount(s) paid or deposited during the pendency of the
Writ Petitions before the High Court. The appellants are directed
to keep the bank guarantee(s) alive during the pendency of these
appeals. The amount(s) so deposited/paid and the bank guarantee(s)
furnished is subject to the result of these appeals.

II. The appellants shall also deposit 50% of the tax liability/

arrears, including interest and penalty, and furnish bank guarantee for the balance amount as and when demand notices are issued under the U.P. Act, 2007 for the past period.

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III. In default, the interim order(s) granted by this Court shall automatically stand vacated.

IV. In case the State of Uttar Pradesh loses the matters at the time of final hearing, it shall refund to the appellants the amount deposited with interest at the rate which may be fixed by this Court.

V. It is also made clear that in case the appellants lose the matter, the Department is at liberty to encash the bank guarantee(s) offered by the appellants and also issue demand notice(s) demanding interest, and penalty on the amount outstanding as arrears of tax.

VI. The appellants shall continue to pay the tax at the prevailing rate(s) for the future period as applicable to each one of the assesseees.

VII. In view of the interim order passed by us, we expect that the Department shall not resort to coercive steps to recover the amounts due to the Department.

VIII. If for any reason, the appellants want to seek statutory remedies provided under the Act against the assessment orders, best judgment assessment orders, provisional assessment orders, appeals or revisions before appropriate forum, they are at liberty to do so and if such appeals or revisions are filed, we direct the statutory authorities to consider the same in accordance with law.

IX. We also reserve liberty to the respondent-State of U.P. to verify the veracity of the statement made by the appellants in the affidavits filed insofar as the tax burden being passed on the consumers directly or indirectly.

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X. Liberty is granted to the respondents to file appropriate application before this Court for modification of the interim orders granted, if for any reason, the appellants in these cases have passed on the tax burden on the consumers.

SLP(C)No.3765/2012:

At the request of learned counsel for the petitioner,
delink and list along with C.A.No.288/2012, which is stated to be
listed on 07.02.2012.

(G.V.Ramana)
Court Master

(Sharda Kapoor)
Court Master