

SLP(C)No.8658/2000

ITEM No.203

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
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.8658/2000

(From the judgement and order dated 25/10/1999 in ITR 56/97
of The HIGH COURT OF KERALA AT ERNAKULAM)

COMMISSIONER OF INCOME TAX, COCHIN

Petitioner (s)

VERSUS

M/S. HOTEL & ALLIED TRADERS (P) LTD.

Respondent (s)

(With prayer for interim relief and office report)
(For Final Disposal)

Date : 25/01/2001 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. R.N. Trivedi,ASG.
Ms. Neera Gupta,Adv.
Mr. B.V. Balaram Das,Adv.

For Respondent (s)

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

.....L.....I..T.....T.....T.....T.....T.....T.....T.....T.....J

Leave granted.
The civil appeal is allowed.
No order as to costs.

(T.I. Rajput)
Court Master

(S. Sen Gupta)
Court Master

(Signed order is placed on the file)

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CIVIL APPELLATE JURISDICTION

Civil Appeal No.884 of 2001@@
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(Arising out of S.L.P. (C) No.8658 fo 2000)

Commissioner of Income Tax, Cochin ...Appellant (s)

Versus~

M/s. Hotel & Allied Traders (P) Ltd.,
CochinRespondent (s)

O R D E R@@
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....L.....I.....T.....T.....T.....T.....T.....T.....T.....J

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Leave granted.

The notice on the special leave petition stated that the matter might be disposed of at this stage having regard to the judgment of this court in Commissioner of Income Tax vs.@@

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M/s. Anand Theatres (244 I.T.R.192).@@

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The respondent has been served but has not chosen to put in an appearance.

The question involved in the reference, at the instance of the Revenue, read thus:

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"Whether on the facts and in the circumstances of the case, the Tribunal is right in law and fact in holding that hotel building is a plant?"

....L.....I.....T.....T.....T.....T.....T.....T.....T.....J

.SP2

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The High Court answered the question against the Revenue. The issue involved is the subject matter of the decision of this court in the case of M/s. Anand Theatres and@@

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it has been answered in favour of the Revenue.

Accordingly, the civil appeal is allowed. The judgment and order under appeal is set aside only insofar as it relates to the question afore-mentioned. That question is answered in the negative and in favour of the Revenue.

No order as to costs.

.SP1

.....J.
(S.P. Bharucha)@@
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.....J.
(Y.K. Sabharwal)@@
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New Delhi,
January 25, 2001.