

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.6712-6713/2005

(From the judgement and order dated 03/12/2004 in CMWP 538/01
and CMWP 539/01 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

ARUN KUMAR MAHESHWARI AND ANR.

Petitioner (s)

VERSUS

INCOME TAX OFFICER

Respondent (s)

(With prayer for interim relief)

(With Appln(s). for exemption from filing O.T.)

With

SLP(C)No.7020/2005 (with appln.(s) for exemption from filing OT and with
prayer for interim relief and office report)

With

SLP(C)No....CC 4612/2005 (with appln.(for) permission to file SLP and
substitution and c/delay in filing substitution appln. and with prayer
for interim relief and office report)

Date : 11/04/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE

HON'BLE MR. JUSTICE S.B. SINHA

For Petitioner (s)Mr. R.F. Nariman, Sr.Adv.

Mr. Kavin Gulati, Adv.

Mr. T. Mahipal, Adv.

Ms. Rashmi Singh, Adv.

For Respondent (s)

UPON hearing counsel the Court made the following

O R D E R

Learned senior counsel appearing for the petitioner, inter alia, submits that under Section 151 of the Income Tax Act the assessment if to be reopened then the same can be done only after the permission is obtained from the Chief Commissioner which has not been done in these cases. He also submits that the reopening can only be done by an officer not below the rank of Joint Commissioner. From the impugned judgment we do not find that this issue has been raised before the Tribunal. However, the leaned senior counsel points out from the grounds of the SLP that such grounds have been raised but not reflected in the judgment. If that be so, the appropriate remedy for the petitioners is to approach the High Court by way of Review Petition to point out these deficiencies.

Learned counsel seeks permission to withdraw these petitions. Prayer is granted. The special leave petitions are dismissed as withdrawn.

(PAWAN KUMAR)
COURT MASTER

(PREM PRAKASH)
COURT MASTER