

ITEM NO.7

COURT NO.14

SECTION XI

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 for Special Leave to Appeal (C) No. 15472/2017

(Arising out of impugned final judgment and order dated 01-08-2016 in WP No. 435/2016 passed by the High Court of Judicature at Allahabad)

STATE OF UP & ORS.

Petitioner(s)

VERSUS

M/S SAMSUNG INDIA ELECTRONICS PVT LTD
(IA No. 41299/2017 - EXEMPTION FROM FILING O.T.)

Respondent(s)

WITH

SLP(C) No. 26270-26273/2019 (XV)
(IA No. 79407/2020 - APPLICATION FOR PERMISSION
IA No. 167644/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 167645/2019 - EXEMPTION FROM FILING O.T.
IA No. 110389/2020 - STAY APPLICATION)

SLP(C) No. 756-759/2020 (XV)

Diary No(s). 19948/2021 (XI)
(FOR ADMISSION and I.R. and IA No.139713/2021-CONDONATION OF DELAY
IN FILING and IA No.139714/2021-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.14864/2022-EXEMPTION FROM FILING O.T.
and IA No.139715/2021-EXEMPTION FROM FILING O.T. and IA
No.14511/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/ FACTS/
ANNEXURES and IA No.14862/2022-APPLICATION FOR PERMISSION)

Diary No(s). 19951/2021 (XI)

(FOR ADMISSION and I.R. and IA No.134/2022-CONDONATION OF DELAY IN
FILING and IA No.135/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.136/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20063/2021 (XI)

(FOR ADMISSION and I.R. and IA No.2444/2022-CONDONATION OF DELAY IN
FILING and IA No.2445/2022-EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT and IA No.2446/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20062/2021 (XI)

(FOR ADMISSION and I.R. and IA No.276/2022-CONDONATION OF DELAY IN
FILING and IA No.277/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED

JUDGMENT and IA No.284/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20096/2021 (XI)

(FOR ADMISSION and I.R. and IA No.2697/2022-CONDONATION OF DELAY IN FILING and IA No.2699/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.2700/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20105/2021 (XI)

(FOR ADMISSION and I.R. and IA No.2439/2022-CONDONATION OF DELAY IN FILING and IA No.2440/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.2442/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20110/2021 (XI)

(FOR ADMISSION and I.R. and IA No.1685/2022-CONDONATION OF DELAY IN FILING and IA No.1687/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.1689/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20836/2021 (XI)

(FOR ADMISSION and I.R. and IA No.143174/2021-CONDONATION OF DELAY IN FILING and IA No.143176/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.143178/2021-EXEMPTION FROM FILING O.T.)

Diary No(s). 20569/2021 (XI)

(FOR ADMISSION and I.R. and IA No.2714/2022-CONDONATION OF DELAY IN FILING and IA No.2715/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.2716/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20838/2021 (XI)

(FOR ADMISSION and I.R. and IA No.279/2022-CONDONATION OF DELAY IN FILING and IA No.280/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.281/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20832/2021 (XI)

(FOR ADMISSION and I.R. and IA No.529/2022-CONDONATION OF DELAY IN FILING and IA No.530/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.531/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20066/2021 (XI)

(FOR ADMISSION and I.R. and IA No.733/2022-CONDONATION OF DELAY IN FILING and IA No.736/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.738/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20823/2021 (XI)

(FOR ADMISSION and I.R. and IA No.495/2022-CONDONATION OF DELAY IN FILING and IA No.496/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.499/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20825/2021 (XI)

(FOR ADMISSION and I.R. and IA No.286/2022-CONDONATION OF DELAY IN FILING and IA No.287/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.288/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20826/2021 (XI)

(FOR ADMISSION and I.R. and IA No.255/2022-CONDONATION OF DELAY IN FILING and IA No.256/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.257/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20828/2021 (XI)

(FOR ADMISSION and I.R. and IA No.318/2022-CONDONATION OF DELAY IN FILING and IA No.321/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.324/2022-EXEMPTION FROM FILING O.T.)

Diary No(s). 20116/2021 (XI)

(FOR ADMISSION and I.R. and IA No.153/2022-CONDONATION OF DELAY IN FILING and IA No.155/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.156/2022-EXEMPTION FROM FILING O.T. and IA No.37466/2022-EXEMPTION FROM FILING O.T. and IA No.37465/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 21-03-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE DIPANKAR DATTA

For Petitioner(s) Mr. V Lakshmikumaran, Adv.
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Mr. Prakash Gautam, Adv.
Mr. Aditya Kumar Dube, Adv.
Mr. Ram Shiromani Yadav, Adv.
Mr. Nagendra Singh, Adv.

Mr Rahul Jain, AOR
Mr. Kamal Sawhney, Adv.
Mr. Deepak Thackur, Adv.
Mr. Rahul Jain, Adv.

For Respondent(s) Mr. Nikilesh Ramachandran, AOR

Mr. Sujit Ghosh, Adv.
Ms. Mannat, Adv.
Mr. Ashray Behura, Adv.
Mr. Kishore Kunal, AOR

Dr. Manish Singhvi, Sr. Adv.
Mr. Arpit Prakash, Adv.
Mr. Irshad Ahmad, AOR

Mr. Vishal Meghwal, Adv.
Ms. Yashika Bum, Adv.
Mr. Milind Kumar, AOR

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

S.L.P.(C) No. 15472 of 2017

This Court has heard learned counsel for the parties.

The Additional Commissioner of Value Added Tax exercised the power under Section 29A of the U.P. Value Added Tax, 2008 and issued notice recording satisfaction that it was just and expedient to re-open completed assessments. The basis for the notice was the judgment of this Court in "*State of Punjab and Others vs. Nokia India Pvt. Ltd.*" [2014 16 SCC 410] which had inter alia ruled that a phone charger and cellphone were not a composite unit as they were capable of being sold separately and could be used independently of each other. The re-opening of the assessment under Section 27 was not justified, as concluded by the High Court only on account of change of law, more so view expressed by this Court in "*State of Uttar Pradesh & Others vs. Aryaverth Chawal Udyog and Others*" [(2015) 7 SCC 324]. To that extent, the impugned order is unexceptionable. However, the direction to pay costs is set aside. However, the impugned judgment also records other findings on the applicability of the judgment which this Court finds were not necessary, having regard to the fact that re-assessment was not valid.

The special leave petition is dismissed but subject to above observations.

All pending applications are disposed of.

SLP(C) No. 756-759/2020

Learned counsel for the petitioner seeks liberty to withdraw the petition and seeks appellate remedies available in law in respect of the re-assessment order.

Liberty granted.

The special leave petition is dismissed as withdrawn.

In rest of the matters, arguments heard in part.

Mr. Lakshmikumaran has handed over a compilation which is hereby taken on record.

S.L.P.(C) No. 34917 of 2015 and C.A. No. 6368-6369 of 2017 shall be listed along with these petitions subject to orders of Hon'ble the Chief Justice of India as it is submitted that the same questions of law arise.

Learned counsel for the parties in those proceedings shall be notified in advance that the matters would be listed on 28.03.2023.

(NEETA SAPRA)
COURT MASTER (SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)