

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).14813/2012

(From the judgement and order dated 23/12/2011 in WT
No.41/2009 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

M/S APL APOLLO TUBES LTD. Petitioner(s)

VERSUS

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

(With appln(s) for exemption from filing c/c of the impugned
Judgment, permission to file additional documents and prayer for
interim relief and office report)

WITH S.L.P.(C)...CC NO. 10398 of 2012
(With appln.(s) for c/delay in filing SLP and office report)

S.L.P.(C)...CC NO. 10424 of 2012
(With appln.(s) for c/delay in filing SLP and office report)

S.L.P.(C)...CC NO. 10529 of 2012
(With office report)

SLP(C) NO. 13464 of 2012
(With prayer for interim relief and office report)

SLP(C) NO. 14126 of 2012
(With office report)

SLP(C) NO. 14642 of 2012
(With prayer for interim relief and office report)

SLP(C) NO. 14814 of 2012
(With prayer for interim relief and office report)

SLP(C) NO. 16299-16302 of 2012
(With prayer for interim relief and office report)

SLP(C) NO. 16905 of 2012
(With prayer for interim relief and office report)

SLP(C) NO. 18014 of 2012
(With prayer for interim relief and office report)

: 2 :

S.L.P.(C)...CC NO. 7945 of 2012
(With appln.(s) for c/delay in filing SLP and office report)

S.L.P.(C)...CC NO. 8330 of 2012
(With appln.(s) for c/delay in filing SLP and office report)

S.L.P.(C)...CC NO. 8968 of 2012
(With appln.(s) for c/delay in filing SLP and office report)

S.L.P.(C)...CC NO. 9271 of 2012
(With appln.(s) for c/delay in filing SLP and office report)

S.L.P.(C)...CC NO. 9277 of 2012
(With appln.(s) for c/delay in filing SLP and office report)

S.L.P.(C)...CC NO. 9467 of 2012
(With appln.(s) for c/delay in filing SLP and office report)

Date: 02/07/2012 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.Vivek Gupta, Adv.
 Mr. Abhijat P. Medh,Adv.

 Mr. P.N. Ramalingam, Adv.

 Mr. Rajiv Tyagi, Adv.
 Mr.Ajay Kumar, Adv.

 Mr.Pankaj Bhatia, Adv.
 Mr.Vivek Chaudhary, Adv.
 Dr. Kailash Chand, Adv.

 Mr.Ajay Bhargava, Adv.
 Ms.Vanita Bhargava, Adv.
 Mr.Susmit Pushkar, Adv.
 Mr.Priyambada Mishra, Adv.
 For M/S. Khaitan & Co., Adv.

 Ms. Garima Prashad, Adv.
 Mr.Kumar Prem Anand, Adv.
 Mr.Pradeep Kumar, Adv.

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

 Mr. Vivek Gupta, Adv.
 : 3 :
 Mr.K.C.Kaushik, Adv.
 Mr. Rahul Kaushik, Adv.

 Mr. Saurabh Ajay Gupta, Adv.
 Mr.Saurabh Singhal, Adv.

For Respondent(s) Mr. Gunnam Venkateswara Rao,Adv.

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

Delay condoned.

Notice to the respondents.

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

Leave granted in the Special Leave Petitions.

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

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

: 4 :

guarantee(s) for the balance amount(s) 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(s) for the balance amount(s) as and when demand notices

are issued under the U.P.Act, 2007 for the past period.

III. In default, the interim order(s) granted by this Court shall automatically stands 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(s) deposited with interest at the rate which may be fixed by

this Court.

V. It is also made clear that in case the appellants loses 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.

: 5 :

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. The interim order(s) passed by us will apply to only those cases where the appellants have filed the affidavits before this Court pursuant to the orders passed by us on 05.01.2012.

IX. 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.

X. 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.

XI. 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.

(G.V.Ramana)
Court Master

(Sharda Kapoor)
Court Master