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SLP(C)No. 16287 OF 2000

ITEM No.35

Court No. 9

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.16287/2000

(From the judgement and order dated 16/12/1999 in CA 1559/99
of The HIGH COURT OF CALCUTTA)

NILESH HEMANI

Petitioner (s)

VERSUS

COMMNR. OF INCOME TAX, WEST BENGAL & ORS

Respondent (s)

(With prayer for interim relief)

Date : 16/04/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) Mr. ML. Verms, Sr.Adv.
Mr. Rajiv K. Garg, Adv. for
Mr. ADN. Rao, Adv.

For Respondent (s) Mr. Soli J. Sorabjee, AG.
Ms. Neera Gupta, Adv.
Mr. BV. Balram Das, Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

Leave is granted.
Appeal is disposed of.

.SP1

(S.Thapar) (Kanwal Singh)@@
AA
PS to Registrar Court Master@@
AA

The signed order is placed on the file.

.PL56

L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....OF 2001@@
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(Arising out of SLP(C)No.16287 of 2000)

Nilesh Hemani

Appellant (s)

Versus

Commnr. of Income Tax, West Bengal & Ors.

Respondent (s)

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

Leave is granted.
Heard learned counsel for the parties.
In our view this appeal may be disposed of in terms of
our order dated October 16, 2000, and we accordingly pass the
following order in appeal.

.....L...I...T.....T.....T.....T.....T.....J.....T....R
.SP1

"We are not inclined to stay the
impugned notice under Section 158 BC of
the Income Tax Act issued by Dy.
Commissioner, Central Circle 39, Mumbai
on 28.1.98. It will be open to the
petitioner to take such pleas along with
the return as are open to him in law.
The assessing authority shall consider
the contentions raised by the petitioner
in accordance with law uninfluenced by
anything stated by the learned Single
Judge 'in his order dated 26.11.98 in
WP.No.878/99' and the Division Bench in
the order under challenge dated
16.12.99."

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

Mr. Verma, the learned senior counsel appearing for
the appellants, however, contends that a petition has been
filed by the appellant before the Settlement Commission and

it may also be clarified that the observations made by the
High Court will not bind the Settlement Commission. It is
needless to mention that the subject matter of the Writ
Petition was the notice issued under Section 158 BC of the
Income Tax Act and not the proceedings before the Settlement
Commission and the Settlement Commission was not a party to
the Writ Petition, therefore, the question of Settlement
Commission being bound by the observations of the High Court
does not arise.

The appeal is disposed of accordingly. There shall be no order as to costs.

.SP1

.....J
(Syed Shah Mohammed Quadri)

New Delhi,
April 16, 2001

.....J
(S.N. Phukan)