

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 5152 OF 2005

COMMNR. OF INCOME TAX, DELHI

Appellant (s)

VERSUS

mitsui & CO. LTD. & ANR.

Respondent(s)

(With office report)

- WITH
- Civil Appeal No. 1775 of 2006 - With prayer for interim relief and O/R
- Civil Appeal No. 1782 of 2006 - With office report
- Civil Appeal No. 1776 of 2006 - With appln. for permission to file addl. documents and with office report
- Civil Appeal No. 1778 of 2006 - With office report
- Civil Appeal No. 1780 of 2006 - With appln. for permission to file addl. documents and with office report
- Civil Appeal No. 1786 of 2006 - With office report
- Civil Appeal No. 1783 of 2006 - With office report
- Civil Appeal No. 1785 of 2006 - With office report
- Civil Appeal No. 1787 of 2006 - With office report
- Civil Appeal No. 1789 of 2006 - With office report
- Civil Appeal No. 1791 of 2006 - With office report
- Civil Appeal No. 1792 of 2006 - With office report
- Civil Appeal No. 1793 of 2006 - With office report
- Civil Appeal No. 1794 of 2006 - With office report
- Civil Appeal No. 1795 of 2006 - With office report
- Civil Appeal No. 1796 of 2006 - With office report
- Civil Appeal No. 1784 of 2006 - With office report
- Civil Appeal No. 1920 of 2006 - With office report
- Civil Appeal No. 2187 of 2006 - With appln. for impleadment as petitioner and with office report
- Civil Appeal No. 2192 of 2006 - With office report
- Civil Appeal No. 2211 of 2006 - With office report
- Civil Appeal No. 2210 of 2006 - With office report
- Civil Appeal No. 2480 of 2006
- Civil Appeal No. 4293 of 2006
- Civil Appeal No. 4624 of 2006 - With office report
- Civil Appeal No. 5263 of 2006
- Civil Appeal No. 5646 of 2006 - With office report
- SLP(C) NO. 21443 of 2006 - With appln. for c/delay in filing SLP and with office report
- Civil Appeal No. 107 of 2007 - With office report
- Civil Appeal No. 161 of 2007 - With office report
- Civil Appeal No. 159 of 2007 - With office report
- Civil Appeal No. 156 of 2007 - With office report
- Civil Appeal No. 352 of 2007 - With office report
- Civil Appeal No. 428 of 2007 - With office report
- Civil Appeal No. 434 of 2007 - With office report

- Civil Appeal No. 342 of 2007
- Civil Appeal No. 344 of 2007 - With office report
- Civil Appeal No. 343 of 2007 - With office report
- Civil Appeal No. 345 of 2007 - With office report
- Civil Appeal No. 346 of 2007 - With office report
- Civil Appeal No. 349 of 2007 - With office report
- Civil Appeal No. 347 of 2007 - With office report
- SLP(C) Nos. 3768-3771 of 2007 - With appln. for c/delay in filing SLPs. and with office report

Civil Appeal No. 816 of 2007
 Civil Appeal No. 785 of 2007 - With office report
 Civil Appeal Nos. 1348, 1357, 1345, 1355, 1352, 1351, 1354 and 1346 of 2007 -
 With appln. for amendment of cause title and with office report
 Civil Appeal No. 1343 of 2007 - With office report
 SLP(C) No. 3946 & 3947 of 2007 - With appln. for amendment of cause title and
 with office report
 SLP(C) No. 5536 of 2007 - With office report
 Civil Appeal No. 1634 of 2007 - With office report
 Civil Appeal No. 1956 of 2007 - With office report
 Civil Appeal No. 1948 of 2007 - With office report
 Civil Appeal No. 1943 of 2007 - With office report
 Civil Appeal No. 1939 of 2007 - With office report
 Civil Appeal No. 1961 of 2007 - With office report
 SLP(C) No. 5646 of 2007
 SLP(C) No. 7021 of 2007 - With office report
 Civil Appeal No. 2121 of 2007 - With office report
 Civil Appeal No. 2294 of 2007 - With office report
 Civil Appeal No. 2292 of 2007 - With office report
 Civil Appeal No. 2295 of 2007 - With office report
 Civil Appeal No. 2293 of 2007 - With office report
 SLP(C) No. 9641 of 2007 - With appln. for c/delay in filing SLP and
 with office report
 SLP(C) No. 9637 of 2007 - With appln. for exemption from filing c/c
 of the impugned judgment and with office report
 Civil Appeal No. 3211 of 2007 - With office report
 Civil Appeal No. 3524 of 2007 - With office report
 Civil Appeal No. 3543 of 2007 - With office report
 Civil Appeal No. 3128 of 2007 - With prayer for interim relief
 Civil Appeal No. 4173 of 2007 - With office report
 Civil Appeal No. 3801 of 2007 - With office report
 Civil Appeal No. 4516 of 2007 - With office report
 Civil Appeal No. 4517 of 2007 - With office report
 Civil Appeal No. 5114 of 2007 - With office report
 Civil Appeal No. 3212 of 2007 - With office report
 Civil Appeal No. 3124 of 2007 - With office report
 Civil Appeal No. 3126 of 2007 - With office report
 Civil Appeal No. 5110-5111 of 2007
 Civil Appeal No. 264 of 2008 - With office report
 Civil Appeal No. 293 of 2008 - With office report
 Civil Appeal No. 292 of 2008 - With office report
 Civil Appeal No. 4477 of 2007

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Civil Appeal No. 3633 of 2007 - With office report
 Civil Appeal No. 4175 of 2007 - With office report
 Civil Appeal No. 4082 of 2007 - With office report
 Civil Appeal No. 1037 of 2008 - With appln. for c/delay in filing
 SLP and with office report
 Civil Appeal No. 3523 of 2007 - With office report
 Civil Appeal No. 3890 of 2007 - With office report
 Civil Appeal No. 1462 of 2008 - With office report

 Civil Appeal No. 5288 of 2007 - With office report
 Civil Appeal No. 5295 of 2007 - With office report
 Civil Appeal No. 5986 of 2007 - With office report
 Civil Appeal No. 5742 of 2007 - With office report
 SLP(C) No. 10376 of 2008 - With office report
 SLP(C) No. 10377 of 2008 - With appln. for c/delay in filing SLP and
 with office report
 Civil Appeal No. 5749 of 2007 - With office report
 Civil Appeal No. 3840 of 2007 - With office report
 Civil Appeal No. 3587 of 2007 - With office report
 Civil Appeal No. 3616 of 2007 - With office report
 SLP(C) No...CC 12522 of 2008 - With appln. for c/delay in filing SLP

SLP(C) No...CC 13873 of 2008 - With appln. for c/delay in filing SLP
and with office report (for final disposal)
Civil Appeal No. 1769 of 2006 - With office report

Date: 23/10/2008 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Appellant(s) Mr. V. Shekhar, Sr.Adv.
in CA.5152/2005: Mr. Navin Prakash, Adv.
Ms. Aruna Gupta, Adv.
Mr. SWA Qadri, Adv.
Mr. Gaurav Agarwal, Adv.
Mr. Raghenth Basant, Adv.
Mr. B.V. Balaram Das, Adv.

in CC 13873/2008: Mr. Harish Chander, Sr.Adv
Ms. Aruna Gupta, Adv.
Mr. B.v. Balram Das, Adv.

For Respondent(s) Mr. R.S. Suri, Adv.(NP)

in CA.1776,1778,1780:Mr. CS. Agarwal, Sr.Adv.
and 1634 of 2007: Mr. Ajay Vohra, Adv.
Mr. Bhargava V. Desai, Adv.
Mr. Rahul Gupta, Adv.
Ms. Reema Sharma, Adv.
Ms. Kavita Jha, Adv.

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Mr. Dhruv Mehta, Adv. for
M/S K.L. Mehta & Co., Adv.

Mr. N. Ganpathy, Adv.

in CA.No.2121 @ Mr. Alok Mahajan, adv.
SLP(C)No.7021/2007: Mr. P.N. Gupta, Adv.
Mr. Rajesh Kumar, Adv.
Mr. Vaibhav Jain, Adv.

Mr. Rajinder Mathur, Adv.

Mr. K.V.Mohan, Adv.

in CA.107/2007: Mr. Vivek Kishore, Adv.
Ms. Sangeeta Bharti, Adv.
Ms. Ruchi Gaur Narula, Adv.
Mr. Subramonium Prasad, Adv.

Mr. Ambhoj Kumar Sinha, Adv.

Mr. Jagjit Singh Chhabra, Adv.

Mr. P.V. Yogeswaran, Adv.

Mr. Vikas Mehta, Adv.

in CA.1778/2006: Mr. Ajay Vohra, Adv.
Ms. Kavita Jha, Adv.
Mr. Sandeep S. Karhail, Adv.

in CA.1354,1352,1355 Mr. Ajay Vohra, Adv.

1351,1346,1357,1348, Ms. Kavita Jha, Adv.
1345/2007 & SLP(C) Mr. Sandeep S. Karhail, Adv.
Nos.3946,3947/2007:
in CA.4516,4517,5114 Mr. Ajay Vohra, Adv.
5742,5295,5986,5288 Ms. Kavita Jha, Adv.
of 2007 & 264,293, Mr. Sandeep S. Karhail, Adv.
292,1037/2008:

UPON hearing counsel the Court made the following
ORDER

This is a batch of 111 Civil Appeals/SLPs. The matters under this
batch essentially concerns imposition of penalty under Section 271C of the
Income Tax Act, 1961. The main question which requires

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consideration in these matters is whether assesseees were obliged to deduct TDS.
It is only if the assesseees fail on that issue that the question of reasonable cause
under Section 273B would arise for determination. Since the batch consists of
111 matters, we have requested the counsel/advocates before us to give us
Chart batch-wise so that on the next occasion it would facilitate taking up the
matters batch-wise. Necessary co-operations is assured.

Stand over to 4th December, 2008.

Registrar is directed to notify these 111 matters well in advance stating
that the matters will not be adjourned on 4 th December, 2008. Liberty is given
to the appellant/petitioner to replace the order of the Tribunal which we are
informed contains several mistakes in the existing set of Appeals/Special Leave
Petitions. Liberty is given to the respondents also to file additional paper
books.

(S. Thapar)
PS to Registrar

(Madhu Saxena)
Court Master