

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).9228/2005

(From the judgement and order dated 05/11/2004 in WP No. 11251/2004 of the HIGH COURT OF DELHI AT NEW DELHI)

M/S. SHANTI FRAGRANCES

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(With prayer for interim relief and office report )  
(For final disposal)

WITH SLP(C) NO. 13178 of 2006

(With appln. for c/delay in filing rejoinder affidavit and with prayer for interim relief and office report)  
(For final disposal)

SLP(C) NO. 13987 of 2006

(With prayer for interim relief and office report)  
(For final disposal)

SLP(C) NO. 13988 of 2006

(With prayer for interim relief and office report)  
(For final disposal)

SLP(C) NO. 14978 of 2006

(With prayer for interim relief and office report)  
(For final disposal)

SLP(C) NO. 20714-20717 of 2007

(With appln. for c/delay in filing SLP and office report)  
(For final disposal)

SLP(C) NO. 360 of 2007

(With appln. for stay and with prayer for interim relief and office report)(For final disposal )

Date: 4/3/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

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For Petitioner(s) Mr. C.A.Sundram,Sr.Adv.

Mr. Dhruv Aggarwal,Sr.Adv.

Mr. Praveen Kumar,Adv.

Mr. Nital Talwar,Adv.

Ms. Neeru Vaid,Adv.

Mr. Pradeep Misra, Adv. (SCLSC)

Mr. M.L.Lahoty,Adv.

Mr. P.K.sharma,Adv.

Mr. Himanshu Shekhar,Adv.

Mr. Ramakant Gaur,Adv.

Mr. Ram Babu,Adv.

Mr. Praveen Kr. Singh,Adv.

Mr. Ajay Choudhary, Adv.

For Respondent(s) Mr. P.P.Tripathi, ASG.

Mr. Vikas Singh, ASG.  
Mr. Nagendra Rai, Sr. Adv.  
Ms. Neera Gupta, Adv.  
Ms. Rashmi Malhotra, Adv.  
Ms. Asha G. Nair, Adv.  
Ms. Vandana Mishra, Adv.

Mrs. Anil Katiyar, Adv.

Mr. V.K. Verma, Adv.

Mr. D.S. Mahra, Adv.

UPON hearing counsel the Court made the following  
ORDER

In SLP(C)No. 9228/2005

In matters concerning Revenue we have come across writ petitions being filed in the High Courts challenging the validity of Notifications without disclosing pendency of assessment proceedings/appeals therefrom, this is one such case.

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In the lead matter the Assessment Order was passed on 31.3.2004. The Assessment Year is 2002-03. On 14.7.2004 M/s. Shanti Fragrances (assessee) moves the Delhi High Court vide CWP No. 11251/2004 challenging the validity of the Notification dated 31.3.2000 issued under Delhi Sales Tax Act, 1975. In the Writ Petition it has been solemnly stated that the assessee has not adopted any other proceedings, though on the date of the filing of the writ petition the assessee had preferred statutory appeal against the order of assessment which was pending since 19.5.2004. It needs to be reiterated that the writ petition was filed on 14.7.2004. Therefore the petitioner - assessee had failed to disclose to the High Court that it had filed an appeal during the pendency of the writ petition.

The deponent is the Director of M/s. Shanti Fragrances. From the Original Record we find that his name is Krishna Chourasia S/o of Sh. P.C.Chourasia residing at A-198, Gujranwala Town, Part -I, Delhi. He has declared the affidavit as Director of the Company.

We are taking serious view of this matter particularly when huge stakes are involved and it was incumbent on the assessee to disclose to the High Court that an appeal was pending before the First Appellate Authority.

In this case the contents of Gutka/Paan Masala is in issue.

The record further indicates that the writ petition was filed on 14.7.2004. It further indicates that High Court had issued notice on 19.7.2004. Without counter the matter proceeded and the judgment came to be delivered on 5.11.2004. The position is clear that the matter was taken up by the High court as the High Court appears to have been told that in the writ petition the question involved was only regarding the validity of the Notification dated 31.3.2000. It appears that the High Court has not been informed about the pending assessment proceedings/appeals therefrom.

In the circumstances the following order is passed:

Registry is directed to issue show cause notice to Sh. Krishna Chourasia S/o Sh. P.C. Chourasia, residing at A-198, Gujranwala Town, Part-I, Delhi, as to why proceedings for contempt should not be taken against him in view of the aforesaid circumstances. It is important to note that in the supporting affidavit the contemnor has

specifically stated that the contents of the accompanying civil writ petition are true and correct and no material has been concealed therefrom.

We also direct the Registry to forward a copy of this order to the High Court so that in future whenever such writ petitions come before the High Court the Judges should enquire whether any assessment proceedings or appeals therefrom are pending before proceeded further in the matter.

Notice returnable on 22.4.2008.

Mr. Krishna Chourasia is directed to be present personally in Court on that date.

Dasti service is also permitted.

In SLP(C)Nos. 13987, 13988, 13178, 14978/2006 & 360 and 20714-17/07

In this batch of special leave petitions we are informed that matters are pending before the Vat Appellate Tribunal in some cases and in some other cases appeals are pending before the First Appellate Authority.

In the circumstances we direct Vat Appellate Tribunal, 2 nd Floor, Trade Tax Department, Bikri Kar Bhawan, I.P.Estate, New Delhi to decide Tax Appeal Nos.280-283/06 on or before 15.4.2008. The Tribunal shall decide the

