

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).18582/2008

(From the judgment and order dated 15/05/2008 in WP No. 10365/2007  
of The HIGH COURT OF M.P AT JABALPUR)

DESAI BROTHERS LTD.

Petitioner(s)

VERSUS

STATE OF M.P.& ORS.

Respondent(s)

(With prayer for interim relief and office report )

WITH

SLP(C) NO. 18850 of 2008 - With prayer for interim relief and O/Report  
SLP(C) NO. 18870 of 2008 - With prayer for interim relief and O/Report  
SLP(C) NO. 18871 of 2008 - With prayer for interim relief and O/Report  
SLP(C) NO. 19019 of 2008 - With appln. for exemption from filing c/c of the  
impugned judgment and with prayer for interim relief & O/Report  
SLP(C) NO. 19026 of 2008 - With appln. for exemption from filing c/c of the  
impugned judgment and with prayer for interim relief & O/Report  
SLP(C) NO. 19120 of 2008 - With prayer for interim relief and O/Report  
SLP(C) NO. 19372 of 2008 - With appln. for exemption from filing c/c of the  
impugned judgment and with prayer for interim relief & O/Report  
SLP(C) NO. 19421 of 2008 - With prayer for interim relief  
SLP(C) NO. 19425 of 2008 - With prayer for interim relief and O/Report  
SLP(C) NO. 19460 of 2008 - With prayer for interim relief and O/Report  
SLP(C) NO. 19470 of 2008 - With prayer for interim relief and O/Report  
SLP(C) NO. 19714 of 2008 - With appln. for exemption from filing c/c of the  
impugned judgment and with prayer for interim relief & O/Report  
SLP(C) NO. 19722 of 2008 - With appln. for exemption from filing c/c of the  
impugned judgment and with prayer for interim relief & O/Report  
SLP(C) NO. 19731 of 2008 - With appln. for exemption from filing c/c of the  
impugned judgment and with prayer for interim relief & O/Report  
SLP(C) NO. 19737 of 2008 - With appln. for exemption from filing c/c of the  
impugned judgment and with prayer for interim relief & O/Report  
SLP(C) NO. 19802 of 2008 - With prayer for interim relief & O/Report  
SLP(C) NO. 19873 of 2008 - With prayer for interim relief & O/Report  
SLP(C) NO. 19876 of 2008 - With prayer for interim relief & O/Report  
SLP(C) NO. 20068 of 2008 - With prayer for interim relief & O/Report  
SLP(C) NO. 21117-21125/2008 - With prayer for interim relief & O/Report  
SLP(C) NO. 21127 of 2008 - With prayer for interim relief & O/Report  
SLP(C) NO. 21506 of 2008 - With appln. for c/delay in filing SLP and with Office  
Report  
SLP(C) NO. 21509 of 2008 - With appln. for c/delay in filing SLP and with Office  
Report  
SLP(C) NO. 21510 of 2008 - With appln. for c/delay in filing SLP and with Office  
Report

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Date: 15/09/2008 These Petitions were called on for hearing today.

CORAM :

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

For Petitioner(s) Ms. Manali Singhal, Adv.

Mr. A.P. Medh, Adv.  
Mr. Kshatrshal Raj, Adv.  
Mr. Santosh Sachin, Adv.

Mr. Akshat Shrivastava, Adv.  
Mr. P.P. Singh, Adv.

Mr. Arvind Minocha, Adv.  
Mrs. Veena Minocha, Adv.

Mr. S. Prasad, Adv.

Mr. Jayant Kumar Mehta, Adv.

Mr. A.S. Bhasme, Adv.  
Mr. Varun Thakur, Adv.  
Mr. B. Pandey, Adv.

Mr. S.B. Upadhyay, Sr. Adv.  
Mr. Pawan Upadhyay, Adv.  
Mr. Anisha Upadhyay, Adv.  
Mr. Shivmangal Sharma, Adv.  
Ms. Sharmila Upadhyay, Adv.

Mr. Ravindra Shrivastava, Sr. Adv.  
Mr. Rajul Shrivastava, Adv.  
Mr. Anoop Jain, Adv.  
Ms. Supria Jain, Adv.  
Mr. Kunal Verma, Adv.  
Mr. K. Kishan, Adv.  
Mr. Arun Kumar Beriwal, Adv.  
Mr. Akshat Srivastava, Adv.

Mr. V. Madhukar, Adv.  
Mr. Sumit Ghosh, Adv.  
Mr. Jayendra Sevada, Adv.  
Mr. Rajeev Sharma, Adv.

Mr. Kavın Gulati, Adv.  
Ms. Ruby Singh Ahuja, Adv.  
Ms. Simran Brar, Adv. for  
Ms. Manik Karanjawala, Adv.

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Mr. U.A. Rana, Adv.  
Mr. Abhishek K. Rao, Adv. for  
M/s Gagrati & Co., Adv.

Mr. Nikhil Nayyar, Adv.  
Mr. T.V.S. Raghavendra Sreyas, Adv.  
Mr. Ambuj Agarwal, Adv.

For Respondent(s) Mr. P.P. Rao, Sr. Adv.

Mr. P.S. Patwalia, Sr. Adv.  
Mr. Shyam Diwan, Sr. Adv.  
Mr. C.D. Singh, Adv.  
Mr. Sunny Chowdhary, Adv.  
Mr. Vairagya Vardhan Dubey, Adv.  
Mr. Aditya Singh, Adv.  
Mr. Aman Rahi, Adv.  
Mr. Devesh Tripathi, Adv.

UPON hearing counsel the Court made the following

ORDER

It is made clear that each and every assessee herein will pay taxes due under M.P. Entry Tax Act till the hearing and final disposal of the Special Leave Petitions except Cement Companies who would be liable to pay taxes under the Act at fifty per cent of the tax due being deposited with the Department and for the balance fifty per cent by way of Bank Guarantee of a Nationalized Bank within four weeks in the name of the Competent Authority of the Department. All the remaining assessees will pay dues in its entirety without prejudice to their rights and contentions and ultimately depending upon the result of the Special Leave Petitions. It is made further clear that such payment will not include interest and penalty for the time being. Cement Companies are getting priced out and therefore above order is passed. They are few in number.

In the event of the assessees succeeding in the Special Leave Petitions, the Department/State Government undertakes to refund the taxes paid from today with interest, the rate whereof will be fixed by this Court at the time of final hearing and disposal of the Special Leave Petitions. It is made clear that such taxes paid henceforth by the assessees would be treated, for the time being by the Department, as a deposit so that the doctrine of unjust enrichment may not apply to such payments.

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Arrears, if any, to be paid within four weeks. However, it is made clear that the Companies will continue to discharge the current liability in time.

(S. Thapar)  
PS to Registrar

(Madhu Saxena)  
Court Master